

HEALTH

STANDARDS FOR LICENSURE OF RESIDENTIAL SUBSTANCE USE DISORDER

TREATMENT FACILITIES

Notice of Rule Waiver/Modification/Suspension Pursuant to P.L. 2021, c. 103

(2020)

COVID-19 State of Emergency

Relaxation of Rules Pertaining to the Standards for Licensure of Residential Substance Use Disorder Treatment Facilities

N.J.A.C. 10:161A-1.3 and 10.1

Authorized: [] by Judith M. Persichilli, Commissioner, Department of Health.

Authority: N.J.S.A. App.A:9-45 and App.A:9-47; and P.L. 2021, c. 103.

Effective Date: March 9, 2020.

This is an emergency adoption of a temporary rule modification concerning certain rules at N.J.A.C. 10:161A-1.1 et. seq., Standards for Licensure of Residential Substance Use Disorder Treatment Facilities, which apply to all substance use disorder (“SUD”) treatment facilities that provide residential SUD treatment services to adults, including halfway houses, extended care facilities, long-term residential facilities, short-term residential facilities, and non-hospital-based (medical) detoxification or any other similar such organization. Section 3.a. of P.L. 2021, c. 103 (N.J.S.A. 26:13-34.a) authorizes agency heads to continue and modify administrative orders or directives issued during the COVID-19 Public Health Emergency. Section 5.a. of P.L. 2021, c.

103 (N.J.S.A. 26:13-36) authorizes agency heads to issue orders, directives, and waivers to implement recommendations of the Centers for Disease Control and Prevention to prevent or limit the transmission of COVID-19, including in specific settings. Pursuant to that authority, the Department of Health is modifying the rules listed below.

The current regulations at N.J.A.C. 10:161A-1.1 et. seq. set out minimum rules and standards of care with which a residential SUD treatment facility must adhere in order to be licensed to operate in New Jersey. The COVID-19 Public Health Emergency has impacted and continues to impact the SUD system of care that provides vital SUD treatment services to residents of New Jersey. In response to COVID-19, the delivery of SUD services continues to be reconfigured in order to minimize community spread, while at the same time ensuring accessibility and continuity of care. Although the COVID-19 Public Health Emergency declared under E.O. 103 has ended in New Jersey, SUD treatment facilities continue to need flexibility to mitigate transmission of COVID-19 in the provision of SUD services, including through the use of telemedicine and telehealth. At the beginning of the pandemic, DMHAS issued guidance regarding the use of telemedicine, telehealth and telecommunication for behavioral health provider agencies. It now formalizes this guidance through this rule modification. This rule modification is consistent with recommendations to reduce the transmission of COVID-19 from the CDC, as well as guidance from other federal and State agencies, such as the Substance Abuse and Mental Health Services Administration (SAMHSA), and the New Jersey Division of Consumer Affairs. It also complies with State laws enacted with respect to telemedicine and telehealth.

Thus, consistent with federal and state guidance, directives, waivers and laws issued in response to the COVID-19 Public Health Emergency, it is necessary to address, formalize and ensure flexibility in the standards in the rules at N.J.A.C. 10:161A-1.1 et. seq. through this temporary rule modification.

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

SUBCHAPTER 1. DEFINITIONS AND STAFF QUALIFICATIONS AND RESPONSIBILITIES

10:161B-1.3 Definitions

...

“Telehealth” means the use of information and communications technologies as defined by and in accordance with P.L. 2017, c. 117 (C.45:1-61 et al.) and any amendments thereto, including pursuant to P.L. 2020, c. 47, and corresponding COVID-19 waivers.

“Telemedicine” means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means as defined by and in accordance with P.L. 2017, c.117 (C.45:1-61 et al.) and any amendments thereto, including pursuant to P.L. 2020, c. 47, and corresponding COVID-19 waivers.

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SUBCHAPTER 10. SUBSTANCE ABUSE COUNSELING AND SUPPORTIVE SERVICES

10:161A-10.1 Provision of substance abuse counseling

(a) Every residential substance use disorder treatment facility shall provide substance abuse counseling on-site, and shall assign every client to a primary substance abuse counselor at admission.

1. Substance abuse counseling services may be provided through telehealth/telemedicine services.

(b) –(f) (No change.)

I find that the modification of the rules above is necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.



January 10, 2022

Date

Judith M. Persichilli, RN, BSN, MA
Commissioner
Department of Health