

the Department is not making such changes in this rulemaking, as it appears that the Department may need to undertake substantive rulemaking to establish chapters in Title 8, and/or policies, that correspond to the non-DMHAS-specific policies of the DHS, and rules in Title 10, to which N.J.A.C. 10:37D refers. See, for example, existing N.J.A.C. 10:37D-2.15 and 3.4, which refer to N.J.A.C. 10:3-1.14, governing conflicts of interest; 10:37D-2.16, which refers to non-discrimination policies of the DHS; and 2.18 and 3.8, which refer to DHS rules and policies on access to records and rules applicable to client confidentiality, rights, and grievances. Therefore, the regulated community should continue to comply with the DHS rules and policies to which N.J.A.C. 10:37D cross-refers, pending the Department's evaluation of the need to establish rules and policies corresponding to those of the DHS.

In addition, N.J.A.C. 10:37D will remain as part of Title 10 pending the development and promulgation of an anticipated notice of global administrative recodification of chapters that DMHAS administers from within Title 10 to Title 8, which is to appear in a future issue of the New Jersey Register.

Summary of Public Comments and Agency Responses:

The Division received comments from Debra L. Wentz, Ph.D., President and Chief Executive Officer, New Jersey Association of Mental Health and Addiction Agencies, Mercerville, NJ.

COMMENT: "Will this include a start date ([that is], all employees hired after a specified date) or is it something that needs to be retroactive for existing staff?"

RESPONSE: The comment is too broad and non-specific to allow the Department to provide a substantive response.

COMMENT: “Is it necessary to verify experience for someone’s entire employment history or is the requirement to verify that the staff have the minimum experience required by the regulations and job description? It would be prohibitive if it was someone’s full employment (should they exceed the minimum requirements of the job). It is not uncommon to have potential candidates with extensive experience that is beyond the minimum required in a job description. The longer someone’s career, the more difficult it is to contact past employers as previous supervisors or individuals who knew a former employee may have also moved on to different careers.”

RESPONSE: In short, the proposed amendments to N.J.A.C. 10:37D-2.12(a) and (a)2 require a provider agency to have a written policy regarding verification of staff experience and to document the verification of previous experience of staff. The expectation is that the provider agency will verify the minimum experience requirements for specific staffing positions as set out in program-specific regulations, such as Community Support Services (see for example, N.J.A.C. 10:37B-5.2(b), (d), (f), (g), and (h)1i and iii), Outpatient Services Standards (see for example, N.J.A.C. 10:37E-2.6(b)), Partial Care Services Standards (see for example , N.J.A.C. 10:37F-2.10(b)1iii, 3ii, 4ii, and 5ii, (c), (c)1, and (c)1iii), Family Support Services (see for example , N.J.A.C. 10:37I-5.9(b)2 and 3), and Programs of Assertive Community Treatment (see for example, N.J.A.C. 10:37J-2.8(d)2 through 6).

COMMENT: “Is the [State] able to offer guidance on what to do in situations where experience cannot be verified? Some employers have policies that prohibit disclosure of information beyond a verification that an individual was a past employee and the dates of employment. The chances of encountering this increase the more employers someone has had or the longer [his or her] career.”

RESPONSE: The Department recommends contacting the Office of Licensing for technical assistance and guidance.

Summary of Agency-Initiated Changes:

1. The Department is deleting the second sentence of existing N.J.A.C. 10:37D-1.1(a), which cross-refers to a procedure for resolution of rule conflicts at N.J.A.C. 10:3-4. The DHS repealed N.J.A.C. 10:3-4 in 1998, because, in relevant part, the subchapter “primarily [required] actions on the part of the Departmental component,” so the DHS then intended to revise and implement the subchapter “as an internal management policy, and [to include] appropriate portions ... in provider contracts.... The portions of N.J.A.C. 10:3-4 [that imposed] requirements on ... provider agencies [were] also contained in each contract with ... provider agencies, and therefore [were] not needed in the rules.” 30 N.J.R. 3193(a); 30.

2. The Department is making non-substantive changes at N.J.A.C. 10:37D-1.1 and 1.2 to conform the rule text to New Jersey Administrative Code style conventions, to enhance readability, to correct grammar and punctuation, and to eliminate the passive voice.

Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments are not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:37D.

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

10:37D-1.1 Scope and purpose

(a) *[The rules in this] ***This*** chapter *[shall apply] ***applies*** to *[all] provider agencies (PA*s*) as defined in N.J.A.C. 10:37D-1.2. *[In the event any of these rules may conflict with the rules of another division of the Department, the rules of the cognizant Division, as determined in accordance with N.J.A.C. 10:3-4, shall apply.]*

(b) The *[rules in] ***purposes of*** this chapter are *[designed] to *[promote client centered]**:*

***1. Promote:**

i. Client-centered* services that provide *[high quality] ***high-quality***, accessible, and innovative treatment*[. The rules in this chapter are also designed to promote creativity]**:*

ii. Creativity and responsiveness to client and staff needs*; and *[goal directed]*

iii. Goal-directed services*; and *[to support]*

2. Support wellness and recovery.

10:37D-1.2 Definitions

The ***following*** words and terms*, **as used*** in this chapter*,* shall have the following meanings, unless the context clearly indicates otherwise:

...

“Provider agency (PA)” means an agency ***[contracted or affiliated]*** with ***which*** the Division ***contracts or affiliates*** to provide specific direct mental health services to clients.