

**HUMAN SERVICES**

**OFFICE OF LICENSING**

**Standards for Community Residences for Persons with Head Injuries**

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

Authorized By: Elizabeth Connolly, Acting Commissioner, Department of Human Services.

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

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

Proposal Number: PRN 2016-135.

Submit comments by November 5, 2016, to:

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The agency proposal follows:

**Summary**

This chapter constitutes the minimum administrative, physical plant, fire safety, program, and staffing requirements for community residences for persons with head injuries, licensed by the Department to serve persons who have sustained such injury. The purpose of the chapter is to

protect the health, safety, welfare, and human rights of the persons who reside in these facilities, and to allow such individuals to develop their fullest potential while residing in an environment that is normalized and supportive. The rules provide for individualized delivery of services to persons served, the establishment and maintenance of a safe environment, the provision to undertake dignified risk, and the delineation of personal rights to protect and to assist them in maximizing their potential. As the Department filed this notice of readoption prior to July 17, 2016, the expiration date is extended 180 days to January 13, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2),

The rules are necessary to implement the Department's statutory mandate to license community residences for persons with traumatic brain injuries. 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. The Department proposes to readopt these rules with substantive and technical amendments.

A summary of each subchapter and the proposed amendments follows:

Throughout the entirety of the chapter, the language has been changed from “licensing agency” to the “Office of Licensing,” in order to reflect the renaming of the entity within the Department; it is no longer Developmental Disabilities Licensing, but manages the whole of the Department’s licensing. Also, the term “Special Response Unit” is no longer in use and has been replaced by the “Office of Investigations,” that is now the name of the entity for performing investigations in all of the entities licensed by the Department. The term “persons with head injury” is changed throughout the rule to “persons with head injuries” in order to add clarity in usage and a single term consistent with the heading of the chapter. A summary of each subchapter and the proposed amendments follows:

Subchapter 1, General Provisions, includes a description of the purpose and scope of the rules, a statement of severability, definitions of words and terms used in the rules, and a description of the process for application, licensing, inspection, and renewal. Rules are specified for licensing agency responsibilities, procedure manuals, waivers or variances, search warrants, and complaints. The subchapter also addresses the suppression of illegal operations, voluntary closure, administrative hearings, and the denial, revocation, non-renewal, or suspension of a license.

Amendments are proposed to the definitions, at N.J.A.C. 10:44C-1.3, of various terms and the addition of new terms as follows:

1. Abuse. The definition is changed to that given by the Legislature in its Central Registry of Offenders against Individuals with Developmental Disabilities as clearer and more functional for use within the Department's Office of Investigations. The new definition differs from the existing definition by including additional classifications of abuse and an expanded list of examples.

2. Advocacy services. The word "services" is deleted as it is not used in the chapter, but the individual sub-definitions are employed.

3. Affirming rights. The term is deleted as it is no longer used in the chapter.

4. Banking institutions. The term is deleted as it is no longer used in the chapter.

5. Behavior Modification Plan. The term is changed to "behavior support plan," the new term, with no substantive change.

6. Board certification. The term is deleted as it is no longer used in the chapter.

7. Case manager. The definition is amended to differentiate between internal (provider agency) and external (placing or funding agency) case managers.

8. Clinical Director. The term is deleted as it is no longer used in the chapter.
9. Cognitive rehabilitation. The term is deleted as it is no longer used in the chapter.
10. Conditional license. This newly defined term replaces the term “provisional license” as a negative licensing action to prompt corrective actions in existing community residences.
11. Critical information. This definition is proposed for amendment to clarify the type of information that must be communicated from one shift to the next at the residences.
12. Direct service staff. This new term defines the personnel associated with these kinds of residences who are affected by this chapter.
13. Exploitation. The definition is replaced with that given by the Legislature in its Central Registry of Offenders against Individuals with Developmental Disabilities as clearer and more functional for use within the Department’s Office of Investigations. The new definition differs from the existing definition as the new definition is more broad and removes the language “any unjust or improper use” and “gratification.”
14. Full license is proposed to be effective for up to two years, in accordance with the approval of the Centers for Medicaid and Medicare Services, for providers who meet criteria of self-evaluation in the off-year, rather than one year as currently stated. This proposed amendment supports the Department's efforts to ensure more efficient and effective use of resources.
15. Functional limitations. The term is deleted as it is no longer used in the chapter.
16. Human Rights Committee. The definition is proposed for amendment to remove references to Division of Developmental Disabilities staff.
17. Impairment. The term is deleted as it is no longer used in the chapter.

18. Initial license: This new term is proposed as a new term for the license granted after completing the licensing application process; it is to be effective for up to six months.

19. Interferon Gamma Release Assay. This new term defines a medical test that is acceptable for identifying the presence of tuberculosis (TB).

20. Mobile non-ambulatory person. The term is deleted as it is no longer used in the chapter.

21. Negative licensing action. The term “provisional” is removed and replaced with the term “conditional” license as discussed above.

22. Neglect. The definition is replaced with that given by the Legislature in its Central Registry of Offenders against Individuals with Developmental Disabilities as clearer and more functional for use within the Department’s Office of Investigations. The definition is amended to expand the examples of “neglect.”

23. Occupational therapist. The term is deleted as it is no longer used in the chapter.

24. Physical therapist. The term is deleted as it is no longer used in the chapter.

25. Post acute. The term is deleted as it is no longer used in the chapter.

26. Office of Investigations. This term is added to define the unit within the Department responsible for the investigation of serious unusual incidents, replacing the Special Response Unit that is mentioned in the existing chapter.

27. Office of Licensing. This term is proposed to identify the unit in the Department responsible for licensing and inspecting these residences, replacing the term “licensing agency” that is in the existing chapter.

28. Power of attorney. This new term specifies that a person served may grant another person the authority to carry out specified powers as the person’s agent.

29. Provisional license. This term is deleted and replaced with “conditional license” as discussed above.

30. Reasonable accommodation. The term is deleted as it is no longer used in the chapter.

31. Regional Assistant Director’s Office. The term is deleted; all actions under the chapter, as amended, will be at a Departmental level without reference to regional offices.

32. Rehabilitation nurse: The term is deleted as it is no longer used in the body of the rule.

33. Respite placement. The term is deleted as it is no longer used in the chapter.

34. Restriction of rights. The term is deleted as it is no longer used in the chapter.

35. Special Response Unit. The term is deleted and replaced with “Office of Investigations” as discussed above.

36. Staff member. The term is deleted and replaced with “direct service staff” as discussed above.

37. Supported living. The term is deleted as it is no longer used in the chapter.

Amendments are proposed at N.J.A.C. 10:44C-1.6 to replace the term “fire” evacuation plan with an “emergency” evacuation plan. Full names will be required on staff schedules to assign more accountability; the term “initial license” replaces the term “full license,” as this will be the first license issued to the program. N.J.A.C. 10:44C-1.4(d) and (e) are proposed for amendment to clarify that the plans of correction are to respond to the deficiencies identified in the inspection reports. New subsection (f) and (g) are proposed to state that no residents may be placed in the residence without an initial license and that licenses are the property of the Department and are to be returned if suspended or revoked.

Amendments are proposed at N.J.A.C. 10:44C-1.7 to extend the period of time between licensing re-inspections to two years, and at N.J.A.C. 10:44C-1.7(a)1 to state that a plan of correction is only required for identified deficiencies.

An amendment is proposed at N.J.A.C. 10:44C-1.10 to clarify that waivers or variances may be granted, upon request, rather than mandate that they shall be granted, upon request.

An amendment is proposed at N.J.A.C. 10:44C-1.11 to clarify that all staff shall cooperate in a Departmental investigation.

An amendment is proposed at N.J.A.C. 10:44C-1.12 to clarify that the licensee operating a residence under this rule must give 60 days' notice prior to a planned closure.

Subchapter 2, Organization and Administration, addresses general organization and administration requirements; staff qualifications and personnel standards, including the training required and the minimum staffing levels; development of policy and procedure manuals; records and reporting requirements for incidents and general programming and financial matters, as well as recordkeeping requirements for persons served.

Amendments are proposed at N.J.A.C. 10:44C-2.1 to require that a current copy of Chapter 44C be kept in each residence; along with the policy and procedure manual and personnel files. It is clarified that initial reports of unusual incidents are to be maintained by the agency, but not in the person's served record, as previously required at N.J.A.C. 10:44C-2.9(d)4. At N.J.A.C. 10:44C-2.1(m), the reference to rules for outpatient mental health programs is clarified with the addition of the cross-reference to N.J.A.C. 10:37E.

Amendments are proposed to the procedure manuals at N.J.A.C. 10:44C-2.2(b)5 and 6 to add requirements to include compliance with Danielle's Law in the manual and to include emergency coverage and on-call procedures; and paragraph (b)7 is proposed for amendment to

clarify the requirements related to policy and procedure for reporting of unusual incidents and to change the requirement from a statement to a procedure for investigation procedures (as new paragraph (b)8). New N.J.A.C. 10:44C-2.2(b)10, 11, and 12 are proposed to add requirements to include financial protection of service recipients to procedure manuals, as well as requirements for the new employee training checklist.

Proposed new N.J.A.C. 10:44C-2.4(a)1 includes a more specific criminal history record information criterion than existing subsection (b), which is proposed for deletion.

Amendments are proposed at recodified N.J.A.C. 10:44C-2.4(f) that will add the Interferon Gamma Release Assay (IGRA) blood test as an acceptable alternative to Mantoux TB test, and remove the requirement for annual re-testing, but adding the requirement that should there be a suspected or actual exposure of a person served to TB, the local health department will be consulted for advice on any required follow up testing.

New N.J.A.C. 10:44C-2.5(d)5 is proposed to include certification as a brain injury specialist as a qualifying job requirement for case manager.

Amendments are proposed at N.J.A.C. 10:44C-2.6(a) to require that training of staff during orientation include training in the fire alarm system, Danielle's Law, and emergency coverage/on-call procedures.

Amendments are proposed at N.J.A.C. 10:44C-2.7(a) that allow the licensee to obtain training for staff with Departmental approval and specify the types of specialized training to be included. Subsections (d) and (e) are proposed for amendment to require specialized training to be completed within 120 days of employment and records to be maintained and subsection (g) is added to require that trainings be conducted by qualified trainers.



New N.J.A.C. 10:44C-2.8(h) is proposed to state that at least one person on every shift shall have completed all of the required specialized trainings. Proposed new N.J.A.C. 10:44C-2.8(i) mandates staffing levels and siting for supervised apartments.

Amendments are proposed at N.J.A.C. 10:44C-2.9 that replaces the term “sex” with “gender,” remove a person’s served Social Security number from the list of mandatory information to be included in pre-admission information, and adds the IGRA blood tests as an alternative to a Mantoux skin test. Initial reports of unusual incident reports would be removed from the records of a person served, in accordance with Departmental policy.

Amendments are proposed at N.J.A.C. 10:44C-2.10(d)2 and (f)2i to add power of attorney (POA), as an authorized signatory to issues in the management of the person’s served funds.

Subchapter 3, Advocacy and Rights, specifies standards for notifying persons served regarding their right to advocacy services and an enumeration of rights of residents. The subchapter also deals with rules for a residence, self-advocacy, informed consent and guardianship, and the safeguards that must be in place whenever rights are restricted or modified.

An amendment is proposed at N.J.A.C. 10:44C-3.1(b)2 that corrects the phone number for child abuse contact, and at subparagraph (b)3iii that updates the name of the Brain Injury Alliance of New Jersey. Also, proposed amendments at N.J.A.C. 10:44C-3.1(b)3 and 4 add house rules to the list of documents to be provided to a resident and delete a redundancy and provides a cross-reference to clarify grievance procedures, respectively. Proposed new paragraph (b)5 adds safekeeping of residents’ valuables to the list of procedures to be supplied to residents, new paragraph (b)6 adds phone toll charges to the list of fees to be supplied to residents, and new paragraph (b)7 adds financial rights and services to the list of procedures to be supplied to

residents. At N.J.A.C. 10:44C-3.1(f), a proposed amendment corrects the cross-reference to the Administrative Code for Human Rights Committees.

An amendment is proposed at N.J.A.C. 10:44C-3.2(a)2, which states that the additions proposed in N.J.A.C. 10:44C-3.1(b) be included in the rules made available to persons served and their guardians, as appropriate. Existing N.J.A.C. 10:44C-3.2(a)5 is proposed for deletion as it is redundant of N.J.A.C. 10:44C-2.2(b)13 and 2.3(b).

N.J.A.C. 10:44C-3.2(b) is proposed for deletion and replacement to clarify that persons served may establish house rules. At subsection (c), the cross-reference to N.J.A.C. 10:44C-2.2(b) is proposed to be updated.

An amendment is proposed at N.J.A.C. 10:44C-3.3(d) that would allow a person served to opt out of house meetings or not attend, if noted in his or her file.

An amendment is proposed at N.J.A.C. 10:44C-3.4(b)5 to change reference from “the opposite sex” to “either gender.”

Subchapter 4, Service Delivery/Rehabilitation/Habilitation, addresses service delivery and treatment, including pre-admission and admission requirements, changes in supports or services, discharges, or transfers from service and Individual Treatment Plan (ITP) requirements.

An amendment is proposed at N.J.A.C. 10:44C-4.1(c)4 that adds IGRA blood tests as an alternative to a Mantoux skin test. N.J.A.C. 10:44C-4.1(d), (e), and (f) are proposed for deletion to remove the redundancy of documents that are to be provided to residents that are already referred to in N.J.A.C. 10:44C-3.2 and to remove the requirements related to explaining the documents.

An amendment is proposed at N.J.A.C. 10:44C-4.2(b) that clarifies that individual treatment plans shall be done annually.

An amendment is proposed at N.J.A.C. 10:44C-4.4(b) that adds POA and substitutes “managed care organization” for “placing agency” in the group to develop a discharge plan, for clarity. Also, the regional office is no longer required to be notified. An amendment is proposed at N.J.A.C. 10:44C-4.4(d)1 to update the cross-reference to N.J.A.C. 10:44C-2.2(b).

Subchapter 5, Health and Safety, specifies general medical and health standards; requirements for the storage and administration of prescription, over-the-counter, and psychotropic medications; emergency telephone numbers; food; clothing; vehicle safety; and workplace safety.

Existing N.J.A.C. 10:44C-5.1(d) is proposed for deletion and replacement to indicate that IGRA blood tests is an alternative to a Mantoux skin test. An amendment is proposed at N.J.A.C. 10:44C-5.1(g)9 that changes the requirement to “protective gloves” rather than “vinyl gloves” in a first aid kit, to which persons served may have allergies.

Amendments are proposed at N.J.A.C. 10:44C-5.2(c)1vii that would allow electronic medication administration records to be used if individual staffs are identifiable for each administration of medicine. An amendment is proposed at N.J.A.C. 10:44C-5.2(d)1 that clarifies that medication records are to be updated as changes occur. An amendment is proposed at N.J.A.C. 10:44C-5.2(f) that would allow an online resource approved by the licensee to act as a medication reference resource. An amendment is proposed at N.J.A.C. 10:44C-5.2(g) that requires that medication records be kept up to date. An amendment is proposed at N.J.A.C. 10:44C-5.2(h) that adds prescribed nutritional supplements to be medications that must be available in supplies sufficient to insure that there is no interruption of the medication schedule. An amendment is proposed at N.J.A.C. 10:44C-5.2(i)1 to substitute “over-the-counter” for non-prescription for clarity.

An amendment is proposed at N.J.A.C. 10:44C-5.2(i)4i that adds eye and ear drops to be kept separate from other medications, while at paragraph (i)6, changes are proposed to replace “destroyed” with “safely dispose” due to changing policies toward drug disposal practices. N.J.A.C. 10:44C-5.2(j) is proposed for amendment to clarify that a signed statement by a physician or an advanced practice nurse detailing usage and contraindications of over-the-counter medicines shall be available and act as a physician’s order. Proposed new N.J.A.C. 10:44C-5.2(k) is added to state that the manufacturer’s label shall be sufficient for identification purposes for medications available over-the-counter.

Amendments are proposed at N.J.A.C. 10:44C-5.4(b) to remove the regional office phone numbers and include the Critical Incident Management Unit’s reporting phone number, as well as the Office of Investigation’s phone number.

An amendment is proposed at N.J.A.C. 10:44C-5.5(a) that requires frozen food to be thawed in a refrigerator. An amendment is proposed at N.J.A.C. 10:44C-5.5(d) that omits requirements for a “medical or otherwise specified diet” and clarifies it as a prescribed diet. The prescribed diet is tailored to the individual rather than referencing the Board of the National Research Council requirements.

Proposed new N.J.A.C. 10:44C-5.6(a) that requires each resident have suitable clothing available.

Amendments are proposed at N.J.A.C. 10:44C-5.7(a)1 that allow the “provisional for roadside assistance and emergency alternate transport” to be substituted for carrying a jack and spare tire in a vehicle; subparagraph (a)2vii requires only “protective gloves” and not “vinyl gloves,” to which persons served may have allergies in a vehicle’s first aid kit; and paragraph

(a)4 is proposed for deletion to omit the requirement of a dry chemical fire extinguisher in a vehicle.

Subchapter 6, Fire Safety and Physical Environment, addresses fire safety requirements, physical plant requirements and maintenance standards, including fire evacuation plans, egress protocols, group classification, fire extinguishers, general home requirements, certificate of occupancy, exits, heat sources, water, railings, stairs and hallways, windows, bedrooms, bathrooms, kitchens, and basement use.

N.J.A.C. 10:44C-6.1(d) is proposed to be relocated to N.J.A.C. 10:44C-6.8(b), without change.

Amendments are proposed to the heading of N.J.A.C. 10:44C-6.2 to change “fire evacuation” to “emergency evacuation” to define the evacuation plans described in this section, as amended. Paragraph (b)1 is proposed for deletion and replacement to include a 48-hour time period in which to revise an evacuation plan after a new resident moves into the residence; the amendments proposed at paragraph (b)2 require a review and revision of the evacuation plan in the case of a resident’s change in a needed level of assistance; and proposed new paragraph (b)3 requires a review and revision of the evacuation plan 30 days after a resident’s return from an admission to a hospital or nursing home. Proposed new N.J.A.C. 10:44C-6.2(e) requires the licensee to train its staff on the evacuation plan.

Amendments are proposed at N.J.A.C. 10:44C-6.3 that define the requirements for residential fire drills as follows: paragraph (a)1 is amended to require that one of the four required fire drills per year takes place during normal sleeping hours for the residents of the home (which is relocated from existing paragraph (a)2); paragraph (a)2 is also amended to add that fire drills be conducted at varying times; paragraph (a)3 is amended to clarify that certain

means of egress need not be practiced during the various fire drills throughout the year; and paragraph (a)4i is amended to define the criteria to be used in timing the fire drills. Also, amendments are proposed at N.J.A.C. 10:44C-6.3(b)2 to add the requirement that the location of each resident be noted in records at the beginning of each fire drill, rather than the location of the simulated fire; paragraph (b)3 is proposed for deletion and replacement to require that a record of the means of egress used will be recorded (rather than the evacuation plan followed); and paragraph (b)4 is amended to require the full names of all staff and residents be recorded in the records.

An amendment is proposed at N.J.A.C. 10:44C-6.4(b) to remove the previous requirement that residents of a certain capacity residence be “either ambulatory or mobile non-ambulatory” for the purposes of meeting the specific Uniform Construction Code classification of Group R-2.

Proposed new N.J.A.C. 10:44C-6.5(c) requires that integrated hard-wired smoke and/or carbon monoxide detectors be tested quarterly and records kept.

Proposed N.J.A.C. 10:44C-6.6(a)2 and 3 are added to require that two means of egress be ramped, located in different areas of the building, and lead to ground level, for residents with physical disabilities and to require residences above ground level that a fire official has designated for occupancy by non-ambulatory persons have safe havens, fireproof stairs, and fire suppression systems, respectively. Proposed new N.J.A.C. 10:44C-6.6(b)1 requires that outbuildings shall be safe or rendered inaccessible to service recipients. N.J.A.C. 10:44C-6.6(c) requires that the interior of the residence shall be well maintained and free from health and safety hazards and is proposed with the following new requirements:

1. Paragraph (c)1i and ii adds that for doors locked from within, staff shall be able to gain access readily, if needed in an emergency;
2. Paragraph (a)3 adds that areas around boilers, furnaces, and water heaters shall be clear for a radius of three feet;
3. Paragraph (a)4 adds that portable halogen lights are prohibited;
4. Paragraph (a)5 adds that cellophane or damp shades are prohibited;
5. Paragraph (a)6 adds that candles may not be used;
6. Paragraph (a)7 adds that clothes dryers are to be well maintained with clean, unblocked ducts and that lint filters shall be cleaned after each use;
7. Paragraph (a)8 adds that fireplaces and wood or pellet burning stoves and all components shall be kept clean and well maintained, be properly installed, and be provided with protective screening;
8. Paragraph (a)9 adds that exhaust fans are to be clean and free of grease; and
9. Paragraph (a)10 adds that attics and unfinished spaces without adequate flooring shall be rendered inaccessible to service recipients.

N.J.A.C. 10:44C-6.6(d) is proposed for amendment to add the option of cellular telephones as a type of phone to which residents shall have access. Proposed new N.J.A.C. 10:44C-6.6(j) requires that standby generators shall be permanently installed by a qualified technician and meet local codes. Proposed new N.J.A.C. 10:44C-6.6(k) sets the permitted use of portable generators as: being used under a local permit if one is required, not being plugged directly into a home's receptacles or outlets, being used outdoors to avoid exhaust entering the home, being properly grounded and kept dry, being used only with heavy-duty outdoor extension code in a safe manner, not being overloaded, and, if used to power devices hardwired into a

home's electrical system, there must be in use a transfer switch or a panel of transfer switches installed by a qualified technician in accordance with all local codes.

An amendment is proposed at N.J.A.C. 10:44C-6.7 that allows the licensee to obtain "other documentation of approval" to meet the requirements of the Uniform Construction Code where previously, only a certificate of occupancy was allowed. Documentation of approval for repairs or renovations is required from a local construction official, if a building permit is needed due to local laws.

Existing N.J.A.C. 10:44C-6.8(a) is proposed for deletion to remove the previous requirement that mass evacuations not be sent through furnace areas, storage areas, or bedrooms. Proposed new N.J.A.C. 10:44C-6.8(b) is relocated from N.J.A.C. 10:44C-6.1(d), without change, as discussed above. Proposed new subsection (c) adds that only commercially available security devices may be used on exit sliding glass doors and proposed new subsection (d) requires that means of egress shall not be obstructed.

An amendment is proposed at N.J.A.C. 10:44C-6.9(b) that corrects the requirement for room temperature to 68 degrees, rather than 65 degrees Fahrenheit.

Proposed new N.J.A.C. 10:44C-6.10(a)1 requires private well water to be tested every five years by a certified laboratory. An amendment is proposed at N.J.A.C. 10:44C-6.10(b) that requires hot water temperature at the tap to be between 105 and 120 degrees Fahrenheit.

Proposed new N.J.A.C. 10:44C-6.12(a)1 requires a bedroom with only one window to not be blocked by a window air conditioner or another device that would prevent egress.

Amendments are proposed at N.J.A.C. 10:44C-6.13, which defines the requirements for bedroom furnishings as follows: paragraph (g)3 allows the use of a "spring bed frame" in addition to the current box spring requirement; new subparagraph (g)3ii requires that mattress or



box spring protectors be of fire resistance material and that shipping plastic covering is prohibited; at paragraph (g)7 the requirement that a resident's mirror be chosen by the residents is deleted (proper placement remains defined in the paragraph); and new subsection (i) requires that every bedroom have an operable door for privacy.

An amendment is proposed at N.J.A.C. 10:44C-6.15(d)1 that corrects the temperature requirements for freezer compartments to operate from "no more than 32 degrees Fahrenheit" to "no more than zero degrees Fahrenheit" (or -18 degrees Celsius, rather than 0 degrees Celsius).

Amendments are proposed at N.J.A.C. 10:44C-6.17, which defines maintenance requirements. Proposed new N.J.A.C. 10:44C-6.17(b)1 requires garbage containers be water tight with tight fitting covers. N.J.A.C. 10:44C-6.17(c)1 is proposed for amendment to allow agency staff, with proper training, to treat pest infestations, providing the agency has proper documentation and proof the infestation has been abated.

As the Division 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 readoption and amendments will have a positive social impact on the approximately 294 persons with head injuries (primarily adults) who currently live in community residences licensed by the Department of Human Services. There are approximately six agencies that operate approximately 55 community residences for persons with head injuries in New Jersey. The rules proposed for amendment, as delineated in the Summary above, provide to persons with head injuries and the public, a level of service appropriate to the persons served,

while preserving the health, safety, welfare, and rights of persons with head injuries in the least restrictive manner possible.

The Department anticipates a positive social impact as a result of the proposed amendments lengthening the licensing cycle from one year to two years. Two-year licensure will lessen the possibility of any future licensing inspection backlog and allow reports of routine inspections to be completed more promptly. A 2008 survey of licensed agencies found that the respondents' primary concern is the need for more timely reporting of inspection results.

Implementation of a two-year licensing cycle will free up resources for preparation and distribution of inspection reports and enable the Office of Licensing to concentrate its resources on the most problematic residential settings, while ensuring scheduled inspections of all licensed agencies.

Lengthening the licensing cycle, while strengthening risk-based oversight, is consonant with national trends and supported by national experts in human services regulation. According to the National Association for Regulatory Administration, "annual renewal may contribute to maintaining standards, but it drains off energy that might be used to achieve generally better compliance. Moreover, doing away with annual renewal should reduce racing the calendar."

### **Economic Impact**

The rules proposed for readoption with amendments will have an insignificant economic burden on the persons who live in community residences and on their families. Any new costs associated with the new requirements are minimal. The rules proposed for readoption deal with the health and safety of the persons served in these residences. It is anticipated that the addition

of the IGRA blood test as an acceptable alternative to the Mantoux TB testing and the removal of the requirement for annual retesting will result in a reduction of costs for provider agencies. The proposed amendments have been reviewed by the current service providers, who have acknowledged that the new requirements are fitting and proper. Cost was not raised as an issue.

The proposed amendments are expected to have little or no economic impact on the regulated public. The proposed amendment lengthening the licensing cycle may have a positive economic impact on the Department by allowing the Office of Licensing to use resources more efficiently.

### **Federal Standards Statement**

The rules proposed for readoption and the proposed amendments have no provisions controlled or regulated by any Federal requirements, except N.J.A.C. 10:44C-5.9(a), which states the "the licensee shall comply with the Occupational Safety and Health Administration's regulations, as they may apply to a particular type of residence the licensee operates, and shall ensure consistent and sound enforcement." The proposed readoption of this rule does not exceed the Federal law; therefore, a Federal standards analysis pursuant to Executive Order No. 27 (1994) and P.L. 1995, c. 65 is not required.

### **Jobs Impact**

The rules proposed for readoption with amendments will not result in the creation or loss of any jobs.

## **Agriculture Industry Impact**

The rules proposed for readoption with amendments will not have any impact on the agriculture industry.

## **Regulatory Flexibility Analysis**

The rules proposed for readoption with amendments will have an impact on approximately seven agencies, of which approximately 80 percent may be considered small businesses as the term is described in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.; that is, they have less than 100 full-time employees. The reporting, recordkeeping, and other requirements, which are delineated more specifically in the Summary and Economic Impact statements above, cannot provide any differentiation based upon business size, since the overriding concern must be for the health, safety, and welfare of the persons living in the community residences. The performance and design standards embodied in the rules can be met by varying levels of provider expenditures, and waivers can be sought in accordance with the provisions of N.J.A.C. 10:44C-1.10. Professional services are required by the rules, including the requirement at N.J.A.C. 10:44C-2.7(c)1i that only nursing personnel are permitted to have feeding tube responsibilities. While staff are required to be trained, and any salary expense for staff attending training would be the responsibility of the facility, the actual training is provided free of charge by the

Department.

### **Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules concern standards for community residences for persons with head injuries.

### **Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and 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 concern standards for community residences for persons with head injuries.

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

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

SUBCHAPTER 1. GENERAL PROVISIONS

### 10:44C-1.1 Purpose and scope

(a) (No change.)

(b) Group homes, supervised apartments, and supported living programs designed specifically to meet the needs of [developmentally disabled] individuals **with developmental disabilities** are licensed under N.J.A.C. 10:44A.

(c) (No change.)

(d) If none of the persons with head [injury] **injuries** at a particular place of residence requires personal guidance, as determined by the transdisciplinary team, licensing shall be available on a strictly voluntary basis, in recognition of a person's right to choose independent living.

### 10:44C-1.3 Definitions

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

["Abuse" means any act or omission that deprives a person served of his or her rights or which has the potential to cause or causes actual physical injury or emotional harm or distress. Examples of abuse include, but are not limited to: acts that cause pain, cuts, bruises, loss of a body function; sexual abuse; temporary or permanent disfigurement; death; striking with a closed or open hand; pushing to the ground or shoving aggressively; twisting a limb; pulling hair; withholding food or water; forcing a person served to eat substances obnoxious to the person served; dousing with water; use of verbal or other communications to curse, vilify, degrade a person or threaten a person served with physical injury. Planned use of behavioral intervention

techniques, which are part of an approved behavior modification plan or individual treatment plan, are not considered abuse or neglect.]

**“Abuse” means wrongfully inflicting, or allowing to be inflicted, physical abuse, sexual abuse, or verbal or psychological abuse or mistreatment by a caregiver upon a person served. Examples of abuse include, but are not limited to: physical acts causing pain, injury, anguish, or suffering, such as kicking, pinching, biting, punching, slapping, hitting, pushing, dragging, or striking with a thrown or held object. Abuse may also include acts or attempted acts of lewdness, sexual contact, or sexual penetration; as well as verbal or psychological abuse or mistreatment inflicting emotional harm or mental distress; or invocation of fear, humiliation, intimidation, or degradation. Examples include, but are not limited to: bullying; ignoring need; verbal assault; use of racial or ethnic slurs; or intimidating gestures, such as shaking a fist at a person served (See N.J.S.A. 30:6D-73 et seq. and N.J.A.C. 10:44D).**

...

"Advocacy [services]" means one or more of the following services:

1.– 2. (No change.)

3. Legislative advocacy as permitted by law: seeking legislative enactments that would enhance the rights and/or opportunities for people with disabilities or persons with head [injury] **injuries;**

4.-5. (No change.)

["Affirming rights" means respecting rights and providing the assistance persons served need to exercise those rights and to engage in self-advocacy.]

...

"Approved" means approved by the [licensing agency] **Office of Licensing**.

...

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

["Banking institutions" means and includes banks, trust companies, national banking associations, savings banks, savings and loan associations and Federal savings and loan associations.]

"Behavior [modification program]" **Support Plan**" means a written, approved plan that employs techniques to [:1. Decrease] **decrease** maladaptive behavior[;] and [2. Increase] **increase** adaptive behavior.

["Board certification" means satisfactory completion of the examination and certification process of one of the members of the American Board of Medical Specialties or the American Osteopathic Association.]

...

"Capacity" means the maximum number of persons with head [injury] **injuries** who may reside in the licensed residence.

"Case manager" means the person responsible for the development, coordination, and overall management of the individual treatment plan for each person served, **and who is employed by the licensee**. There may also be [a] **an external** case manager [external to the agency], such as one acting on behalf of an insurance company, **managed care organization**, or other payor source.



["Clinical Director" means the person who oversees the provision of rehabilitation and habilitation services.

"Cognitive rehabilitation" means a systematic, functionally oriented service of therapeutic cognitive activities based on an assessment and an understanding of the behavior of a person served. Services are directed to achieve functional improvement by:

1. Reinforcing, strengthening, or reestablishing previously learned patterns of behavior;
- or
2. Establishing new patterns of cognitive activity or mechanisms to compensate for impaired neurological systems.]

...

**“Conditional license” is a negative licensing action issued to prompt corrective actions in existing community residences. A conditional license shall be effective for less than one year.**

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

...

**“Direct service staff” means any licensee and any full time, part time, temporary employment services, or contract employee at a community residence for persons served**

**present in the living or program area who work directly with the person served. “Direct service staff” does not include housekeepers, food service workers, maintenance workers, clerical staff, or volunteers.**

...

["Exploitation" means any unjust or improper use of a person served or his or her resources for one's profit, advantage or gratification.]

**“Exploitation” means the act or process of a caregiver using a person served or his or her resources for another person's profit or advantage. (See N.J.S.A. 30:6D-73 et seq. and N.J.A.C. 10:44D)**

...

"Full license" means the authorization to operate based upon substantial compliance with this chapter. A full license shall be effective for up to [one] **two** years.

["Functional limitations" means actual behaviors or mental or physical disabilities exhibited by persons served and/or conditions presented by their environments that shall be modified or minimized in order for persons served to fulfill their potential or maximize their functioning.]

...

"Human Rights Committee" means a group comprised of professionals, individuals served, advocates, and/or interested persons from the community at large who function as an advisory group to the [regional assistant director,] CEO[, ] **or** executive director[, or regional administrator] on issues directly or indirectly affecting the rights of individuals served.

...

["Impairment" means any loss or abnormality of psychological, cognitive, physiological or anatomical structure or functioning.]

...

**“Initial license” means the first authorization to operate based upon substantial compliance with this chapter. An initial license shall be effective for up to six months.**

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

...

"License" means the authorization issued by the Department of Human Services to operate a community residence providing services to persons with head [injury] **injuries**.

...

["Mobile non-ambulatory person" means a person served capable of independent bed to wheelchair transfer and capable of following procedures for evacuation from the facility.]

"Negative licensing action" means an action, which imposes a restriction on a licensee and may include suspension of admissions, issuance of a [provisional] **conditional** license, a reduction in the licensed capacity, a denial of the license, a non-renewal of the license, a suspension of the license, or a revocation of the license.

["Neglect" means the failure of a paid or unpaid caregiver to provide for the care and safety of persons under his or her supervision, or failure to provide and maintain proper and sufficient food, clothing, health care, shelter, and/or supervision.]

**“Neglect” means any of the following acts by a caregiver on a person served: willfully failing to provide proper and sufficient food, clothing, maintenance, medical care,**

**or a clean and proper home; or failure to do, or permit to be done, any act necessary for the well-being of a person served. (See N.J.S.A. 30:6D-73 et seq. and N.J.A.C. 10:44D)**

...

["Occupational therapist" means a person who is currently certified as an occupational therapist by the American Occupational Therapy Certification Board and who meets any current requirements of licensure or registration in New Jersey.]

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

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

...

["Physical therapist" means a person who is a graduate of a physical therapy education program that has been approved by a nationally recognized accrediting body or who has the documented equivalent education and meets current legal requirements of licensure as a physical therapist.]

...

["Post acute" means the provision of on-going, goal-oriented services without the need for 24-hour physician care.]

**“Power of attorney (POA)” means a written document that grants a person (other than the individual granting the permission), the authority to act as an agent for the grantor, within the parameters of duties and powers specified in the document.**

...

"Program description" means a document submitted to obtain a license and/or funding from the Department. A program description includes a detailed description of services provided to persons with head [injury] **injuries** and staff coverage, and is reviewed as part of the licensing inspection process. The program description shall be amended to reflect major changes in the provision of services.

...

["Provisional license" is a negative licensing action issued to prompt corrective actions in existing community residences. A provisional license shall be effective for less than one year.

"Reasonable accommodation" means a modification or adjustment that assists the person served to access benefits and privileges that are equal to those that are available to other citizens. Examples taken from the Americans with Disabilities Act 42 U.S.C. §§ 12101 et seq. (ADA) include: making existing facilities readily accessible to and usable by people with disabilities; restructuring jobs; modifying work schedules; reassigning people to vacant positions; acquiring or modifying equipment or assistive devices; adjusting or modifying examinations, training materials, policies, and procedures; and providing qualified readers or interpreters.

“Regional Assistant Director’s Office” means a component of the Division of Developmental Disabilities that provides administrative oversight for the provision of supportive services to persons with disabilities.]

...

["Rehabilitation nurse" means a person who meets legal requirements as a registered nurse and who has training and experience in dealing with the unique needs of those persons served who need rehabilitation. Rehabilitation nursing is a specialty practice within the

profession. Rehabilitation nurses diagnose and treat the human responses of persons and groups to actual or potential disabilities that interrupt or alter their functioning and life satisfaction. The goal of rehabilitation nursing is to assist the person or group in the restoration and maintenance of maximal health and improve the person's quality of life. One mechanism of ascertaining the knowledge of rehabilitation nursing is through certification as a certified rehabilitation nurse (C.R.R.N.).]

...

["Respite placement" means a service in which a licensee provides short term supports for a person with head injury.

"Restriction of rights" means any externally imposed limitation of rights.]

"Self-advocacy group" means a group of persons with head [injury] **injuries** who meet on a regular basis (such as at house meetings) to discuss common goals, issues, needs, and wishes. With the assistance of a facilitator, if needed, a self-advocacy group can serve as a united voice for persons with head [injury] **injuries**.

["Special Response Unit" (SRU) means that component of the Department responsible to investigate serious unusual incidents in community programs contracted by the Division and/or licensed and regulated by the Department.

"Staff member" means a person who is directly employed by an agency that serves people with head injuries on either a full or part-time basis.]

"Substantial non-compliance" means:

1. The violation by an owner, applicant, licensee, or executive leadership of the laws of the State of New Jersey pertaining to or governing community residences for persons with head [injury] **injuries**;

2.-7. (No change.)

...

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

...

"Waiver" means the temporary suspension of a standard that is granted in writing by the [licensing agency] **Office of Licensing**.

...

10:44C-1.4 Application for a license

(a) Information may be obtained from the Department as follows:

1. An application for a license may be obtained from:

Department of Human Services

[Developmental Disabilities Licensing] **Office of Licensing**

PO Box 707

Trenton, NJ 08625-0707

[2. Information regarding supportive services for persons with head injuries may be obtained from the applicable office of the Division of Developmental Disabilities, as follows:

Northern Region

1-B Laurel Drive

Flanders, NJ 07836

Phone: (973) 927-2600

100 Hamilton Plaza, 7th Floor

Paterson, NJ 07505

Phone: (973) 977-4004

(Counties served: Morris, Sussex and Warren)

(Counties served: Bergen, Hudson and  
Passaic)

#### Upper Central Region

59 Main Street

153 Halsey Street, 2nd Floor

West Orange, NJ 07052

P.O. Box 47013

Phone: (973) 324-2000

Newark, NJ 07101

(Counties served: Somerset and Union)

Phone: (973) 693-5080

(County served: Essex)

#### Lower Central Region

32 Hanover Street

Juniper Plaza, Suite 1 - 11

P.O. Box 706

3499 Route 9 North

Trenton, NJ 08625-0706

Freehold, NJ 07728

Phone: (609) 292-4500

Phone: (732) 863-4500

(Counties served: Hunterdon, Mercer and Middlesex)

(Counties served: Ocean and

Monmouth)

#### Southern Region

2 Echelon Plaza

5218 Atlantic Avenue, Suite 205

221 Laurel Road, Suite 210

Mays Landing, NJ 08330

Voorhees, NJ 08043

Phone: (609) 476-5200

Phone: (856) 770-5900

(Counties served: Atlantic, Cape May,

(Counties served: Burlington,

Cumberland and Salem)

Camden and Gloucester)]

(b) (No change.)



(c) An application for licensure as an operator of a community residence for persons with head [injury] **injuries**; shall be submitted to the [licensing agency] **Office of Licensing**.

1. The application shall be composed of the following:

i.-iv. (No change.)

v. A description of the applicant's experience in providing services to persons with head [injury] **injuries**;

vi.-ix. (No change.)

2.-3. (No change.)

(d) The [licensing agency] **Office of Licensing** shall initially review the materials to determine:

1.-5. (No change.)

(e) The [licensing agency] **Office of Licensing** may employ the services of any qualified professional, as necessary, in the review process in order to conduct a thorough and valid review of the program, supports, and services to be rendered.

(f) (No change.)

(g) Upon a determination that an application is denied, the [licensing agency] **Office of Licensing** shall notify the applicant in writing of the reason through certified mail, return receipt requested.

1. (No change.)

(h) The approved program description shall be available for review, as appropriate, by persons with head [injury] **injuries**, their guardians, their families, and their advocates.

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

(l) No person shall own or operate a community residence for persons with head injuries without authorization from the [licensing agency] **Office of Licensing**.

(m) (No change.)

#### 10:44C-1.5 Procedure manual

Prior to opening an initial residence, an applicant shall submit a procedure manual, which meets the requirements of N.J.A.C. 10:44C-2.2, to the [licensing agency] **Office of Licensing** for approval.

#### 10:44C-1.6 Issuance of an initial license

(a) Upon approval of the program description, and upon approval of the licensee's policy and procedure manual, the [licensing agency] **Office of Licensing** shall conduct an on-site initial inspection of the residence.

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

1. (No change.)
2. [A fire] **An emergency** evacuation plan;
- 3.-6. (No change.)
7. A staff schedule that conforms to the program description approved by the [licensing agency] **Office of Licensing** in accordance with N.J.A.C. 10:44C-1.4;
  - i. The full names of staff shall be written on the staff schedule.**
- 8.-9. (No change.)

(c) The license shall document the location of each residence and shall specify the maximum number of persons with head [injury] **injuries** that may occupy the residence, excluding licensee's staff.

1. A room or rooms may be used as an office for exclusive use by staff.

i. Such rooms shall not be utilized for sleeping purposes for any person served, staff member, or any other person unless temporary approval is granted by the [licensing agency] **Office of Licensing** due to an emergent problem.

ii. (No change.)

2. A room may be utilized exclusively by staff for sleeping purposes as part of the staff coverage plan, if previously approved by the [licensing agency] **Office of Licensing**.

(d) The Department shall issue [a full] **an initial** license, which is not transferable to any other person, corporation, agency, or address, effective from the date of the on-site inspection, upon compliance with (a) and (b) above.

1. The applicant or licensee shall submit a plan of correction regarding [all] **identified** deficiencies cited in the inspection report within 30 days after notification to the applicant or licensee.

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

1. Following receipt of the plan of correction, the [licensing agency] **Office of Licensing** shall conduct an on-site review to verify the corrective action taken.

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

**(g) Each license issued to a licensee shall remain the property of the Department.**

**If the Office of Licensing suspends or revokes a license, the licensee shall, upon notification, return the license to the Office of Licensing.**

10:44C-1.7 Renewal of a license

(a) Upon reinspection, full licenses shall be effective for up to [one] **two** years from the expiration date of the preceding license, unless otherwise specified by the [licensing agency] **Office of Licensing** by the issuance of a [provisional] **conditional** license, a non-renewal of license, suspension of license, or revocation of license.

1. The licensee shall submit a plan of correction regarding [all] **identified** deficiencies cited in the reinspection report within 30 days or in accordance with a shorter time frame as established by the [licensing agency] **Office of Licensing**.

2. A shorter time frame shall be established by the [licensing agency] **Office of Licensing** in those instances where prompt remediation of a deficiency is required in order to protect the health, safety, welfare, and rights of persons served.

(b) Following receipt of the plan of correction, the Department may conduct an on-site review to verify the corrective action taken.

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

i. Should there be continuing deficiencies, or if new deficiencies are noted [which] **that** document substantial or willful noncompliance, the findings shall indicate that a second plan of

correction is required or that the [licensing agency] **Office of Licensing** may impose a negative licensing action.

(c) If a second plan of correction is required by the [licensing agency] **Office of Licensing**, the licensee shall submit the plan of correction within the time frame specified by the [licensing agency] **Office of Licensing**.

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

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

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

#### 10:44C-1.8 Denial, revocation, non-renewal, or suspension of a license

(a) The [licensing agency] **Office of Licensing** may deny, revoke, refuse to renew, or suspend a license for substantial non-compliance or for willful non-compliance.

(b) If the [licensing agency] **Office of Licensing** denies, revokes, or refuses to renew a license, the licensee shall be prohibited from re-applying for a license for one year from the date of license revocation or non-renewal. After the one year period has elapsed, the licensee may submit to the [licensing agency] **Office of Licensing** a new application for a license.

1. (No change.)

(c) When a license is suspended, the [licensing agency] **Office of Licensing** shall reinstate the license when the licensee achieves compliance with the provisions of this chapter. The [licensing agency] **Office of Licensing** shall not require the licensee to submit a new application for a license unless such application is expressly made a condition of the reinstatement of the license.

(d) Each license issued to a licensee shall remain the property of the Department of Human Services. If the [licensing agency] **Office of Licensing** suspends or revokes a license, the licensee shall, upon notification, return the license to the [licensing agency] **Office of Licensing**.

(e) (No change.)

#### 10:44C-1.10 Waiver or variance

(a) A waiver or variance [shall] **may** be granted by the [licensing agency] **Office of Licensing** provided that such a waiver or variance would present no danger to the health, safety, welfare, or rights of the persons served.

1. (No change.)

2. Issuance of a waiver or variance shall be limited to the following circumstances:

i. (No change.)

ii. Where the waiver or variance is in accordance with the particular needs of the persons with head [injury] **injuries**.

#### 10:44C-1.11 Complaints

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

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

#### 10:44C-1.12 Voluntary closure

(a) A licensee **operating a community residence for persons with head injuries governed by this chapter** shall give at least 60 days notice to the [licensing agency] **Office of Licensing** of any planned closure.

1. (No change.)

#### 10:44C-1.13 [Licensing agency] **Office of Licensing**

(a) The [licensing agency] **Office of Licensing** shall enforce this chapter upon the authority delegated by the Commissioner of the Department of Human Services.

1. (No change.)

(b) The [licensing agency] **Office of Licensing** may utilize the findings of any State, county, or municipal official empowered by statute or appropriately constituted ordinance, for example, local construction officials or fire officials, to inspect community residences.

(c) The [licensing agency] **Office of Licensing** may utilize the findings of any agency or agent that monitors the residence for the payment authority or that provides case management as required by the Medicaid Waiver.

1. The [licensing agency] **Office of Licensing** may impose a negative licensing action based upon an [SRU] **OI** investigation report.

(d) The [licensing agency] **Office of Licensing** may contact parents, relatives, legal guardians, and others interested in the care and rehabilitation of those persons served in community residences for persons with head injuries to obtain facts and opinions regarding their satisfaction with the services rendered by the licensee.

1. (No change.)

(e) The [licensing agency] **Office of Licensing** may utilize the findings of an accrediting body to render a licensing decision.

1. (No change.)

#### 10:44C-1.14 Illegal operations

(a) In cooperation with the Department of Community Affairs and the Department of Health [and Senior Services], the [licensing agency] **Office of Licensing** shall investigate any community-based residence alleged to be operating without a license as required by N.J.S.A. 30:11B-1 et seq., [N.J.S.A.] 55:13B-1 et seq., the Health Care Facilities Planning Act, [N.J.S.A.] 26:2H-1 et seq., or any other law pertaining to the licensing of community-based residential programs, as subsequently adopted into State law.

(b) (No change.)

(c) Subsequent to inspection, joint or independent actions shall be taken as deemed necessary to suppress illegal operations.



1. Actions shall be taken to prevent an applicant from obtaining a license from any [state] **State** licensing agency when the sole purpose for obtaining that license is to avoid sanctions previously initiated by a State licensing agency exercising legal jurisdiction.

2. (No change.)

#### 10:44C-1.15 Search warrants

(a) In the event that any authorized representative of the [licensing agency] **Office of Licensing** is denied access to any residence, the [licensing agency] **Office of Licensing** shall obtain a search warrant from a court of competent jurisdiction.

1. (No change.)

2. The application for the search warrant shall specify one of the following:

i. (No change.)

ii. The desired inspection is a special inspection in response to information received by the [licensing agency] **Office of Licensing**-indicating the possible existence of a condition that violates N.J.S.A. 30:11B-1 et seq., or this chapter.

### SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

#### 10:44C-2.1 General requirements

(a) (No change.)

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

1. (No change.)

2. A current copy of this chapter[;].

**i. A current copy of this chapter shall also be kept on file in each residence;**

**3. Reports of unusual incidents;**

[3.] **4.** Copies of all current licenses; [and]

[4.] **5.** Written descriptions of any religious practices or restrictions that are observed if a licensee has a particular religious orientation, approved as part of the program description, in accordance with this chapter[.];

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

**7. Personnel files.**

(c)-(l) (No change.)

(m) Licensees that provide outpatient mental health programs shall assure that the services provided in those programs comply with N.J.A.C. **10:37E and** 10:190.

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

(a) The licensee shall develop and implement a manual of written procedures to ensure that the service delivery system complies with State law and rules governing community residences for persons with head [injury] **injuries**.

1.-3. (No change.)

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

1.-4. (No change.)

5. A procedure for handling medical emergencies **that contains provisions that conform to the requirements of N.J.S.A. 30:6D-5.1 et seq. (Danielle's Law);**

**6. Emergency coverage and on-call procedures;**

[6.] **7.** A procedure for reporting all unusual incidents **including, but not limited to:**

[7. A procedure for the reporting of suspected abuse, neglect or exploitation of the persons served receiving services, including, at a minimum:]

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

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

[iii. A written statement regarding specific agency investigation procedures.]

**8. A procedure for investigations;**

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

**10. A New Employee Orientation Checklist, which shall include, at a minimum, all requirements at N.J.A.C. 10:44C-2.6(a)1 through 7;**

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

**12. A list and schedule of all charges and fees for which a person served shall be held responsible;**

Recodify existing 9.-14. as **13.-18.** (No change in text.)

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

i.-iv. (No change.)

v. An action plan based upon an analysis of [(b)15i] **(b)19i** through iv above.

10:44C-2.4 Personnel

(a) Personnel practices shall comply with all applicable Federal, State, and local laws, ordinances, rules, and regulations pertaining to employment, including civil rights, retirement plans, or social security, minimum wages, hours, and worker's compensation.

**1. The licensee shall assure that background checks are conducted for all employees who have direct contact with persons served by the agency, in accordance with N.J.A.C. 10:48A, Background Checks.**

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

Recodify existing 1.-2. as **2.-3.** (No change in text.)

[(c)] **(b)** (No change in text.)

[(d)] **(c)** The licensee shall conduct a criminal background check for each applicant and each current staff member.

1. The licensee may employ the applicant or staff member for no more than six months pending the results of the criminal background check [providing] **provided** the applicant or staff member submits a sworn statement to the licensee attesting that he or she has not been convicted of any offenses enumerated in [N.J.A.C. 10:44C-2.4(b)] **(a)1, 2, and 3 above.**

2. (No change.)

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

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

1. (No change.)

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

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

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

4. (No change.)

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

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

1. Mantoux tuberculin skin test **or IGRA blood test** results, chest x-ray, or physician's or advanced practice nurse's certification; and

2. (No change.)

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

#### 10:44C-2.5 Minimum staff qualifications

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

(d) An agency employee serving as a case manager shall have one of the following:

1.-3. (No change.)

4. Certification as an insurance rehabilitation specialist (CIRC); [or]

**5. Certification as a brain injury specialist (CBIS); or**

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

(e) The supervisor responsible for the operation of a residence shall have a high school diploma or equivalent and one year of experience working with persons with head [injury] **injuries.**

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

#### 10:44C-2.6 Orientation

(a) Prior to working with persons served, all staff shall receive an orientation to acquaint them with:

1.-3. (No change.)

4. Emergency procedures as identified in the procedure manual; for example, the [fire] **emergency** evacuation plan, **the operation of the fire alarm system,** emergency medical treatment, use of fire extinguishers, **and the procedure for life-threatening emergencies, that**

**incorporates the provisions of N.J.A.C. 10:42A, Life-Threatening Emergencies (Danielle's Law);**

5. An overview of head [injury] **injuries** and any special needs of the persons served, for example, medical or behavioral problems requiring specific, tailored training; [and]

6. The appropriate job description and the personnel policies of the organization [.]

**and**

**7. The implementation of the licensee's emergency coverage and on-call procedures.**

(b) (No change.)

#### 10:44C-2.7 Staff training

(a) Basic staff training programs shall either be offered by the Department, or provided **or obtained** by the licensee after obtaining approval from the Department, to ensure staff competency. Within 120 days of employment, each employee shall successfully complete training approved by the [licensing agency] **Office of Licensing** that shall address, at a minimum:

1.-5. (No change.)

(b) (No change.)

(c) Specialized training programs, identified as necessary during the application process or, subsequently, by the TDT, shall include, but not be limited to:

1. (No change.)

2. Mobility procedures and the safe use of mobility devices, **including those necessary for transport;**

3. Seizure disorders, physical disabilities, or other identified medical needs; and

4. Identified mental health needs, including the need for behavior modification.

**i. Persons who work with persons served who require behavior support plans shall receive training in the implementation of all such plans.**

(d) All staff who work with persons served who have specialized needs shall receive training in such specialized training programs **within 120 days of employment.**

1. (No change.)

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

1.-3. (No change.)

(f) (No change.)

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

#### 10:44C-2.8 Staff coverage

(a) At each residence, the total number of staff shall be no less than one staff member for every three persons served when the persons are in the home and awake.

1. The ratio can be altered in accordance with the needs of the persons served as approved by the [licensing agency] **Office of Licensing** during the program description approval process.

(b) At each residence, the total number of staff shall be based on the needs of the persons served but shall be no less than one staff member for every five persons served when the persons are sleeping.



1. The ratio can be altered in accordance with the needs of the persons served as approved by the [licensing agency] **Office of Licensing** during the program description approval process.

(c) (No change.)

(d) Reduction of staff coverage as specified in any modification to the program description shall be justified in writing and sent to the [licensing agency and the appropriate Regional Assistant Director's Office, if necessary,] **Office of Licensing** for approval.

1. (No change.)

2. Reduction of staff coverage as specified in the approved Program Description shall be [jointly] reviewed and approved by the [Regional Assistant Director's Office (if necessary) and the licensing agency] **Office of Licensing** prior to implementation by the licensee, based on (d)1 above.

3. A written response shall be provided by the [licensing agency] **Office of Licensing** within 15 working days, documenting any conditions that must be met as part of the approval of the reduction of staff coverage.

4. With the exception of an emergency, adjustments of staff ratios as specified in the approved Program Description shall not be implemented until approval is granted by the [licensing agency] **Office of Licensing**.

(e)-(g) (No change.)

**(h) The licensee shall assure that, if all staff have not completed necessary specialized training in accordance with N.J.A.C. 10:44A-2.7(c)1, 2, 3, and 4, each required specialized training for that site has been completed by at least one person on each shift.**

**(i) Staff of a supervised apartment program shall be on-site whenever any person**

served is present, unless otherwise stated in the served person's ITP.

1. At least one staff member must be available on the grounds of the apartment complex during the night for emergencies.

2. The staff residence/office shall be located so that the response time to each person served is consistent with their supervision needs.

10:44C-2.9 Records: persons served

(a) A file shall be maintained for each person served in a licensed community residence for persons with head [injury] **injuries**.

1. (No change.)

(b)-(c) (No change.)

(d) The record of each person served shall include:

1. Pre-admission information, as follows:

i. The full name, date of birth, and [sex] **gender** of the person served;

ii. The person's [Social Security,] Medicaid numbers or medical insurance numbers;

iii.-ix. (No change.)

x. The results of a Mantoux Skin Test[, ] **or IGRA blood test** completed within the past year[, obtained within 30 days prior to admission]; and

xi. (No change.)

2. The results of an annual physical examination [and the results of the Mantoux Skin Test, readministered every year];

3. (No change.)

[4. Initial reports of unusual incidents;]

Recodify existing 5.-12. as **4.-11.** (No change in text.)

(e) (No change.)

10:44C-2.10 Funds and financial records: persons served

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

(d) The licensee shall obtain written authorization for any of the funds of a person served to be entrusted.

1. (No change.)

2. The person served and his or her guardian **or power of attorney (POA)**, where applicable, shall sign the authorization.

(e) (No change.)

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

1. (No change.)

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

i. Any increase in this amount shall be authorized by the person served and his or her guardian **or power of attorney (POA)**, where applicable.

(g)-(j) (No change.)

SUBCHAPTER 3. ADVOCACY AND RIGHTS

### 10:44C-3.1 General requirements

(a) The provision of services and support shall demonstrate recognition that persons with head [injury] **injuries** have the same rights as all other citizens.

1. (No change.)

(b) Upon admission to the program and upon subsequent request, the licensee shall provide the person served and his or her guardian, where applicable, with the following:

1. (No change.)

2. The names, addresses, and telephone numbers of advocates available to assist the person served in understanding and enforcing these rights, to include, at a minimum:

i.-ii. (No change.)

iii. Brain Injury [Association] **Alliance** of New Jersey (1-800-669-4323);

iv. (No change.)

[v. Special Response Unit]

**v. Office of Investigations;**

vi.-viii. (No change.)

ix. Department of Children and Families' **Child Abuse Control Number (1-800-792-8610)** and State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873), if applicable; and

x. (No change.)

3. A copy of the licensee's rules [which] **and any house rules that** apply to the residence of the person served; [and]

4. A copy of the licensee's grievance procedure for appealing agency decisions, or decisions of the TDT, [which shall have the following:] **as required at N.J.A.C. 10:44C-2.2(b)13;**

- [i. A minimum of two levels of appeal, the last of which shall involve the executive leadership or the licensee;
- ii. Time frames for decision-making at each step;
- iii. Written notification procedures;
- iv. The rights and responsibilities of each party; and
- v. The opportunity for the person served, his or her guardian or his or her personal advocate to obtain assistance from any of the individuals or organizations listed at (b)2 above.]

**5. A copy of the written procedures for safekeeping of valuable personal possessions;**

**6. A copy of the procedure regarding toll calls/charges; and**

**7. A copy of the financial rights and services procedures.**

(c) If a person served is unable to read (b)1 through [4] 7 above, the text shall be read to the person served in a language or manner the person understands.

1. The licensee shall make provisions to explain portions that are not understood and answer any questions the person served may have regarding (b)1 through [4] 7 above.

(d) A copy of a written acknowledgment that (b)1 through [4] 7 above has been explained and understood shall be immediately signed and dated by the person served, the licensee's representative(s) and the person's guardian, if present.

1.-3. (No change.)

(e) (No change.)

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

(g) (No change.)

10:44C-3.2 Rules governing a residence

(a) The licensee may establish reasonable rules that govern the conduct of persons in a particular residence, including, but not limited to, rules regarding smoking, pets, and visitors, provided:

1. (No change.)
2. Persons served and their guardians, where applicable, are informed of the rules governing a residence prior to their admission, **as required at N.J.A.C. 10:44C-3.1(b)3;**
3. The persons served affected by such rules are consulted whenever a revision is considered, and there is evidence the rules are necessary to promote order and to benefit the collective group; **and**
4. The rules include provisions to ensure that a person served exercising his or her rights does so in such a way so as to not infringe upon the rights of, or endanger, others[; and].
- [5. The licensee complies with the rules contained in this chapter regarding the requirements for a grievance process or appeal of a licensee decision or a decision of the TDT as specified at N.J.A.C. 10:44C-2.2(b)9.

(b) A person served or a group of persons served shall be given a copy of such rules, and additional copies shall be made available upon subsequent request.]

**(b) The persons served at a particular residence may jointly choose to establish mutually agreed upon house rules regarding conduct in the home, in accordance with (a)1 through 4 above.**

(c) Each copy of the rules shall contain a statement that a person served or a group of persons served has the right to challenge such rules as to their appropriateness through the licensee's grievance procedure, as specified at N.J.A.C. 10:44C-2.2(b)[9]**13**.

(d) (No change.)

#### 10:44C-3.3 Self-advocacy

(a) (No change.)

(b) Persons with head [injury] **injuries** shall be given the opportunity to participate in a self-advocacy group of their choice.

(c) (No change.)

(d) The process of conducting house meetings shall include the person served as much as possible unless the TDT has determined otherwise. The scheduling of such meetings shall include the persons served living in the home. Staff shall assist the persons served with setting the schedules and agendas for house meetings. **If the TDT has determined that the person served is unable to participate or if the person served chooses not to participate in house meetings, this shall be noted in the ITP.**

#### 10:44C-3.4 Enumeration of rights

(a) The provision of services and support shall demonstrate recognition that persons with head [injury] **injuries** have the same rights as all other citizens.

1. (No change.)

(b) Each person served shall further be afforded the following rights and freedoms while living in a community residence for persons with head [injury] **injuries**:

1.-4. (No change.)

5. Associate with members of [the opposite sex] **either gender**;

6.- 24. (No change.)

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

#### SUBCHAPTER 4. SERVICE DELIVERY/REHABILITATION/HABILITATION

##### 10:44C-4.1 Pre-admission and admission

(a) (No change.)

(b) The number of persons with head [injury] **injuries** admitted to a residence shall not exceed the licensed capacity.

(c) Prior to admissions, the licensee shall obtain the following:

1.-3. (No change.)

4. The results of a Mantoux Skin Test for tuberculosis **or IGRA blood test**, administered within one year prior to the date of admission; and

5. (No change.)

[(d) The licensee shall, at the time of admission, and without cost to the person served, provide the following:

1. A copy of the written procedures for safekeeping of valuable personal possessions;

2. A written statement explaining the rights of the person served;

3. A copy of the rules governing the residence, as applicable;

4. A copy of the grievance procedure;



5. A copy of the procedure regarding toll calls/charges; and
6. A copy of the financial rights and services procedures.

(e) The licensee shall make provisions to explain (e)1 through 6 above and answer any questions the person served may have regarding this information.

(f) The guardian of the person served shall be notified, in writing, that the person served has had this information explained to him or her.

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

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

#### 10:44C-4.2 Individual treatment plan (ITP)

(a) (No change.)

(b) At service initiation, evaluations covering the areas in **(b)1** through 11 below shall be obtained within 30 days **and annually thereafter**.

1.-11. (No change.)

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

#### 10:44C-4.4 Transfer or discharge

(a) (No change.)

(b) In the case of a planned transfer or discharge, at least 30 days prior to the anticipated discharge date, at a minimum, the following shall occur:

1.-2. (No change.)

3. The development of the discharge plan shall include the licensee, the person served and his or her guardian **or POA**, as appropriate, the TDT and a representative of the [placing agency] **managed care organization, as applicable.**

i. (No change.)

[ii. The appropriate Division Regional Assistant Director's Office shall be notified, if necessary.]

[iii.] **ii.** (No change in text.)

(c) (No change.)

(d) Upon an emergency transfer or discharge of a person served, the licensee shall make recommendations to the person, his or her legal guardian, interested family, and/or his or her personal advocate and the placing agency regarding follow-up care required.

1. The person or his or her legal guardian and/or advocate shall have the right to appeal the emergency discharge in accordance with N.J.A.C. 10:44C-2.2(b)[9]**13.**

## SUBCHAPTER 5. HEALTH AND SAFETY

### 10:44C-5.1 General health care

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

[(d) Each year the person served shall have a Mantoux tuberculin skin test.

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

i. That the person served obtain a written statement from a physician or advanced practice nurse certifying that he or she poses no threat of tuberculosis contagion; or

ii. A protocol to follow, recommended by the physician or advanced practice nurse before allowing the person served to come into contact with other persons served and staff.

2. The licensee shall support the person served in adhering to the recommended follow-up testing, if any, by the physician or advanced practice nurse.]

**(d) Upon any known or suspected exposure to a confirmed case of *M.***

***Tuberculosis* by a person served, the agency shall consult with the local health department and maintain documentation that all requirements for follow up testing were met.**

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

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

1.-8. (No change.)

9. [Vinyl] **Protective** gloves.

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

#### 10:44C-5.2 Prescription medication

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

(c) A written record shall be maintained of all medication administered by the trained staff members.

1. The record shall include the following:

i.-vi. (No change.)

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

viii.-ix. (No change.)

(d) If a person served is capable of taking medication without assistance, no daily medication administration record is required.

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

(e) (No change.)

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

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

1.-2. (No change.)

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

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

1. A storage area of adequate size for both prescription and [non-prescription] **over-the-counter** medications shall be provided and kept locked for those persons served who are not self-administering their own medication;

2.-3. (No change.)

4. Each prescribed medication for each person served shall be separated within the storage areas, as follows:

- i. Oral medications, **eye drops, and ear drops** shall be separated from other medications; and
- ii. (No change.)
5. (No change.)
6. Medications that are outdated or no longer in use shall be [destroyed] **safely disposed of** according to licensee procedure;
- 7.-8 (No change.)
- (j) A statement [from] **signed by** the physician or advanced practice nurse regarding the usage and contraindications of over-the-counter medications shall be available for staff reference and use and shall be updated annually. **This statement shall constitute a physician's order.**
- (k) **For medications available over-the-counter, the manufacturer's label shall be sufficient for identification purposes.**

#### 10:44C-5.4 Telephone numbers

- (a) (No change.)
- (b) The following telephone numbers for reporting unusual incidents or for filing complaints shall be easily accessed and available to all persons in the residence:
  1. The [Division's toll-free hotline number, 1-800-832-9173] **Department's Central Office Critical Incident Management Unit (# to be determined);**
    - [i. Northern Regional Office (Flanders): 973-927-2600;
    - ii. Northern Regional Office (Paterson): 973-977-4004;
    - iii. Upper Central Regional Office: 973-324-2000;
    - iv. Lower Central Regional Office: 609-292-4500;

v. Southern Regional Office: 856-770-5900;]

2.-3. (No change.)

4. [The Special Response Unit (609-984-5479)] **Office of Investigations (609-984-9663)**.

#### 10:44-5.5 Food

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

**1. Food shall be thawed in a refrigerator.**

(b)-(c) (No change.)

(d) The licensee shall assure that each person served is provided the opportunity for the following:

1. Three nutritionally balanced meals, varied in nature, in the home or in the community.

i. (No change.)

[ii. Unless otherwise specified by the person's medical needs, the diet for each person served shall be prepared in accordance with the latest edition of the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.]

[iii.] **ii.** When a [medical or otherwise specified] **prescribed** diet is required, the licensee shall assure that all equipment necessary for preparing food is readily accessible and used appropriately.

Recodify existing iv.-vi. as **iii.-v.** (No change in text.)

(e)-(i) (No change.)

#### 10:44C-5.6 Clothing

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

Recodify existing (a)-(c) as **(b)-(d)** (No change in text.)

#### 10:44C-5.7 Vehicle safety

(a) All vehicles used under the auspices of the agency to transport persons with head [injury] **injuries** shall include:

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

2. A first aid kit to only include:

i.-vi. (No change.)

vii. [Vinyl] **Protective** gloves; and

viii. Adhesive bandages (for example, Band-Aids); **and**

3. Snow tires, all weather tires, or chains, when weather conditions dictate their use[; and].

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

(b) All vehicles used under the auspices of the agency to transport persons served shall comply with all applicable safety and licensing rules established by the New Jersey Motor Vehicle Commission.

1. The licensee shall maintain valid liability insurance on all vehicles used to transport persons with head [injury] **injuries**.

2.-4. (No change.)

5. All equipment stored in any vehicle used under the auspices of the agency to transport persons with head [injury] **injuries** shall be properly secured in order to prevent injury to all persons in the vehicle.

## SUBCHAPTER 6. FIRE SAFETY AND PHYSICAL ENVIRONMENT

### 10:44C-6.1 Fire safety

(a) (No change.)

(b) Each community residence for persons with head [injury] **injuries** shall comply with the provisions of N.J.S.A. 52:27D-192 et seq., the Uniform Fire Safety Act.

1. The [licensing agency] **Office of Licensing** may identify any additional fire safety precautions required.

(c) (No change.)

[(d) No interior or exterior door, window or opening in a community residence for persons with head injuries shall be locked, fastened or blocked, so as to prevent or impede the egress of any person in the residence.]



10:44C-6.2 [Fire] **Emergency** evacuation plans

(a) (No change.)

(b) The evacuation plan shall be reviewed at least annually and revised:

[1. Whenever a new person served moves into the residence; and]

**1. Within 48 hours of a new person served moving into the residence, the return of a person served absent for more than 30 days, or the discharge of a person served;**

2. Whenever **the level of assistance required by the** current occupants [develop problems evacuating] **to evacuate** the residence[.] **changes; and**

**3. Thirty days following an occupant's admission to a hospital or nursing home.**

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

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

10:44C-6.3 Fire drills

(a) Fire drills, supervised by staff, shall be performed a minimum of once per month.

1. Each shift shall perform at least four fire drills a year, **at least one of which shall be during normal sleeping hours for the residents of the home.**

2. Fire drills shall be performed at random **and varying** times, so that persons served are engaged in a variety of routine activities during the drills. [At least one fire drill shall be conducted between the hours of 1:00 A.M. and 6:00 A.M.]

3. Fire drills shall [assume different fire location simulations that require] **assure** that all means of egress [be] **are used throughout the year; except those in areas that are not**

**routinely utilized by persons served, such as unfinished basements, furnace rooms, and garages without ramps.**

4. An egress time of three minutes or less shall be attained and maintained.

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

(b) Written records shall be maintained, including the following information:

1. (No change.)

2. The location of [the simulated fire] **each person served at the onset of the drill;**

[3. The evacuation plan followed;]

**3. The means of egress used;**

4. The **full** names of persons served and staff who participated in the drill; and

5. (No change.)

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

#### 10:44C-6.4 Group classification requirements

(a) (No change.)

(b) [One-and] **One- and** two-family homes housing six to 15 persons served shall meet the requirements of Group R-2 of the Uniform Construction Code[, provided all persons are either ambulatory or mobile non-ambulatory (], see N.J.A.C. 5:23[)].

#### 10:44C-6.5 Fire extinguishers

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

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

10:44C-6.6 General home requirements

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

1. (No change.)

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

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

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

**1. Sheds, garages, and other outbuildings shall be maintained in safe condition or be rendered inaccessible to persons served.**

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

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

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

**ii. Chain locks are prohibited on apartment doors, unless required by local ordinance or requested by the person served, in which case, the lock shall be changed to the type that can be opened from the outside with a key. The key must be available to staff at all times. In all cases, the person served must have the ability to operate the chain lock.**

**2. (No change.)**

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

**4. Portable halogen lamps shall be prohibited.**

**5. Cellophane wrapping on lamps shades shall be prohibited.**

**6. The use of candles is prohibited.**

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

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

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

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

**iii. Fireplaces, as well as wood or pellet burning stoves, if used, must be**

**professionally inspected, and cleaned if necessary, annually, and documentation of such shall be maintained.**

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

**10. Attics and unfinished spaces without adequate flooring shall be rendered inaccessible to persons served.**

(d) Each person served shall have access to a **landline or cellular** telephone.

(e)-(i) (No change.)

**(j) Standby generators shall be permanently installed by a qualified technician in accordance with all local codes, permitting, and inspection requirements.**

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

- 1. Under a permit issued by the local enforcement agency, if such a permit is required by local municipal codes;**
- 2. Not plugged directly into the home's electrical receptacles or outlets;**
- 3. Operated outside and away from doors, vents, or open windows leading into the home;**
- 4. Properly grounded, dry, and shielded from contact with liquid;**
- 5. Operated only with heavy-duty electrical cords that are rated for outdoor use, free of any punctures or exposed wiring, kept out of the way of foot traffic, and not run underneath rugs;**
- 6. Powering only devices that, when operated simultaneously, do not draw more electrical capacity than the generator is designed to supply; and**

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

10:44C-6.7 Certificate of occupancy

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

10:44C-6.8 Exits

[(a) Exit/evacuation areas to be used for mass evacuation shall not be permitted through furnace areas, storage areas or bedrooms.]

[(b)] **(a)** (No change in text.)

**(b) No interior or exterior door, window, or opening in a community residence for persons with head injuries shall be locked, fastened, or blocked, so as to prevent or impede the egress of any person in the residence.**

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

**(d) Means of egress shall not be obstructed.**

10:44C-6.9 Heat sources

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

1. (No change.)

(b) Every home shall have heating facilities that are properly installed, maintained in good and safe working condition, and capable of maintaining all habitable rooms at a temperature of [65] **68** degrees Fahrenheit (18 degrees Celsius) when the outdoor temperature is zero degrees Fahrenheit (-18 degrees Celsius).

(c) (No change.)

#### 10:44C-6.10 Water

(a) Hot and cold running potable water shall be available at all times.

**1. The potable water supply from a private well shall be tested at least once every five years by a New Jersey certified laboratory.**

(b) Hot water shall not exceed 120 degrees Fahrenheit (49 degrees Celsius) at the tap **or be maintained lower than 105 degrees Fahrenheit.**

#### 10:44C-6.12 Windows

(a) Every bedroom shall have at least one operable window opening directly to the outside.

**1. If a bedroom has only one operable window, it shall not be blocked by an air conditioner or any permanently installed device.**

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

10:44C-6.13 Bedrooms

(a) Occupancy shall be limited to floors on or above grade level. Bedrooms may be situated in basements under the following conditions:

1.-2. (No change.)

3. There are no other conditions that may adversely affect the health, safety, welfare, or rights of persons with head [injury] **injuries**.

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

(g) Each person served shall be provided with the following bedroom furnishings, in good repair, the style of which is consistent with his or her preference, unless otherwise specified by the TDT:

1.-2. (No change.)

3. A box spring of sufficient size, unless a platform bed **or spring bed frame** is used;

i. Fold-up convertible type beds, roll-aways, cots, hide-a-beds and double deck beds shall be prohibited, unless a situation warrants short-term use[;].

**ii. Vinyl or fabric mattress and box spring protectors shall be designed for that purpose and shall be of fire-resistant material. Any other form of covering, such as shipping plastic, is prohibited.**

4.-6. (No change.)

7. One mirror [chosen by the person served], securely fastened to the wall and/or fastened to a dresser at a height appropriate for the use of the person(s) served occupying the room.

(h) (No change.)



**(i) Every bedroom shall have an operable door for privacy.**

10:44C-6.15 Kitchens

(a) Kitchens shall be clean and [well] ventilated.

(b)-(c) (No change.)

(d) Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit (seven degrees Celsius). Freezer compartments shall operate at no more than [32] **zero** degrees Fahrenheit ([zero] **-18** degrees Celsius).

10:44C-6.17 Maintenance requirements

(a) (No change.)

(b) Accumulation of garbage or waste shall be prevented.

**1. All garbage collected for disposal shall be stored in water tight containers with tight fitting covers.**

(c) Pest control services shall be arranged in a timely manner when there is evidence of infestation.

**1. Agency staff may treat the infestation provided they have been trained by a licensed extermination company and the infestation has been determined to be under**

**control by a licensed extermination company after treatments have been completed.** The licensee shall retain documentation of **all such training and** service.

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