

## [N.J.A.C. 10:44B](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES***

### **Title 10, Chapter 44B -- Chapter Notes**

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#### **Statutory Authority**

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##### **CHAPTER AUTHORITY:**

[N.J.S.A. 30:11B-1](#) et seq., specifically 30:11B-4.

#### **History**

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##### **CHAPTER SOURCE AND EFFECTIVE DATE:**

Effective: February 19, 2020.

See: [52 N.J.R. 528\(a\)](#).

##### **CHAPTER HISTORICAL NOTE:**

Chapter 44B, Manual of Standards for the Licensing and Regulation of Adult Foster Homes, Skill Development Homes and Supervised Apartments for the Developmentally Disabled, was adopted as R.1980 d.157, effective April 17, 1980. See: 11 N.J.R. 505(c), 12 N.J.R. 278(e).

Chapter 44B, Manual of Standards for the Licensing and Regulation of Adult Foster Homes, Skill Development Homes and Supervised Apartments for the Developmentally Disabled, was repealed, and Chapter 44B, Manual of Standards for Skill Development Homes, Family Care Homes and Family-Based Respite Care Homes, was adopted as new rules by R.1985 d.181, effective April 15, 1985. See: 17 N.J.R. 359(b), 17 N.J.R. 958(a).

Pursuant to Executive Order No. 66(1978), Chapter 44B, Manual of Standards for Skill Development Homes, Family Care Homes and Family-Based Respite Care Homes, expired on April 15, 1990.

Chapter 44B, Manual of Standards for Community Care Residences, was adopted as new rules by R.1990 d.359, effective July 16, 1990. See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Pursuant to Executive Order No. 66(1978), Chapter 44B, Manual of Standards for Community Care Residences, expired on July 16, 1995.

Chapter 44B, Manual of Standards for Community Care Residences, was adopted as new rules by R.1995, d.530, effective October 2, 1995. See: 27 N.J.R. 2365(a), [27 N.J.R. 3793\(a\)](#).

Pursuant to Executive Order No. 66(1978), Chapter 44B, Manual of Standards for Community Care Residences, expired on October 2, 2000.

## Title 10, Chapter 44B -- Chapter Notes

Chapter 44B, Manual of Standards for Community Care Residences, was adopted as new rules by R.2001 d.50, effective February 5, 2001. See: [32 N.J.R. 3529\(a\)](#), [33 N.J.R. 554\(c\)](#).

Chapter 44B, Manual of Standards for Community Care Residences, was readopted as R.2006 d.171, effective April 13, 2006. See: [37 N.J.R. 4849\(a\)](#), [38 N.J.R. 2158\(a\)](#).

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 44B, Manual of Standards for Community Care Residences, was scheduled to expire on October 10, 2011. See: [43 N.J.R. 950\(a\)](#).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 44B, Manual of Standards for Community Care Residences, was scheduled to expire on October 10, 2013. See: [43 N.J.R. 1203\(a\)](#).

Chapter 44B, Manual of Standards for Community Care Residences, was readopted as R.2013 d.062, effective March 19, 2013. As a part of R.2013 d.062, Subchapter 2, Administrative Policies and Practices, was renamed Management of the Residence; and Subchapter 2A, Records, was adopted as new rules, effective April 15, 2013. See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Chapter 44B, Manual of Standards for Community Care Residences, was readopted, effective February 19, 2020. See: Source and Effective Date.

Subchapter 4, Habilitation, was renamed Service Plan by R.2023 d.006, effective January 3, 2023. See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Annotations

## Notes

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## Research References & Practice Aids

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### CHAPTER EXPIRATION DATE:

Chapter 44B, Manual of Standards for Community Care Residences, expires on February 19, 2027.

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## [N.J.A.C. 10:44B-1.1](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 1. GENERAL PROVISIONS***

## **§ 10:44B-1.1 Purpose and scope**

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

## **History**

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### **HISTORY:**

New Rule, R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Annotations

## **Notes**

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[Chapter Notes](#)

## **Case Notes**

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[Initial Decision \(2008 N.J. AGEN LEXIS 386\)](#) adopted, which found that, although licensed adult care provider was not directly responsible for burns suffered by a resident under her care, the provider had ample reason to be alerted to possible injury, but did not see fit to examine the resident, resulting in a failure to timely treat the burns; the provider's conduct was such that she failed to provide and maintain proper and sufficient health care, and/or adult supervision for her residents and her license to operate a Community Care Residence was properly revoked. [Dep't of Human Services v. White-Bryant, OAL Dkt. No. HSL 04241-07, 2008 N.J. AGEN LEXIS 1242](#), Final Decision (July 15, 2008).

§ 10:44B-1.1 Purpose and scope

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## [N.J.A.C. 10:44B-1.2](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

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### **§ 10:44B-1.2 Severability**

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If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect and to this end the provisions of this chapter are severable.

### **History**

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#### **HISTORY:**

New Rule, R.1990 d.359, effective July 16, 1990.

See: 22 New Jersey Register 756(a), 22 New Jersey Register 2164(b).

Annotations

### **Notes**

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## [N.J.A.C. 10:44B-1.3](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 1. GENERAL PROVISIONS***

## **§ 10:44B-1.3 Definitions**

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

"Abuse" means wrongfully inflicting, or allowing to be inflicted, physical abuse, sexual abuse, verbal or psychological abuse, or mistreatment by a caregiver on an individual with a developmental disability.

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

"Age appropriateness" means that aspect of normalization which reinforces recognition of an individual as a person of a certain chronological age.

"Alternate" means a person 18 years of age or older who has been selected and identified by the licensee to the Office of Licensing and the placing agency and has been approved, who accepts the responsibility to provide care and supervision for individuals who require supervision.

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

"Authorized family member" means a relative of the individual with a developmental disability authorized by the individual, or guardian, as applicable, to receive information pursuant to P.L. 2012, c. 69.

"Barrier-free design" means any design in the residence necessary to accommodate individuals with physical disabilities which include, but are not limited to: ramps, handrails in bathroom areas, corridors or doorways, or rooms and doorways with space enough to accommodate individuals in wheelchairs.

"Boarder" means any person residing in the home who is not a member of the family, who is not developmentally disabled and who receives room, board and personal guidance.

"Capacity" means the maximum number of individuals, including boarders, who may be accommodated in the home, other than family members, at any time under the terms of the home's license.

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

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

"Central Registry" means the Central Registry of Offenders Against Individuals with Developmental Disabilities enacted pursuant to [N.J.S.A. 30:6D-77](#) and [N.J.A.C. 10:44D](#).

## § 10:44B-1.3 Definitions

"Chores" means those duties which are normally performed by members of a household as a matter of routine.

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

"Commissioner" means the Commissioner of the Department of Human Services.

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

"Community residence for individuals with developmental disabilities" means any community residential facility housing up to 16 individuals with developmental disabilities that also provides food, shelter, personal guidance, and/or training. Such residences shall not be considered health care facilities within the meaning of the Health Care Facilities Planning Act, P.L. 1971, c. 136 ([N.J.S.A. 26:2H-1](#) et seq.), and shall include, but not be limited to, group homes, halfway houses, supervised apartments, hostels, and community care residences (formerly skill development homes, family care homes, and respite homes). Such residences shall not be located on the grounds or immediately adjacent to public institutions serving a similar population.

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

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

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

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

"Department" means the Department of Human Services.

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

1. Is attributable to a mental or physical impairment or combination of mental or physical impairments;
2. Is manifest before age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and/or expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and
5. Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of life-long or extended duration and are individually planned and coordinated.

"Division" means the Division of Developmental Disabilities, within the Department.

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

"Exploitation" means any willful, unjust, or improper use of an individual or their resources for the benefit, profit, or advantage of another and/or condoning and/or encouraging the exploitation of said individual by another person. Examples of exploitation include, but are not limited to, appropriating, borrowing, or taking without authorization, personal property/funds belonging to the individual or

## § 10:44B-1.3 Definitions

requiring the latter to perform functions or activities that are normally conducted by persons employed by or contracted with the Division or other agencies, or the performance of which are done solely for the convenience of others.

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

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

"Firearm" means any firearm as defined in [N.J.A.C. 13:54-1.2](#).

"Guardian" means a person or agency appointed by a court of competent jurisdiction to make decisions on behalf of an individual determined by a court to lack decision-making capacity in certain areas, as set forth at [N.J.S.A. 3B:12-24.1](#).

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

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

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

"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 for a period of up to one year to operate a community residence providing services to individuals with developmental disabilities or traumatic brain injuries. A license can be denied, revoked, suspended, or can be placed on provisional status by the Department for violations of minimum standards promulgated herein.

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

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

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

"Neglect" means any of the following acts by a caregiver on an individual with a developmental disability: willfully failing to provide proper and sufficient food, clothing, maintenance, medical care, or a clean and proper home; or failure to do or permit to be done any act necessary for the well-being of an individual with a developmental disability.

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



## § 10:44B-1.3 Definitions

"Office of Auditing" means the unit of the Department of Human Services responsible for performing audits and reporting on findings within generally accepted auditing standards, government auditing standards, or both, and/or Federal and State laws.

"Office of Licensing" or "Office" means the licensing agency, which is that component of the Department of Human Services responsible to inspect and license programs pursuant to this chapter.

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

"Outcome" means a written statement of attainable, behavioral, or service objectives expected to be achieved partially or completely within the year the service plan is in effect. Outcomes must be related to the personal needs and preferences of the individual.

"Pattern of non-compliance" means a pattern of recurrences of licensing violations over time.

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

"Personal guidance" means the assistance provided to an individual or boarder in activities of daily living because he or she routinely requires assistance in completing these activities; and/or cannot direct someone to complete such activities when physical handicaps prevent self-completion; or there is a documented health or mental health problem requiring supervision of the person for the protection of the individual or others. In the absence of a court determination, the IDT shall determine the need for personal guidance for each individual.

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

"Placing agency" means the Division, or an agency under contract with the Division, that recruits, trains, and/or supports licensees that operate community care residences and is responsible for the placement of and payment for an individual in a community care residence.

"Plan of correction" (POC) means the written response from the licensee to the Office of Licensing addressing identified non-compliance.

"Plan coordinator" means a person designated to coordinate the development of the individual's service plan.

"Provisional license" means that authorization to operate issued to new homes or used to prompt corrective actions in existing homes. A provisional license shall be for less than 12 months.

"Respite care program" means the provision of room, board, and personal guidance services, on a temporary basis not to exceed 30 days without placing agency approval, in a licensed community care residence.

"Service plan" means a written individualized habilitation plan consistent with the requirements of [N.J.S.A. 30:6D-10](#) through 12, developed with the individual and/or his or her legal guardian and the IDT. It is an outcome-based planning tool that, at a minimum, identifies each individualized program, support, and/or service requested by and provided to the individual, for which the individual demonstrates a need. It identifies the person and/or agency responsible for its implementation. The complexity of the service plan will vary according to the individual's interests, preferences, and needs. The service plan format must be Division-approved and can include, but shall not be limited to: individual habilitation plan (IHP); essential lifestyle plan (ELP); or individual service plan (ISP).

"Sexual abuse" means any act of a sexual nature, which may include, but is not limited to: acts of lewdness, touching, or contact with private body areas for the purpose of sexual arousal, gratification, sexual molestation, sexual exploitation, or sexual penetration by a person with an individual with a developmental disability, which is non-consensual or for which the developmentally disabled person lacks the capacity to consent, by one or more parties. Any form of sexual contact or activity between a licensee or service provider and an individual with a developmental disability, absent marriage, domestic partnership, or civil union, is sexual abuse, regardless of whether the individual with a developmental disability gives consent or the service provider is on or off duty.

## § 10:44B-1.3 Definitions

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

"Substantial non-compliance" means that a licensee's failure to meet licensing requirements directly endangers the health, safety, or welfare of an individual or individuals, when the unmet requirements exist in significant number; when the degree of the condition(s) is severe; when one or more requirements have been left unmet with great frequency; and/or when the terms of the license have been violated.

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

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

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

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

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

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

"Waiver" means the temporary suspension of a standard, which is requested, in writing, by the licensee and is granted, in writing, by the Office of Licensing.

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

## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from [N.J.A.C. 10:44B-1.1](#).

Revised and added definitions throughout section.

Amended by R.2004 d.404, effective November 1, 2004.

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See: [36 N.J.R. 2589\(a\)](#), [36 N.J.R. 4961\(a\)](#).

In "Individual", added "or the Department" at the end; rewrote "Licensing agency"; in "Variance" substituted "Department-approved" for "Division-approved".

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote definitions "Abuse", "Advocate", "Case manager", "Community care residence", "Community residence for the developmentally disabled", "Community Services", "Developmental disability", "Exploitation", "Individual", "License", "Licensee", "Licensing agency", "Negative licensing sanction", "Neglect", "Pattern of non-compliance", "Personal guidance", "Skill development program", "Substantial non-compliance", "Variance", "Waiver" and "Willful non-compliance"; deleted definitions "Autism", "Cerebral Palsy", "Epilepsy", "Family care program", "Immediate family", "Interdisciplinary team", "Individual Habilitation Plan", "Natural person" and "Private placement"; and added definitions "Alternate", "Applicant", "Barrier-free design", "Census", "Central Registry", "Close", "Confidentiality", "Danielle's Law", "Day activities", "Development agency", "Division", "Domicile", "Falsification", "Family", "Firearm", "Goal", "Guardian", "Habilitation", "Interdisciplinary team", "Medication", "Non-compliance", "Occupant", "Person", "Physical abuse", "Placing agency", "Plan of correction", "Plan coordinator", "Service plan", "Sexual abuse", " 'Special Response Unit' or 'SRU' ", "Terms of the license", "Traumatic brain injury", "Uniform Construction Code", "Unusual incident" and "Verbal abuse, psychological abuse, or mistreatment".

Amended by R.2017 d.043, effective March 20, 2017.

See: [48 N.J.R. 544\(a\)](#), [49 N.J.R. 542\(a\)](#).

Added definitions "Authorized family member", "Commissioner", "Department", "Office of Auditing", and " 'Office of Licensing' or 'Office' ".

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote definitions "Abuse", "Alternate", "Authorized family member", "Guardian", "Neglect", " 'Office of Licensing' or 'Office' ", "Placing agency", "Plan of correction", "Respite care program", "Variance", and "Waiver"; substituted definition "Community residence for individuals with developmental disabilities" for "Community residence for the developmentally disabled"; deleted definitions "Development agency", "Goal", "Licensing agency", and " 'Special Response Unit' or 'SRU' "; and inserted definitions "Interferon Gamma Release Assay (IGRA)" and "Outcome".

Annotations

## Notes

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[Chapter Notes](#)

## Case Notes

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Community care residence (CCR) license was properly revoked on showing that the operator thereof neglected a resident by failing to take the resident to a lab where required blood tests would be performed. Such failure constituted a withholding of medical treatment which is a form of neglect that provided sufficient cause for revocation of CCR licensure. [Walter v. Office of Licensing, Dep't of Human Servs., OAL DKT. NO. HSL 6699-16, 2017 N.J. AGEN LEXIS 894](#), Initial Decision (December 13, 2017).

## § 10:44B-1.3 Definitions

While the evidence did not establish an agency's claim that a community care residence provider committed verbal abuse of a developmentally disabled resident, the provider's conduct in requiring one of the residents to be available at a set time so that she could open the front door and give access to another resident technically constituted "exploitation" under governing law. [Office of Developmental Disabilities Licensing v. Gordon, OAL DKT. NO. HSL 13409-12, 2014 N.J. AGEN LEXIS 1312](#), Final Administrative Determination (November 21, 2014).

ALJ erred by concluding that the Department of Human Services had not established the existence of abuse and neglect on the part of the owner of a licensed community care residence in connection with a confrontation between the licensee and a developmentally disabled resident because the record clearly supported a finding that abuse and neglect within the meaning of governing regulations had occurred. Both the licensee's act in locking the resident out of the house and in threatening the resident that the resident should be sent to a psychiatric hospital were unacceptable and revocation of the license was appropriate. [Dep't of Human Servs., Office of Licensing v. Wilkins, OAL DKT. No. HSL 15474-2012, 2014 N.J. AGEN LEXIS 927](#), Final Administrative Determination (June 19, 2014).

[Initial Decision \(2008 N.J. AGEN LEXIS 386\)](#) adopted, which found that, although licensed adult care provider was not directly responsible for burns suffered by a resident under her care, the provider had ample reason to be alerted to possible injury, but did not see fit to examine the resident, resulting in a failure to timely treat the burns; the provider's conduct was such that she failed to provide and maintain proper and sufficient health care, and/or adult supervision for her residents and her license to operate a Community Care Residence was properly revoked. [Dep't of Human Services v. White-Bryant, OAL Dkt. No. HSL 04241-07, 2008 N.J. AGEN LEXIS 1242](#), Final Decision (July 15, 2008).

Revocation of respondent's license to operate a Community Care Residence on grounds of respondent's abuse of resident was warranted where respondent was not acting in self-defense and the respondent's back-handed face-slap was an inappropriate response to the resident's action of pushing. [Div. of Developmental Disabilities v. Minnix, OAL Dkt. No. HDD 10343-04, 2007 N.J. AGEN LEXIS 925](#), Final Decision (January 8, 2008).

In addition to the misuse of extension cords, Community Care Residence licensee's failure to notify the Division of Developmental Disabilities that she was caring for persons in her home other than DDD clients further put the DDD clients at risk; the licensee attempted to additionally run a day care center in the home, adding further people to her charge, when her DDD license only provided for 3 DDD clients in the home, and the licensee failed to advise the DDD inspector in March 2004 or earlier that she had registered with the Division of Youth and Family Services as a family day care provider. [Div. of Developmental Disabilities v. Cruz, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524](#), Final Decision (June 22, 2007).

Findings in an initial decision that revocation of a license to operate a community care residence was not warranted were reversed and rejected, and the decision of the Division of Developmental Disabilities to revoke the license was affirmed because the licensee's decision to deprive developmentally disabled residents access to a refrigerator by placing a lock on it infringed the residents' rights to have free use of the living area as required by [N.J.A.C. 10:44B-3.1\(f\)](#), and constituted abuse by deprivation of food under [N.J.A.C. 10:44B-2.1\(f\)](#). Further when the licensee was issued a provisional license, rather than a full license, by Developmental Disabilities Licensing, he was asked to correct certain conditions, including the lock on the refrigerator, pursuant to [N.J.A.C. 10:44B](#), but failed to do so. The licensee could have addressed his concerns about one resident's weight problem and refrigerator raids by seeking development of an Individual Habitation Plan pursuant to [N.J.A.C. 10:44b-1.3](#). [In re Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD2676-05, 2006 N.J. AGEN LEXIS 1173](#), Final Decision (September 13, 2006).

[Initial Decision \(2006 N.J. AGEN LEXIS 345\)](#) adopted, which concluded that revocation of Community Care Residence license was proper where credible evidence showed that the licensee had taped shut the mouth of a resident, a developmentally disabled man who was hydrocephalic and had an enlarged head; given that the resident had a cold, the tape could have impaired his ability to breathe, and removing the tape could have caused damage to his lips or the skin around his mouth. [Div. of Developmental Disabilities v. Howell, OAL Dkt. No. HDD 4074-05, 2006 N.J. AGEN LEXIS 390](#), Final Decision (June 7, 2006).

§ 10:44B-1.3 Definitions

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## [N.J.A.C. 10:44B-1.4](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### **NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 1. GENERAL PROVISIONS**

#### **§ 10:44B-1.4 Application for community care licensure**

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- (a) All initial inquiries for a license to operate a community care residence shall be made to the placing agency.
- (b) Only persons who have a domicile in the State of New Jersey are eligible to apply for licensure as a community care residence. The residence proposed for licensure shall be the applicant's primary domicile.
- (c) All applicants shall complete an initial application, which shall include the applicant's original signature and date.
  - 1. The applicant shall provide a current official photo identification, such as a valid driver's license, employment identification, motor vehicle identification card, passport, or any other form of official documentation.
  - 2. If the applicant is not a citizen of the United States, he or she shall provide an alien registration card or United States Citizenship and Immigration Service documentation as evidence of legal residency and approval to work in the United States.
- (d) The applicant shall provide the placing agency's approved medical examination form, current within one year, which has been completed and signed by the applicant's physician or nurse practitioner confirming that the applicant is physically, mentally, and emotionally capable of providing care to individuals.
  - 1. The applicant may be required to demonstrate to the placing agency, his or her ability to provide any physical assistance that may be required by individuals.
- (e) The applicant and all occupants of the household 18 years of age or older shall participate in the interview process.
- (f) The placing agency representative shall conduct a visit to the home during the application process, including use of a Home Study, if applicable, to ascertain that it meets licensure requirements. The placing agency shall make recommendations regarding the capacity of the home during the application process.
  - 1. The applicant shall provide a copy of a certificate of occupancy, if required by local ordinances, during the application process.
- (g) The applicant, all occupants of the household who are 18 years of age or older, and all alternates shall be fingerprinted through the placing agency.
- (h) Except as otherwise provided in the Rehabilitated Offenders Act, [N.J.S.A. 2A:168A-1](#) et seq., no license shall be issued to any person when that person, or any occupant of the household 18 years of age or older, nor shall any alternate be approved who, at any time, has been convicted of any of the crimes or disorderly persons offenses set forth at [N.J.S.A. 2C:11-1](#) et seq., [2C:12-1](#) et seq., [2C:13-1](#) et seq., [2C:14-1](#) et seq., [2C:15-1](#) et seq., [2C:24-1](#) et seq., and [24:21-1](#) et seq. (P.L. 1970, c. 226), or for the following:

## § 10:44B-1.4 Application for community care licensure

1. Conduct committed in any other state or jurisdiction, which, if committed in New Jersey, would constitute any of the crimes described at (h) above; or
  2. Any other civil or criminal action similar to (h)1 above.
- (i) Upon submission by the person or occupant of the nature and seriousness of the crime; the circumstances under which the crime occurred; the date of the crime; the age of the person when the crime was committed; whether the crime was an isolated or repeated incident; the social conditions that may have contributed to the crime; any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in a correctional work-release program, or the recommendation of persons who have or have had the applicant under their supervision; and/or evidence of a pardon or of the expungement of a criminal conviction, pursuant to [N.J.S.A. 2A:164-28](#), or of a certificate of the Federal or State parole board, or of the Chief Probation Officer of a United States District Court or of a county who has supervised the occupant's probation, that the occupant has achieved a degree of rehabilitation such that their licensure would not be incompatible with the welfare of individuals, the Department may issue a license to a person with a criminal record, or may allow a person to operate a community care residence with occupants with a criminal record.
- (j) No license shall be issued when the name of the applicant or the name of any occupant of the applicant's home appear on the Central Registry or who is included on the child abuse registry of the Department of Children and Families.
- (k) The applicant shall, at a minimum, provide three professional/personal references.
- (l) Applicants shall attend and successfully complete a training and orientation program conducted and/or approved by the placing agency.
1. The orientation and training program, and any subsequent modifications, shall be jointly reviewed and approved by the placing agency and the Office of Licensing.
  2. The orientation and training program conducted by any placing agency other than the Division shall be re-evaluated every two years by the Division.
  3. The applicant shall successfully complete both first aid and Cardiopulmonary Resuscitation Trainings, provided by training entities that meet the current Emergency Cardiovascular Care (ECC) guidelines and that require successful completion of a skills practicum.
- (m) The applicant shall read, write, speak, and understand English in a manner sufficient to provide care, support, and supervision to individuals, and to comply with licensing standards.
- (n) Falsification of any information during the application process shall be sufficient cause to terminate the application.
- (o) The applicant shall consent to and undergo drug testing for controlled dangerous substances.

## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from [N.J.A.C. 10:44B-1.2](#).

Revised designations for "Metropolitan Regional" and "Central Regional" offices to "Upper Central Regional" and "Lower Central Regional" offices.

Amended by R.2013 d.062, effective April 15, 2013.

§ 10:44B-1.4 Application for community care licensure

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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### [Chapter Notes](#)

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## [N.J.A.C. 10:44B-1.5](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### **NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 1. GENERAL PROVISIONS**

#### **§ 10:44B-1.5 Licenses and inspection**

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

1. The applicant or licensee shall be interviewed by the Office of Licensing during the inspection to ascertain his or her understanding of the duties of a licensed provider.
2. The physical conditions of the home shall be subject to inspection and full access to all areas of the home and property shall be granted by the applicant or licensee to the licensing representative.

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

1. The initial provisional license shall permit a licensee to operate for a three-month period in which he or she shall demonstrate his or her ability to comply with the applicable provisions of this chapter.
2. The initial capacity of the home shall not exceed two individuals.
3. No individual shall be placed in any residence before an initial inspection is conducted and the residence is approved for licensure.

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

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

1. Unless a plan for earlier correction is required, the plan of correction shall be provided within 30 days of the issuance of the report.
2. The Office of Licensing may conduct unannounced inspections to verify that deficiencies of a significant nature have been corrected.
3. Correction of all deficiencies shall be verified at the time of the next inspection.
4. Failure to make such corrections or failure to submit the plan of correction within the required time frame shall be considered grounds for action against the licensee.
  - i. If, as a result of an annual inspection, a licensee is required to provide a plan of correction and that plan has not been successfully implemented within 30 days of the date the licensee submitted the plan to the Office of Licensing, the individual(s) shall be removed from the residence if the licensee's failure to implement the plan of correction could potentially threaten the health and well-being of the individual. If the health, safety, or well-being of an individual is immediately threatened

## § 10:44B-1.5 Licenses and inspection

because of a licensee's noncompliance with the standards, the individual shall be removed from the residence, and the licensee shall be subject to negative licensing action.

ii. The Department shall impose a penalty in an amount of \$ 350.00 per day on the licensee for two or more failures to implement a required plan of correction developed in response to an annual licensing inspection.

iii. If two or more failures to implement a required plan of correction developed in response to an annual licensing inspection endangers the health and well-being of an individual, the Office of Licensing, may, upon notice and after hearing, revoke the license.

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

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

(g) The Office of Licensing shall annually conduct routine unannounced visits of 10 percent of community care residences Statewide. These visits shall include a review of financial records, including receipts for purchases and disbursement.

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

(i) The community care residence shall be the licensee's primary domicile.

(j) No licensee shall operate more than one community care residence.

(k) Waivers or variances of specific standards may be granted at the discretion of the Department, provided that:

1. Strict enforcement of the rule would result in unreasonable hardship on the residence;
2. The waiver or variance is not simply for the convenience of the licensee or other occupants of the home;
3. The waiver or variance is in accordance with the particular needs of an individual(s);
  - i. The waiver or variance does not adversely affect the health, safety, welfare, or rights of any individual.
  - ii. Verification that the waiver or variance comports with the individual needs of the person(s) residing in the residence may be requested from the case manager by the Office of Licensing; and
4. The waiver is requested in writing by the licensee complete with substantial detail justifying the request.

## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from [N.J.A.C. 10:44B-1.3](#).

Stylistic changes throughout.

In (c): added "maximum" to six-month period.

In (f): deleted language setting license fee.

## § 10:44B-1.5 Licenses and inspection

Amended by R.2004 d.404, effective November 1, 2004.

See: [36 N.J.R. 2589\(a\)](#), [36 N.J.R. 4961\(a\)](#).

In (a), amended the address; in (l) and (m), substituted "Department" for "Division of Developmental Disabilities".

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Amended by R.2017 d.043, effective March 20, 2017.

See: [48 N.J.R. 544\(a\)](#), [49 N.J.R. 542\(a\)](#).

In (b)1, substituted "three-month" for "six-month"; added (c)1 through (c)3 and new (g); and recodified former (g) through (j) as (h) through (k).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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### [Chapter Notes](#)

## Case Notes

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[Initial Decision \(2007 N.J. AGEN LEXIS 34\)](#) accepted, which concluded that revocation of license to operate a Community Care Residence (CCR) on grounds of failure to allow access to the residence was warranted where substantial evidence showed that the licensee exhibited a pattern of failing to cooperate with the Division of Development Disabilities staff as concerned the required CCR monthly home visits. In 2002 only five monthly home visits were conducted and in 2003 only four visits were conducted despite the DDD staff's attempts every month to arrange for the visits, and the licensee did not return telephone calls, cancelled appointments, or was not home for scheduled appointments. [Thomas v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 4537-04 and HDD 8641-04 \(Consolidated\), 2007 N.J. AGEN LEXIS 105](#), Final Decision (February 28, 2007).

Revocation of Community Care Residence (CCR) license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator, was a deprivation of their rights as well as abuse, notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. [Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950](#), Final Decision (September 13, 2006).

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## [N.J.A.C. 10:44B-1.6](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

**NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 1. GENERAL PROVISIONS**

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

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

(b) If any inspection, investigation, or inquiry by the Department reveals substantial non-compliance or willful non-compliance with the rules contained in this chapter, or if any non-compliance represents a threat to the health, safety, or rights of the individuals or boarders, licensure may be denied or revoked, following 30-day notice to the provider of such intent. Any subsequent application may be denied.

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

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

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

(f) Any licensee whose license has been suspended, revoked, or non-renewed, or who has had any intermediate sanctions invoked against him or her, has the right to appeal such negative licensing action pursuant to [N.J.A.C. 10:48](#). Before taking negative licensing action, the Department shall give notice to a licensee personally or by mail to the last known address of the licensee, with return receipt requested. The notice shall afford the licensee the opportunity to be heard and to contest the Department's action. The hearing shall be conducted in accordance with the Administrative Procedure Act, [N.J.S.A. 52:14B-1](#) et seq. and [52:14F-1](#) et seq., and the Uniform Administrative Procedure Rules, *N.J.A.C. 1:1*.

### History

#### **HISTORY:**

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from [N.J.A.C. 10:44B-1.4](#).

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

Stylistic changes.

Amended by R.2004 d.404, effective November 1, 2004.

See: [36 N.J.R. 2589\(a\)](#), [36 N.J.R. 4961\(a\)](#).

In (c), substituted "Department" for "Division of Developmental Disabilities".

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Amended by R.2017 d.043, effective March 20, 2017.

See: [48 N.J.R. 544\(a\)](#), [49 N.J.R. 542\(a\)](#).

Rewrote (f).

Annotations

## Notes

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[Chapter Notes](#)

## Case Notes

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Community care residence (CCR) license was properly revoked on showing that the operator thereof neglected a resident by failing to take the resident to a lab where required blood tests would be performed. Such failure constituted a withholding of medical treatment which is a form of neglect that provided sufficient cause for revocation of CCR licensure. [Walter v. Office of Licensing, Dep't of Human Servs., OAL DKT. NO. HSL 6699-16, 2017 N.J. AGEN LEXIS 894](#), Initial Decision (December 13, 2017).

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## [N.J.A.C. 10:44B-2.1](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 2. MANAGEMENT OF THE RESIDENCE***

#### **§ 10:44B-2.1 Licensee requirements**

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- (a) The licensee shall have overall responsibility for the individuals and boarders in the residence.
1. Except as otherwise provided in the Rehabilitated Offenders Act, [N.J.S.A. 2A:168A-1](#) et seq., no license will be issued to any person in whose home or community care residence there is found to be any occupant who has been convicted of any offenses listed at [N.J.A.C. 10:44B-1.4\(h\)](#)<sup>1</sup> through 2.
  2. The licensee shall read, write, speak, and understand English in a manner sufficient to provide care, support, and supervision to individuals, and to comply with the licensing requirements.
  3. The licensee, members of the licensee's family, and occupants participating in individual care shall be of sound physical and emotional health.
    - i. Annually, the licensee shall have his or her physician or nurse practitioner complete, sign, and date the placing agency's required medical form, attesting that the licensee is capable of performing his or her duties and is able to provide care to the individuals placed in the residence. The form shall also identify any physical, emotional, or mental limitations of the licensee. The Department, at its discretion, may require additional physical and/or psychological examinations of the licensee to be provided by the licensee should any evidence of physical, emotional, or mental limitations of the licensee occur between annual attestations.
    - ii. The Department may require the licensee to demonstrate the ability to provide any physical assistance that may be required by an individual who is placed in the licensee's residence.
  4. The licensee shall provide a copy of the physician's statement and a completed medical form to the Department within 10 business days of receipt. If the licensee fails to provide the physician's statement and medical form, the Commissioner shall have the authority to take one or more of the following actions:
    - i. Stop any payments to the licensee;
    - ii. Seek recovery of any payments to the licensee from the date that the statement and form were due; and
    - iii. Not resume payment until such time as the licensee submits the statement and form.
  5. If the licensee is unable to demonstrate that he or she is physically and mentally capable of performing the job duties of a licensee as required by (a)3i above, the Office of Licensing shall take negative licensing action against the licensee.
- (b) The licensee shall assure that any occupant of the household 18 years of age or older, residing in the home or visiting in the home for a period of 30 days or longer, and any alternate, is fingerprinted through the placing agency. At the discretion of the placing agency or Office of Licensing, fingerprinting of other persons regularly visiting the home may be required.

## § 10:44B-2.1 Licensee requirements

- (c)** No license shall be issued for a community care residence in which the licensee or any occupant has been adjudged civilly or criminally liable for abuse, neglect, or exploitation of another person, or whose name appears on the Central Registry.
- (d)** The licensee shall not enter into a contract with another person or entity to provide supervision, care, or habilitation of individuals for which the licensee has contracted and is receiving payment from the placing agency, unless such contract is specifically approved, in writing, by the placing agency and the need for these services is clearly identified in the service plan.
- (e)** The licensee shall not deny access to any part of a community care residence to any person(s) with proper identification and statutory authority to protect the rights of, and advocate on behalf of, the individuals placed in the residence. Such persons include, but are not limited to, the case manager, legal guardian, guardianship worker, representatives of the Office of Licensing, the Department, the Division, the placing agency, and the Office of Investigations.
- (f)** The licensee shall be required to successfully complete all courses of instruction that are required or deemed necessary by the placing agency and/or the Office of Licensing. A licensee shall annually attend a continuing education program conducted or approved by the Department.
1. The licensee shall successfully complete and maintain valid certification on file of, both first aid and Cardiopulmonary Resuscitation Trainings, provided by training entities that meet the current Emergency Cardiovascular Care (ECC) guidelines, and that require successful completion of a skills practicum.
- (g)** Any licensee who receives or applies for public assistance shall document, in writing, to the Office of Licensing that he or she has notified the county welfare agency or board of social services that they are a licensed community care provider with the Department and the allowable rates for reimbursement as a community care provider.
- (h)** No licensee shall serve as an alternate while his or her license is suspended or revoked.
- (i)** Physical abuse; verbal abuse, psychological abuse, or mistreatment; sexual abuse; neglect; exploitation; corporal punishment; physical discipline; violation of the rights, isolation, or the use of unapproved aversive stimuli; or mechanical or physical restraint shall be prohibited.
1. Substantiation of such mistreatment of any individual by the licensee shall be sufficient cause for immediate licensure revocation.
  2. The licensee shall not direct or allow individuals to discipline, assist in fire drill evacuation, train, supervise, or in any way care for other individuals, occupants, family members, children, or others requiring care.
- (j)** No licensee, or his or her relative, or any household member shall be the legal guardian, representative payee, or beneficiary of an insurance policy for, or reap financial or personal gain from, any individual receiving services.
- (k)** The licensee's work activities, interests, and/or volunteer work shall not interfere with the individuals' care and habilitation.
- (l)** The licensee shall participate as a member of the IDT in annual service plan meetings of the individuals residing in his or her home.
- (m)** The licensee shall not accept any remuneration from the individual's family for services rendered.
- (n)** The licensee shall annually take a two-week leave from providing services to an individual with a developmental disability residing in a community care residence, during which time an alternate specifically approved by the placing agency for that leave shall provide care or training, or both, to the individual with a developmental disability.
- (o)** The licensee shall be required to comply with random drug testing, consistent with P.L. 2017, c. 238 ([N.J.S.A. 30:6D-9.1](#) et seq). Failure to comply shall be sufficient cause for immediate licensure revocation.



## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: [22 N.J.R. 756\(a\)](#), [22 N.J.R. 2164\(b\)](#).

Added (d)2i-iv and (e); recodified (e)-(k) as (f)-(l), added (f)3iii and (h)4; and in (i), inserted "unapproved" to describe mechanical restraints or isolation.

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Amended by R.2017 d.043, effective March 20, 2017.

See: [48 N.J.R. 544\(a\)](#), [49 N.J.R. 542\(a\)](#).

Added (a)4, (a)5, and (n); and rewrote (f).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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[Chapter Notes](#)

## Case Notes

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Revocation of a license to operate a community care residence (CCR) pursuant to [N.J.A.C. 10:44B-2.1\(f\)](#) was not warranted. The administrative law judge found that revocation was too harsh a penalty in a situation where the complaining relative of a resident had a seemingly antagonistic relationship with the provider; the resident had never before complained about the provider, and in fact had expressed a desire to continue living with her not long before the complaint was made; the context in which allegedly "abusive" terms were used was disputed; and an arrangement that the Division of Developmental Disabilities suddenly determined was "exploitation" had been known to resident's caseworker all along and not disapproved of. Further, the provider had been a licensed CCR provider for almost 20 years without any substantiated allegations of mistreatment. [Office of Dev. Disabilities Licensing v. Helen Gordon, OAL DKT. No. HSL 13409-12, 2014 N.J. AGEN LEXIS 509](#), Initial Decision (August 22, 2014).

Administrative Law Judge concluded that the conduct of a licensee who operated a licensed community care residence (CCR) in connection with a confrontation between the licensee and a developmentally disabled resident was not verbal abuse or neglect within the meaning of the version of [N.J.A.C. 10:44B-2.1](#) that was in effect on the relevant date. Specifically, the licensee's statements reflected a need for a change in placement that both the licensee and the resident had already acknowledged. [Dep't of Human Servs. Office of Licensing v. Wilkins, OAL Dkt. No. HSL 15474-12, 2013 N.J. AGEN LEXIS 255](#), Initial Decision (September 20, 2013).

## § 10:44B-2.1 Licensee requirements

Revocation of respondent's license to operate a Community Care Residence on grounds of respondent's abuse of resident was warranted where respondent was not acting in self-defense and the respondent's back-handed face-slap was an inappropriate response to the resident's action of pushing. [Div. of Developmental Disabilities v. Minnix, OAL Dkt. No. HDD 10343-04, 2007 N.J. AGEN LEXIS 925](#), Final Decision (January 8, 2008).

Revocation of license to operate a Community Care Residence on grounds of the licensee's creation of a hazardous condition in violation of [N.J.A.C. 10:44B-6.1](#) by the overuse of extension cords which resulted in one client's death in an ensuing fire, was warranted since the licensee had an obligation to maintain her home free from hazards to the health, safety, and welfare of the individuals placed in her care, which included the responsibility to ensure that extension cords were not being used improperly in the house in accordance with [N.J.A.C. 10:44B-6.3\(g\)\(1\)](#); the licensee's improper use of an extension cord at the fire location, which was consistent with the gross misuse of extension cords throughout the house, created an unsafe living environment amounting to "neglect." [Div. of Developmental Disabilities v. Cruz, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524](#), Final Decision (June 22, 2007).

Developmental Disabilities Licensing failed to carry its burden of persuasion of proof by a preponderance of the competent and credible evidence regarding the allegation that a Community Care Residence licensee had abused a resident where the evidence showed that the resident suffered an injury to his ear sometime after he left an adult activity center and prior to his return there the next morning, during which time the resident rode the bus to the licensee's home, remained there overnight, walked to the bus stop, and rode the bus back to the center, and the licensee adamantly denied that she injured the resident. [Div. of Developmental Disabilities v. Hagans, OAL Dkt. No. HDD 2675-05, 2007 N.J. AGEN LEXIS 184](#), Initial Decision (April 10, 2007).

Contrary to a finding by an administrative law judge reversing the revocation of the license of a Community Care Residence provider based upon abuse, the Division of Developmental Disabilities concluded that the revocation was appropriate per [N.J.A.C. 10:44B-2.1\(f\)\(1\)](#). The provider's back-handed face slap of a resident was an inappropriate response to the resident's pushing. According to her own testimony, the provider was unharmed and unafraid, and she was not afraid that the other residents would be harmed. [Div. of Developmental Disabilities v. Shirley Minnix, OAL DKT. No. HDD10343-04, 2007 N.J. AGEN LEXIS 1288](#), Final Decision (January 8, 2007).

Findings in an initial decision that revocation of a license to operate a community care residence was not warranted were reversed and rejected, and the decision of the Division of Developmental Disabilities to revoke the license was affirmed because the licensee's decision to deprive developmentally disabled residents access to a refrigerator by placing a lock on it infringed the residents' rights to have free use of the living area as required by [N.J.A.C. 10:44B-3.1\(f\)](#), and constituted abuse by deprivation of food under [N.J.A.C. 10:44B-2.1\(f\)](#). Further when the licensee was issued a provisional license, rather than a full license, by Developmental Disabilities Licensing, he was asked to correct certain conditions, including the lock on the refrigerator, pursuant to [N.J.A.C. 10:44B](#), but failed to do so. The licensee could have addressed his concerns about one resident's weight problem and refrigerator raids by seeking development of an Individual Habitation Plan pursuant to [N.J.A.C. 10:44B-1.3](#). [In re Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD2676-05, 2006 N.J. AGEN LEXIS 1173](#), Final Decision (September 13, 2006).

Revocation of Community Care Residence license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator, was a deprivation of their rights as well as abuse, notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. [Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950](#), Final Decision (September 13, 2006).

## § 10:44B-2.1 Licensee requirements

Adopting Initial Decision's conclusion that revocation of Community Care Residence license for leaving residents unsupervised by licensed personnel was proper where evidence was uncontroverted that the licensee did not notify the Division of Development Disabilities of his need to attend a funeral in Baltimore and instead of calling in his designated alternate, he simply utilized his unlicensed father for several days (adopting in part, and rejecting in part [2006 N.J. AGEN LEXIS 179](#)). [Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950](#), Final Decision (September 13, 2006).

Suspension of mother and daughter's Community Care Residence license was proper after an agency investigation substantiated that three Division of Developmental Disabilities clients were neglected since (1) the licensee used a unapproved alternate--the daughter's boyfriend--to supervise the clients while the daughter left the residence and the mother went to visit some real estate she owned and (2) two of the clients who were to be provided with no unsupervised time were left without supervision when they were allowed to walk unescorted to the bus taking them to a day care center program. [Shanks v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 06588-04, 2006 N.J. AGEN LEXIS 333](#), Initial Decision (April 20, 2006).

Handicapped individual was unable to satisfy licensing requirements to operate community care residence. Doerr v. Department of Human Services, 96 N.J.A.R.2d (DDD) 17.

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## [N.J.A.C. 10:44B-2.2](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 2. MANAGEMENT OF THE RESIDENCE***

#### **§ 10:44B-2.2 Placements and departures**

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- (a) There shall be no more than five persons in the residence requiring care and assistance, including, but not limited to, family members, children (biological, adopted, or foster), individuals, and boarders.
- (b) No more than three individuals shall be placed in any one residence.
- (c) The licensee shall assure that they do not accept any placement or allow any occupant into the home whose presence may negatively impact the health, safety, welfare, or rights of the individuals receiving services.
- (d) For all boarders there shall be a written agreement signed by the assigned administrator of community care residences in the Division and the director of the placing agency serving the boarder, a copy of which shall be maintained at the residence.
- (e) The licensee shall accept only individuals for whom he or she can provide adequate care.
  - 1. If an individual's physical, emotional, mental, or spiritual needs cannot be met, he or she shall not be maintained in the residence after consultation between the licensee and the placing agency representative.
  - 2. Individuals requiring nursing care shall not be maintained in the residence unless the following requirements are met:
    - i. All licensees shall have a valid LPN or RN license; and
    - ii. All alternates shall have a valid LPN or RN license.
- (f) The licensee shall notify the placing agency, in writing, 60 days prior, of any intention to have an individual depart from the residence.
- (g) Upon admission, where applicable, a written lease agreement shall be signed by the individual, the guardian, as applicable, and the licensee, which shall provide the consumer with all the rights and responsibilities accorded by New Jersey tenant and landlord law, and shall be comparable to leases for all other persons in the State.
  - 1. In the absence of a formal lease agreement, a consumer residency agreement, or other form of written agreement shall be signed by the consumer, and guardian, as applicable, that shall provide the consumer with the same protections against unlawful evictions as would otherwise be provided by a signed lease agreement. This consumer residency agreement shall provide protections addressing eviction processes and appeals comparable to existing New Jersey landlord and tenant law and shall afford the same rights to appeal an eviction as all other persons in the State.

#### **History**

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**HISTORY:**

## § 10:44B-2.2 Placements and departures

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Added text to (c) regarding bedrooms.

Revised subsection (e), and added (f)2i.-ii.

Added new subsection (h).

Amended by R.2004 d.404, effective November 1, 2004.

See: [36 N.J.R. 2589\(a\)](#), [36 N.J.R. 4961\(a\)](#).

In (b), substituted "Department" for "Division of Developmental Disabilities" following "The"; in (c) and (e), substituted "licensing agency" for "Office of Licensing and Inspections" at the end.

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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### [Chapter Notes](#)

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## [N.J.A.C. 10:44B-2.3](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 2. MANAGEMENT OF THE RESIDENCE***

#### **§ 10:44B-2.3 Alternates**

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- (a) The licensee shall identify an alternate, or alternates, 18 years of age or older to assume the licensee's responsibilities when the licensee is absent.
1. Prior to utilizing an alternate, the licensee shall provide the name, address, last four digits of the Social Security number, and telephone number of all alternates to the placing agency.
    - i. Whenever the licensee adds or removes an alternate, the placing agency shall be notified immediately.
    - ii. Only persons identified to, and approved by, the Office of Licensing and placing agency shall act as an alternate or alternates.
  2. An alternate shall be available in case of emergency.
  3. The licensee shall not delegate skill training responsibilities to the alternate or alternates.
  4. The alternate or alternates shall read, write, speak, and understand English sufficiently to assume the licensee's responsibilities.
  5. The alternate shall be of sound physical, mental, and emotional health.
  6. Only alternates who have successfully completed training arranged by the placing agency shall administer medications to an individual or individuals.
- (b) The Department may allow alternates who have been convicted of any offenses listed at [N.J.A.C. 10:44B-1.4\(h\)](#) 1 and 2 to provide care to individuals in a community care residence, only in accordance with the terms of the Rehabilitated Convicted Offenders Act, [N.J.S.A. 2A:168A-1](#) et seq.
- (c) No person shall serve as an alternate who has been adjudged civilly or criminally liable for abuse, neglect, or exploitation of another person, or whose name appears on the Central Registry.
- (d) At a minimum, the licensee shall assure that all alternates are familiar with the licensee's residence, the individual, their needs and capabilities, the requirement that all information regarding individuals is kept confidential, emergency procedures (including, but not limited to, fire evacuation procedures), and the requirement to call 911 in the event of a life-threatening emergency in accordance with Danielle's Law.
- (e) The regular use of an alternate for more than six consecutive hours is prohibited unless the following conditions are met:
1. The alternate has completed an approved training in accordance with [N.J.A.C. 10:44B-1.4\(k\)](#);
  2. The alternate provides an annual medical form, which shall meet the requirements of [N.J.A.C. 10:44B-2.1\(a\)](#)3i;
  3. The alternate is an occupant of the licensee's residence; and
  4. The alternate is only used during the normal bedtime hours of the individuals placed into the home.

## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revisions throughout.

Revised (f)9i. regarding monthly reports.

In (f)11: Added language regarding Mantoux Test.

Added (f)15 on Respite Care.

Repeal and New Rule, R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Section was "Records".

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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### [Chapter Notes](#)

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## [N.J.A.C. 10:44B-2.4](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 2. MANAGEMENT OF THE RESIDENCE***

#### **§ 10:44B-2.4 Reporting requirements**

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- (a) Any alleged or suspected mistreatment of individuals or boarders shall be reported by the licensee immediately upon discovery to the Division and any other responsible placing agency representatives.
1. After normal business hours, the regional office of the Division shall be contacted at the appropriate hotline number.
  2. In the case of minors, allegations of abuse or neglect shall be reported to the Department of Children and Families at 1-877-NJABUSE, as well as to the Division.
  3. Suspected abuse or neglect of a person 18 years of age or older who resides in the residence shall be reported to Adult Protective Services at the hotline number and to the Division or placing agency.
- (b) The licensee shall immediately notify the responsible placing agency in the event of:
1. The death or emergency removal of an individual or boarder;
  2. The admission of the individual or boarder to a hospital, crisis center, or treatment in an emergency room;
  3. An individual or boarder being unaccounted for or missing beyond their approved unsupervised time (as reflected in the service plan) for more than one hour;
  4. Injuries to an individual or boarder involving sutures, fractures, lost teeth, etc., or other serious injury requiring medical attention;
  5. The grossly negative impact of any individual's visits to or with family or friends; and
  6. A lapse in the individual's participation or attendance in their day activity that exceeds a duration of five consecutive days, with the exception of a planned vacation and or a documented medical reason.
- (c) The licensee shall immediately notify the placing agency and Office of Licensing in the event of:
1. Any change in the licensee's health status, which could negatively affect the licensee's ability to care for the individual;
  2. Any police activity in the home or arrest of any occupant of the household; and
  3. Significant damage to the residence, such as flooding or fire, mandatory emergency evacuation, or operational breakdown, such as disruption of any vital utility, for example, heat, water, electricity, telephone, etc.
- (d) The licensee shall notify the placing agency and the Office of Licensing no later than the next business day in the event of any change in:
1. The occupants in the residence;
  2. The licensee's home telephone number; or



## § 10:44B-2.4 Reporting requirements

3. The licensee's work or volunteer hours.

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

## History

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### HISTORY:

New Rule, R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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## [N.J.A.C. 10:44B-2A.1](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 2A. RECORDS***

### **§ 10:44B-2A.1 Licensee records**

---

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

1. The current contract/placement agreement from each placing agency, which shall include the name of the licensee(s), the terms of the agreement, and the rate of payment;
2. A record of all admissions, including names and dates of arrival and departure, for the previous 12-month period;
3. A current copy of this chapter;
4. A record of monthly fire evacuation drills and smoke alarm and carbon monoxide detector checks, as specified at [N.J.A.C. 10:44B-6.3\(d\)](#);
5. The current license;
6. A copy of the licensee's annual medical form, in accordance with [N.J.A.C. 10:44B-2.1\(a\)3i](#);
7. A copy of the alternate's annual medical form, in accordance with [N.J.A.C. 10:44B-2.3\(e\)2](#); and
8. A record of all trainings successfully completed by the licensee.

### **History**

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#### **HISTORY:**

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

In (a)4, deleted "detector" following "smoke"; in (a)7, inserted "and"; in (a)8, substituted a period for "; and"; and deleted (a)9.

Annotations

### **Notes**

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§ 10:44B-2A.1 Licensee records

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## [N.J.A.C. 10:44B-2A.2](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### **NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 2A. RECORDS**

#### **§ 10:44B-2A.2 Individual records**

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

1. Maintenance of the individual's records in any place other than the licensee's residence, either permanently or temporarily, is prohibited.
2. Errors in documentation shall be amended by the use of a single strike through; no text-obliterating means, such as white out, shall be permitted.

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

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

1. Individual's records shall be stored in such a manner as to maintain confidentiality and to provide access only to the individual, the individual's legal guardian, the licensee, the alternate, the placing agency, the agency providing case management services, the Office of Licensing, or other persons authorized by law or a court of competent jurisdiction.
2. The licensee shall not discard any records. If necessary, the licensee shall request assistance from the placing agency in removing records not pertinent to the individual's current care and habilitation.
3. The licensee shall not make copies or allow copies to be made of individual's records without written permission of the agency providing case management services and the individual's legal guardian indicating specifically which records are to be duplicated and for whom.

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

1. The full name and date of birth of the individual;
2. The date of placement into the residence;
3. The names and addresses of all personal physicians and dentists;
4. The name, address, and telephone numbers of the individual's legal guardian, family members, and other interested person(s);
5. Monthly reports completed by the licensee, which shall include the individual's social and behavioral status, medication changes, medical events, activities attended, community exposure, and progress or lack of progress on objectives that is behaviorally measurable and which corresponds to the objectives identified in the current service plan;

## § 10:44B-2A.2 Individual records

6. A seizure record, if applicable, of all seizure activity, including date, time, duration, surrounding circumstances, and treatment given;
  7. A copy of the current service plan with the names of all members who participated in its development;
  8. Annual physical examination, and the date and results of previous Mantoux Skin Test or IGRA blood testing for tuberculosis;
  9. A medication record, as required by [N.J.A.C. 10:44B-5.2\(a\)](#)1i through vii, if the individual receives any medication prescribed by a physician and if the individual is not self-medicating.
    - i. An Over-the-Counter Medication sheet current within a year and completed and signed by the individual's physician or nurse practitioner.
    - ii. Copies of prescriptions for all medications administered to the individual, current within one year;
  10. Documentation of an annual oral or dental examination;
  11. Documentation of any medical treatment as required by the physician, nurse practitioner, or dentist;
  12. Authorization for emergency medical treatment signed by the legally appointed guardian of an individual or the parent of a minor, as applicable, current within two years;
  13. Medical insurance information;
  14. All records related to the individual's personal funds and assets, in accordance with [N.J.A.C. 10:44B-3.2](#); and
  15. An inventory of personal property, maintained continuously throughout the placement.
- (e) The record for each individual residing in the home as a respite placement, currently, or within the past year, shall include:
1. A placing agency's placement agreement, which indicates each individual's name, placement, and departure dates from the home;
  2. The current assessment document utilized for service planning by the placing agency; and
  3. The Medication Administration Records for the duration of the respite.

## History

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### HISTORY:

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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§ 10:44B-2A.2 Individual records

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## [N.J.A.C. 10:44B-3.1](#)

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### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 3. CARE OF THE INDIVIDUAL***

#### **§ 10:44B-3.1 Individual rights**

---

(a) Individuals' civil, human, and legal rights shall not be abridged solely on the basis of their diagnosis or without due process.

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

(b) Licensees shall assure that individuals are permitted to exercise all those rights outlined in the rights document distributed by the Division. Unless otherwise addressed through a person-centered planning process documented in the ISP, individuals shall have the right to:

1. Privacy, dignity, respect, and freedom from coercion;
2. Keep and use their own clothes, money, and personal things, and to have a place to put them so that no one else may use them;
3. Associate with members of the opposite sex;
4. Practice the religion of their choice or choose not to practice any religion;
5. Send and receive mail without it being opened or read by other people and to receive assistance, should they want it, in reading or written correspondence;
6. Make or receive private phone calls at any time;
7. Have a healthy diet;
8. Have visitors of their choice at any time;
9. Request release from a program or transfer to another program;
10. Register and vote in all elections;
11. Share in developing their service plan designed specifically for them and to help decide what kinds of programs would be best for them in that plan;
12. Have their service plan and all records kept private, unless they or their legal guardian give permission for someone else to see them;
13. Regular educational instruction if they are between the ages of three and 21 years old and to participate in learning and recreational activities at any age;
14. Receive guardianship services, if they are an adult who needs them;
15. Be informed of the condition of their health and to be able to contact their doctor;
16. Be free from unnecessary medical tests or treatment;
17. Be free from restraints, restrictive intervention, or from being isolated; and
18. Be free from physical punishment.

## § 10:44B-3.1 Individual rights

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

1. Individuals shall be permitted to rest in their homes for such periods as may be consistent with their personal needs or preferences, and to rise and retire at times of their choosing.
2. Complete privacy shall be afforded to individuals during visits with their guests.
  - i. Visiting is to be permitted at times of the individual's choosing.

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

1. There shall be no restriction of the individual's access to their bedroom.

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

1. The licensee shall provide or make arrangements to facilitate the individual's participation in all such community involvement, scheduled and unscheduled, including providing or obtaining transportation.
2. Licensees shall not impose their religious beliefs on individuals under their care.
3. Licensees shall make arrangements for the individual to celebrate holidays, birthdays, and/or special events of the individual's choice.
4. When the individual's religious beliefs forbid him or her to eat certain food or foods, the licensee shall provide each individual with adequate substitutes for these foods at no additional expense to the individual.
5. The licensee shall provide supervision to the individual, as detailed in the ISP.

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

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

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

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

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

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

**(l)** The installation and/or operation of cameras for surveillance or monitoring inside the licensed residence without the approval of the licensing agency is prohibited.

## History

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### HISTORY:



## § 10:44B-3.1 Individual rights

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

In (b): added phrase regarding infringement of rights.

Stylistic changes throughout.

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Section was "Individual right and responsibilities". In the introductory paragraph of (a), substituted "or" for ", nor"; deleted former (b) through (l); recodified former (m) as (b); rewrote (b); and added new (c) through (k).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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## Case Notes

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Developmental Disabilities Licensing failed to carry its burden of persuasion of proof by a preponderance of the competent and credible evidence regarding the allegation that a Community Care Residence licensee violated a resident's individual rights where the evidence showed that the resident had a habit of collecting and hoarding large amounts of paper, the resident would not voluntarily discard any of the paper, his collection created storage problems, and the licensee required the resident to empty the papers from the pillowcase where he stored them, then tear up and discard the older collection in order to retain papers he had more recently accumulated; punishment of the licensee was inappropriate merely because she sought to prevent her home from taking on the appearance of a trash recycling station. [Div. of Developmental Disabilities v. Hagans, OAL Dkt. No. HDD 2675-05, 2007 N.J. AGEN LEXIS 184](#), Initial Decision (April 10, 2007).

Findings in an initial decision that revocation of a license to operate a community care residence was not warranted were reversed and rejected, and the decision of the Division of Developmental Disabilities to revoke the license was affirmed because the licensee's decision to deprive developmentally disabled residents access to a refrigerator by placing a lock on it infringed the residents' rights to have free use of the living area as required by [N.J.A.C. 10:44B-3.1\(f\)](#), and constituted abuse by deprivation of food under [N.J.A.C. 10:44B-2.1\(f\)](#). Further when the licensee was issued a provisional license, rather than a full license, by Developmental Disabilities Licensing, he was asked to correct certain conditions, including the lock on the refrigerator, pursuant to [N.J.A.C. 10:44B](#), but failed to do so. The licensee could have addressed his concerns about one resident's weight problem and refrigerator raids by seeking development of an Individual Habitation Plan pursuant to [N.J.A.C. 10:44B-1.3](#). [In re Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD2676-05, 2006 N.J. AGEN LEXIS 1173](#), Final Decision (September 13, 2006).

Revocation of Community Care Residence (CCR) license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator, was a deprivation of their rights as well as abuse,

## § 10:44B-3.1 Individual rights

notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. [Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950](#), Final Decision (September 13, 2006).

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## [N.J.A.C. 10:44B-3.2](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 3. CARE OF THE INDIVIDUAL***

#### **§ 10:44B-3.2 Personal funds**

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- (a) The individual's personal funds shall be used solely for the individual.
- (b) The licensee shall not commingle any individual's personal funds with those of the licensee or any other person or entity, and only the individual's name shall be on any bank account.
- (c) There shall be no loans of finances, resources, or property from an individual to the licensee, licensee's family member, or any other individual or person.
- (d) Unless otherwise determined by the IDT, an individual's personal funds in excess of \$ 200.00 shall be maintained in a separate bank account in the individual's name, accessible only by the individual and the licensee.
- (e) When the individual has been determined by the IDT to be able to manage a specific amount of personal funds, and the amount is documented in the service plan, the licensee shall disburse such amounts to the individual accordingly. The licensee shall obtain the individual's signature for such personal funds disbursed to the individual.
- (f) For all personal funds that the individual is not capable of managing on his or her own, the licensee shall maintain an accurate record of all transactions of the individual's personal funds on the placing agency's approved form. The record shall include:
  - 1. All personal funds transactions, whether received, expended, or disbursed, including, but not limited to: wages; personal needs allowance (PNA); personal trust funds (PTF); private trust funds; monetary gifts; reimbursements and tax rebates, payments of bills, and purchases; and personal funds disbursed to the individual;
  - 2. The full date, amount, and a specific description of each transaction; and
  - 3. Receipts related to all disbursements and expenditures. Receipts shall be either computer or register generated, or if not so provided by the vendor, legibly handwritten, containing the name, signature, location, and/or telephone number of the vendor or selling party.
- (g) The licensee shall maintain all other documents related to the individual's finances, including, but not limited to, bank statements, bank passbooks, paycheck stubs, and income tax returns.
- (h) The licensee shall not charge the individual for services or supplies that the licensee is obligated to provide by the licensing standards or by the provider agreement between the placing agency and the licensee.
  - 1. The licensee shall not charge the individual for telephone usage other than long distance telephone calls or a separate private telephone number that is provided strictly for the individual's use.
  - 2. The licensee shall not charge the individual for heating or cooling the residence or any portion thereof, electricity, hot and cold water, sewer, or gas for the car, tolls, or parking.

## § 10:44B-3.2 Personal funds

3. Charges to the individual for cable, satellite television, or cell phones shall be approved by the IDT, and included in the service plan, to be reviewed annually.
  4. Grooming supplies including, but not limited to, items, such as soap or other personal cleansing products, shampoo and conditioner, shaving cream, disposable razors, regular toothbrushes, toothpaste, mouthwash, deodorant, lotion, feminine products, washcloths, towels, facial tissues, and toilet tissue shall be available to the individual at the licensee's expense.
    - i. If the individual's preference for a certain brand of such products poses a hardship to the licensee, the IDT may approve and document in the service plan that the individual will pay for them.
  5. Individual electric toothbrushes, electric razors, hair combs, brushes, styling products, accessories, cosmetics and fragrances, shall be available to the individual at his or her own expense.
  6. Snacks and drinks shall be available to the individual at the licensee's expense.
  7. The licensee shall be responsible for the cost of meals purchased in the community when the individual dines with the licensee and/or the licensee's family. Exceptions shall be approved by the IDT, documented in the service plan and reviewed annually.
  8. The licensee shall provide laundry services and supplies, including the use of the laundromat or wash and fold services, without additional charge to the individual.
  9. Dry cleaning services may be provided and paid for at the individual's expense when approved by the IDT and documented in the service plan.
- (i) Licensees shall cooperate with reviews conducted by the Department by making the financial records available to the Office of Auditing, the case manager, the case manager's supervisor, and any representative so authorized by the Department.
1. The Office of Auditing will select licensees at random and notify them of an audit with instructions on how to comply.
  2. Each licensee selected for an audit under (i)1 above shall provide original documentation for review, including, but not limited to: client account records, Personal Needs Account summary sheet, client bank statements, client banking systems balances, cash on hand amounts, and vendor receipts for the period requested.
  3. The Office of Auditing will review the documents to ensure that service recipients' funds are safe and protected, bank accounts and cash on hand records are complete and reconciled, purchases and disbursements reflect the specific needs of the individual service recipients, and that licensee and service recipient funds are not intermingled.
  4. The Office of Auditing will report any evidence of an inappropriate purchase or disbursement consisting of an amount of money equaling \$ 100.00 or more to the Attorney General.
  5. The Office of Auditing will report any evidence that a case manager was aware of an inappropriate purchase or disbursement consisting of an amount of money equaling \$ 100.00 or more and failed to document that fact or notify the case manager's supervisor to the Attorney General.

## History

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### HISTORY:

New Rule, R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Former [N.J.A.C. 10:44B-3.2](#), Personal health, hygiene, and grooming, recodified to [N.J.A.C. 10:44B-3.3](#).

## § 10:44B-3.2 Personal funds

Amended by R.2017 d.043, effective March 20, 2017.

See: [48 N.J.R. 544\(a\)](#), [49 N.J.R. 542\(a\)](#).

Added (i).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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[Chapter Notes](#)

## Case Notes

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[Initial Decision \(2007 N.J. AGEN LEXIS 34\)](#) accepted, which concluded that revocation of license to operate a Community Care Residence on grounds of failure to properly account for client funds and maintain financial records, resulting in more than \$ 5,000 of three clients' personal funds being unaccounted for, was warranted; substantial evidence showed that the licensee did not keep accurate records of purchases made with client funds, did not itemize expenses, and permitted substantial gaps in the documentation relative to receipts for alleged client expenditures, and that the licensee essentially exploited three clients by using their funds to her own advantage and profited by improperly charging those clients for supposed "household gifts" for the licensee and her family, or for items for which the licensee had already been compensated by the Division of Developmental Disabilities (decided under former [N.J.A.C. 10:44B-2.3](#)). [Thomas v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 4537-04 and HDD 8641-04 \(Consolidated\), 2007 N.J. AGEN LEXIS 105](#), Final Decision (February 28, 2007).

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## [N.J.A.C. 10:44B-3.3](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 3. CARE OF THE INDIVIDUAL***

### **§ 10:44B-3.3 Personal health, hygiene, and grooming**

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- (a) Individuals shall be encouraged to exercise maximum independence in health, hygiene, and grooming practices.
- (b) Within the residence, the licensee shall ensure that each individual has the opportunity for personal care, with assistance, if necessary, to include:
1. A daily bath or shower;
  2. Oral hygiene twice daily;
  3. Opportunity to shave, as desired;
  4. Care of fingernails and toenails;
  5. Cutting, styling, or grooming of hair, as necessary; and
  6. Toileting.
- (c) Hygiene and grooming articles shall be maintained separately from all medications, food, household cleaning supplies and chemicals and stored in a safe and sanitary manner either in the bathroom or in the individual's bedroom.
- (d) Female individuals shall be assisted by the licensee as necessary in caring for personal feminine needs.

### **History**

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#### **HISTORY:**

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revision.

Recodified from [N.J.A.C. 10:44B-3.2](#) and amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the introductory paragraph of (b), (b)3, (b)4, (b)5 and (c); added (b)6; deleted former (d); recodified (e) as (d); and rewrote (d). Former [N.J.A.C. 10:44B-3.3](#), Food, recodified to [N.J.A.C. 10:44B-3.4](#).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

§ 10:44B-3.3 Personal health, hygiene, and grooming

In the introductory paragraph of (b), inserted a comma following "assistance"; and in (b)3, substituted "desired" for "necessary".

Annotations

## Notes

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[\*Chapter Notes\*](#)

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## [N.J.A.C. 10:44B-3.4](#)

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### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 3. CARE OF THE INDIVIDUAL***

#### **§ 10:44B-3.4 Food**

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- (a) The licensee shall ensure that an individual is provided with three nutritionally balanced meals, varied in nature, and a sufficient amount of liquids for hydration, daily, either in the residence or in the community.
- (b) There shall not be more than a 14-hour span between the evening meal and breakfast.
- (c) Food, snacks, and liquids shall be readily accessible to individuals as desired, unless limitations have been deemed necessary by the individual's physician.
- (d) Food shall be fresh, stored in a manner to keep it clean and safe for consumption. Food shall be discarded upon spoilage or upon the expiration date of the package.
- (e) Individuals shall dine with the licensee's family on a regular basis, unless the individual expresses a desire to dine elsewhere, as approved by the IDT and the individual's guardian, and recorded in the service plan.
  - 1. There shall be sufficient seating and room at the dining table to accommodate all occupants of the household so that they may dine together.
  - 2. There shall be sufficient supply of eating utensils, plates, cups, etc., for all occupants of the household.
- (f) If a medically prescribed diet is required, the menu planning and food preparation shall be consistent with the individual's medical and dietary needs.
  - 1. The licensee shall demonstrate knowledge of the individual's medically prescribed diets.
  - 2. Foods required by any medically prescribed diet shall be provided at no cost to the individual, unless a hardship has been demonstrated by the licensee, approved by the IDT, and documented in the service plan.
- (g) The licensee shall make a reasonable attempt to comply with food preferences and snacks requested by the individual, without charge to the individual.
- (h) The licensee shall not withhold food, drinks, or snacks as a form of punishment.

#### **History**

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##### **HISTORY:**

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revisions throughout.

Revised subsection (f) regarding family dining.



## § 10:44B-3.4 Food

Added new subsection (h).

Recodified from [N.J.A.C. 10:44B-3.3](#) and amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section. Former [N.J.A.C. 10:44B-3.4](#), Clothing, recodified to [N.J.A.C. 10:44B-3.5](#).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Added (f)2.

Annotations

## Notes

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## [N.J.A.C. 10:44B-3.5](#)

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***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 3. CARE OF THE INDIVIDUAL***

### **§ 10:44B-3.5 Clothing**

---

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

1. Each individual shall have the opportunity to select and purchase his or her own clothing as independently as possible.

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

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

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

(c) An individual's clothing and undergarments shall be changed daily. Incontinence undergarments shall be utilized only as specified in writing by a physician or nurse practitioner and changed as needed.

(d) An individual's clothing shall not be discarded without the approval of the placing agency.

### **History**

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#### **HISTORY:**

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revisions.

Recodified from [N.J.A.C. 10:44B-3.4](#) and amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote (a); and added (d).

Annotations

## Notes

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## [N.J.A.C. 10:44B-4.1](#)

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### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 4. SERVICE PLAN***

#### **§ 10:44B-4.1 Service plan**

---

- (a) A service plan shall be developed for each individual by the interdisciplinary team in accordance with [N.J.S.A. 30:6D-10](#), 11, and 12 and shall be kept on file in the residence. Documentation of who participated in the plan shall be provided on the service plan. (These requirements do not apply to Respite Care Programs).
- (b) The service plan shall include a clear statement regarding the individual's ability to remain unsupervised, the amount of money the individual can independently manage, and the individual's ability to self-medicate.
- (c) Training received by an individual in the residence shall be consistent with the outcomes identified in the service plan. Changes to the service plan shall be approved by the IDT and documented in the service plan.
- (d) Except in an emergency, a written plan shall be developed by the IDT at least 30 days prior to an individual's move into a new home.
- (e) The service plan shall be reviewed and modified by the IDT not longer than 30 days subsequent to a move, discharge, and or transfer and shall include all necessary information.
- (f) An agency or organization that causes a written, individualized service plan to be developed for an individual with a developmental disability residing in a community care residence shall not include the Social Security number of the individual with a developmental disability on the plan.
- (g) An agency or organization that violates the provisions of (f) above shall be subject to a penalty of \$ 250.00 for the first offense and \$ 500.00 for each subsequent offense. The penalty shall be sued for and collected in a summary proceeding by the Commissioner pursuant to the Penalty Enforcement Law of 1999, P.L. 1999, c. 274 ([N.J.S.A. 2A:58-10](#) et seq.).

#### **History**

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##### **HISTORY:**

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Revised (a) and (b) to specify details of habilitation plan.

Added new (d) and relettered old (d) as subsection (e).

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

§ 10:44B-4.1 Service plan

Section was "Individualized Habilitation Plan". Rewrote the section.

Amended by R.2017 d.043, effective March 20, 2017.

See: [48 N.J.R. 544\(a\)](#), [49 N.J.R. 542\(a\)](#).

Added (f) and (g).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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## [N.J.A.C. 10:44B-4.2](#)

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### **NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 4. SERVICE PLAN**

## **§ 10:44B-4.2 Days activities**

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

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

(b) The individual may assist with normal chores within the home in accordance with their abilities as assessed by the IDT.

## **History**

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### **HISTORY:**

Amended by R.1990 d.359, effective July 16, 1990.

See: [22 N.J.R. 756\(a\)](#), [22 N.J.R. 2164\(b\)](#).

Revised (a) and added (a)3 regarding individuals over age 55.

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Section was "Day programs". In the introductory paragraph of (a), inserted "education," and "in the community"; in (a)1, substituted "21" for "22"; rewrote (a)2 and (b); and deleted (a)3.

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## **Notes**

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### [Chapter Notes](#)

§ 10:44B-4.2 Days activities

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## [N.J.A.C. 10:44B-5.1](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### **NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 5. HEALTH SERVICES**

#### **§ 10:44B-5.1 General medical and health care**

---

- (a) Each individual shall have a personal, primary physician, nurse practitioner, or medical group.
- (b) Each individual shall have an annual medical examination. Documentation of this examination shall be completed, signed, and dated by the physician or nurse practitioner on the placing agency approved medical form and maintained on file in the individual's record.
- (c) Each individual shall have a baseline Mantoux Skin Test or IGRA blood test result, documentation of which shall be maintained on file in the individual's record.
  - 1. For any individual with a baseline positive or newly positive test result for *M. tuberculosis* (TB) infection, or documentation of treatment for latent TB infection or TB disease, the licensee shall obtain documentation of a medical evaluation and follow-up testing, as determined by the physician, to rule out pulmonary TB disease.
  - 2. Upon any known or suspected exposure to a confirmed case of TB by an individual, the licensee shall consult with the physician and maintain documentation that all requirements for follow-up testing were met.
- (d) For any individual who has not had a physical examination within one year prior to placement, or any record of Mantoux Skin Test or IGRA blood test, the licensee shall assure a medical examination and Mantoux or IGRA blood test are completed within three business days of the date of placement.
- (e) Each individual shall have, at a minimum, an annual oral or dental examination.
  - 1. Documentation from the dentist of this examination, signed and dated by the dentist, shall be kept on file at the residence.
  - 2. In the event that the individual is edentulous, a physician or nurse practitioner may conduct the oral examination. Documentation of this examination and findings or treatment shall be provided by the physician or nurse practitioner conducting the exam.
- (f) The licensee or alternate shall immediately call 9-1-1 in the event of a life-threatening emergency, in accordance with Danielle's Law.
- (g) The licensee shall follow-up on all individual health needs, including, but not limited to: medical care, pharmaceutical, podiatrist, dental, and therapeutic or other health services. The licensee shall maintain documentation of all such follow-ups in the individual's file.
- (h) The licensee shall have a first aid kit, which is maintained in a sanitary manner. There shall be no expired items. Medications shall not be maintained in the first aid kit. The first aid kit shall contain an adequate supply of the following items only:
  - 1. Antiseptic;
  - 2. Sterile rolled gauze bandage;



## § 10:44B-5.1 General medical and health care

3. Sterile gauze pads or telfa pads;
4. First aid tape or surgical cloth tape;
5. Scissors;
6. Adhesive bandage (for example, band aids);
7. A standard or digital thermometer;
8. Disposable gloves (latex or non-latex);
9. Hot/cold pack; and
10. Tweezers.

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

## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Added (c)1-3 and relettered old (c)-(f) as (d)-(g), with stylistic revisions.

Added "sterile" to describe first aid supplies and added (g)7.

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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## [N.J.A.C. 10:44B-5.2](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### **NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 5. HEALTH SERVICES**

#### **§ 10:44B-5.2 Medication**

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

1. The licensee, and when necessary, the trained alternate, shall maintain a medication administration record of all medications taken where assistance is required. The licensee, and when necessary, the alternate, shall complete the medication administration record as he or she was trained to do by the placing agency. The medication record shall include:
  - i. The signature of any persons administering medication followed by his or her initials;
  - ii. The brand name and, if applicable, generic name of the medication;
  - iii. The dosage;
  - iv. The date and time of administration;
  - v. A record of each dosage at the time it is administered, identified by the initials of the person administering the medication;
  - vi. Documentation of the proper code for instances when a medication is not administered; and
  - vii. A list of all known allergies.
2. Errors in medication documentation or administration shall be recorded on the medication record at the time of their occurrence.
3. Medications may be changed or discontinued only upon written documentation from the physician or nurse practitioner, which shall be maintained in the individual's file.

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

1. Only those individuals who have been determined by the IDT to be self-medicating, and who have documentation of such in their service plan, which shall include a current Self-Medication Assessment, shall administer their own medications.
2. Upon determination by the IDT as documented in the service plan that an individual is capable of self-medication, no daily medication administration record is required; however, the licensee shall maintain in the individual's record all copies of prescriptions/physician's orders for currently prescribed medications, as well as all documentation from the physician for any changes and/or discontinuations of medications.
3. The licensee shall be familiar with all medications being taken by the individual who self-medicates, their side effects, and where they are stored.

## § 10:44B-5.2 Medication

4. Medications administered by injection may be self-administered if there is documentation of the individual's successful training by licensed medical personnel. This determination shall be approved by the IDT and included in the service plan.
5. Only a licensee who has documentation of successful completion of training from licensed medical personnel may administer medication by injection.
- (c) Medications shall only be administered to or used by the person for whom they are prescribed.
- (d) The licensee shall ensure that an adequate supply of medication is maintained for the individual at all times.
- (e) The licensee shall dispose of expired and discontinued medications in such a manner so that they cannot be ingested or used by anyone in or out of the home.
- (f) The licensee shall supervise the storage and accessibility of all medication, assuring access only by authorized persons.
1. Medication shall be stored separately from all food, household cleaners, insecticides, poisons, etc.
  2. All medications shall be kept in their original containers and shall be properly identified.
    - i. Medications obtained from a pharmacist shall include a pharmacy label with the individual's name, medication name, frequency of dosing, and dosage amount, in accordance with the physician's prescription.
    - ii. Medications available over-the-counter shall include the manufacturer's label identifying the content and strength of the medication, exactly matching the physician's order.
  3. Pill planners shall not be utilized.
  4. The licensee may not repackage medications from one container to another container for administration by another person. Medications that are to be administered by another person shall be maintained in the original container that has been obtained directly from the pharmacy.
- (g) The licensee shall be familiar with all medications being administered to the individual, their purpose, and side effects.
- (h) Medication errors and drug reactions shall be reported at the time of the occurrence to the individual's physician or nurse practitioner and case manager and documented in the individual's file.

## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Revised (a)1 regarding self-administering medication, and made stylistic changes throughout.

Repeal and New Rule, R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Section was "Medication and drugs".

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

In the introductory paragraph of (a), inserted ", who has successfully completed medication training,"; and in (a)1, inserted a comma twice following "necessary", and substituted "placing" for "development".

Annotations

## Notes

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[Chapter Notes](#)

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## [N.J.A.C. 10:44B-6.1](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### **NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 6. PHYSICAL PLANT AND SAFETY**

#### **§ 10:44B-6.1 General home requirements**

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- (a) The licensee shall take such measures to protect all persons in the residence from hazards to health, safety, and welfare that can be attributed to the location or environment of the residence.
- (b) All one- or two-family dwellings shall be subject to the requirements of the New Jersey Uniform Construction Code Group R-3 or R-5.
- (c) All modifications, renovations, or upgrades requiring heating, plumbing, or electrical modifications shall be completed by licensed contractors and the required permits and inspections obtained as required by local ordinances or the UCC, as applicable.
- (d) Whenever the licensee moves, he or she shall obtain a copy of the Certificate of Occupancy as required by local ordinances or the UCC, as applicable.
- (e) In single-family residences that have been subdivided into more than two apartments, if the licensee is the owner, the building shall comply with the Uniform Construction Code Group Category R-2 (Multi-family dwelling).
- (f) Every residence shall be provided with heating facilities that are installed, maintained, and operated in good and safe working condition and which are capable of maintaining all habitable rooms at a temperature of 65 degrees Fahrenheit.
  - 1. Heat sources exceeding 110 degrees Fahrenheit in any part of the home that are accessible to individuals shall be equipped with protective covers to prevent individuals from coming into direct contact with the heat source.
  - 2. The licensee shall take steps to assure the health and safety of individuals served if the temperature in the home exceeds 82 degrees Fahrenheit for more than four hours.
- (g) Air conditioners and fans shall be installed and operated in a safe manner.
- (h) The home shall be equipped with plumbing, drains, and sewer lines or septic systems that are installed and maintained in good and safe working conditions.
  - 1. The hot water temperature in the home shall register no lower than 105 degrees Fahrenheit and shall not exceed 120 degrees Fahrenheit at the tap.
  - 2. Hot and cold running potable water shall be available in adequate supply at all times.
- (i) An operable telephone shall be available in the residence.
  - 1. The telephone number of the Division hotline shall be readily accessible by the primary telephone.
- (j) All stair treads and landings shall be equipped with non-slip surfaces in good repair.
- (k) Stair treads shall be at least nine inches deep and have risers no more than 8-1/4 inches high.
- (l) Stairways shall be a minimum of two feet eight inches wide from handrail to handrail or wall.

## § 10:44B-6.1 General home requirements

- (m)** All stairways, hallways, and exits shall be maintained in good repair and kept free and clear of obstructions or tripping hazards at all times.
- (n)** Every balcony, staircase, or place higher than 30 inches off the ground shall be provided with adequate and secure railings. Such railings shall be no less than 30 inches or more than 34 inches in height. For new construction or buildings undergoing rehabilitation, railings shall be no less than 34 inches for stair railings and 36 inches for porches or decks.
- (o)** All stairways consisting of four or more steps shall be provided with a secure handrail.
- (p)** All operable windows and doors used for natural ventilation shall be provided with insect screening maintained in good condition.
- (q)** Every residence shall be provided with at least one full bathroom consisting of a door for privacy with a privacy lock, one flush type toilet, sink, and bathtub or shower maintained in good sanitary condition and available for every eight persons living in the residence.
1. Bathrooms shall be accessible without passing through any sleeping unit and shall be available within one floor above or below the individual's room, unless it is a "master bedroom" type suite for the sole use of that bedroom's occupants.
  2. Toilet paper shall be available at each toilet.
  3. Non-slip surfaces shall be available in each shower or bath.
  4. All bathroom fixtures, lighting, and mirrors shall be in good condition and securely fastened to the wall, ceiling, or floor.
- (r)** The accumulation of garbage, waste, or clutter in any area of the residence or property shall be prohibited.
1. Garbage containers shall be non-corrosive, non-combustible, and leak-proof and maintained in good condition.
  2. Outside garbage containers shall be provided with tight fitting covers.
- (s)** Floors, walls, ceilings, and other interior surfaces shall be kept clean and in good repair.
- (t)** The interior and exterior of the residence shall be maintained free of hazards to the health, safety, and welfare of the occupants.
1. The following, at a minimum, shall be prohibited:
    - i. Light bulb wattage in excess of manufacturer's recommendations;
    - ii. Piggybacking electrical cords;
    - iii. Overloaded outlets;
    - iv. Broken light fixtures;
    - v. Missing outlet or switch plate covers;
    - vi. Cellophane wrapping on lampshades;
    - vii. Water leaks or accumulation of stagnant water;
    - viii. Frayed or unsecured carpeting;
    - ix. Electrical cords running under carpeting or through doorways;
    - x. Improper use or maintenance of electrical devices;
    - xi. Improperly wired holiday decorations;
    - xii. Unsecured or overloaded shelving;

## § 10:44B-6.1 General home requirements

- xiii.** Exposed wiring;
  - xiv.** Broken furniture; and
  - xv.** Tripping hazards.
- 2.** All fuse boxes, circuit breakers, control panels, junction boxes, and exterior electrical receptacles shall be provided with protective covers and maintained in good operating condition.
- 3.** Major electrical equipment or appliances that require high wattage, including, but not limited to, refrigerators, washers, dryers, air conditioners, or home theatre equipment, shall be plugged directly into an outlet or heavy duty surge protector.
- (u)** Chain locks, hook, and eye locks, slide locks, or other locks that cannot be readily opened from either side shall be prohibited on all doors.
- 1.** Locks on egress doors shall be of the type that can be unlocked from the inside without the use of a key.
- (v)** Only commercially available security devices that are quick release and visible shall be permitted for use with sliding glass exit doors. The placement of a stick or bar in the door track is prohibited.
- (w)** Exterminator services shall be arranged, and documentation retained, by the licensee whenever there is evidence of infestation.
- (x)** The licensee shall ensure that pets kept at the home pose no danger to the health, safety, or welfare of all of the occupants or visitors to the household.
- (y)** Any occupant of the home who owns a firearm shall have a valid New Jersey license to own a firearm.
- 1.** Firearms shall be secured in a locked steel gun vault and all ammunition shall be secured in a locked area separate from the firearm storage vault.
- (z)** The home shall incorporate barrier-free design, as necessary, for individuals in the home with physical disabilities.
- (aa)** Basements may be used as activity rooms by individuals provided the basement is dry, warm, adequately lighted, and have two independent means of egress.
- 1.** Basements without two independent means of egress may not be occupied.
- (bb)** Kitchen facilities requirements are as follows:
- 1.** Storage space shall be clean and well ventilated.
  - 2.** Containers of food shall be covered and appropriately stored above the floor on shelves or other clean surfaces, and away from household cleaners, insecticides, poisons, etc.
  - 3.** Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit (7 degrees C). Freezer compartments shall operate at no more than 32 degrees Fahrenheit (0 degrees C).
  - 4.** All food and drink shall be safe for human consumption, clean, wholesome, and free of spoilage.
  - 5.** All food and drink shall be prepared and served in a sanitary manner.
  - 6.** All appliances, equipment, and utensils used for eating, drinking, preparation, and serving of food shall be kept clean and in good condition.
  - 7.** All equipment and utensils used for eating, drinking, preparation, and serving of food shall be thoroughly washed after each use.
  - 8.** Floors, walls, and work surfaces of food preparation and food serving areas shall be kept clean and in good condition at all times.

## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Revised subsection (d) by adding "plumbing" and clarifying heating temperature requirements.

Added text to subsection (p). Added new (s), and relettered (s)-(w) as (t)-(x).

Amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section.

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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[Chapter Notes](#)

## Case Notes

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Revocation of license to operate a Community Care Residence on grounds of the licensee's creation of a hazardous condition in violation of [N.J.A.C. 10:44B-6.1](#) by the overuse of extension cords which resulted in one client's death in an ensuing fire, was warranted since the licensee had an obligation to maintain her home free from hazards to the health, safety, and welfare of the individuals placed in her care, which included the responsibility to ensure that extension cords were not being used improperly in the house in accordance with [N.J.A.C. 10:44B-6.3\(g\)\(1\)](#); the licensee's improper use of an extension cord at the fire location, which was consistent with the gross misuse of extension cords throughout the house, created an unsafe living environment amounting to "neglect." [Div. of Developmental Disabilities v. Cruz, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524](#), Final Decision (June 22, 2007).

In addition to the misuse of extension cords, Community Care Residence licensee's failure to notify the Division of Developmental Disabilities that she was caring for persons in her home other than DDD clients further put the DDD clients at risk; the licensee attempted to additionally run a day care center in the home, adding further people to her charge, when her DDD license only provided for 3 DDD clients in the home, and the licensee failed to advise the DDD inspector in March 2004 or earlier that she had registered with the Division of Youth and Family Services as a family day care provider. [Div. of Developmental Disabilities v. Cruz, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524](#), Final Decision (June 22, 2007).



§ 10:44B-6.1 General home requirements

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End of Document

## [N.J.A.C. 10:44B-6.2](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 6. PHYSICAL PLANT AND SAFETY***

### **§ 10:44B-6.2 General exterior residence requirements**

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- (a) Outside walkways shall be kept clean of ice, snow, leaves, debris, and clutter. There shall be no uneven walkways or holes on the property.
- (b) Lighting that is maintained in safe working condition shall be provided at the front and rear exits of the home.
- (c) House numbers shall be visible from the street.
- (d) Fencing, roofs, gutters, and downspouts shall be maintained in good condition.
- (e) Swimming pools shall meet the requirements of all local ordinances.
  - 1. Swimming pools shall be equipped with a ring buoy with a rope, extension pole, or other device to rescue a swimmer in distress.
  - 2. Swimming pools shall be equipped with a cover, which shall be maintained in good condition when the pool is not in use.

### **History**

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#### **HISTORY:**

New Rule, R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Former [N.J.A.C. 10:44B-6.2](#), Fire safety, recodified to [N.J.A.C. 10:44B-6.3](#).

Annotations

### **Notes**

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#### [Chapter Notes](#)

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## [N.J.A.C. 10:44B-6.3](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

### ***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 6. PHYSICAL PLANT AND SAFETY***

#### **§ 10:44B-6.3 Fire safety**

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

1. One unit on the hallway ceiling of any floor with sleeping areas;
2. One unit in the main living area of the residence;
3. One unit in the basement;
4. One unit in attic areas that contain storage; and
5. Additional units in areas designated as high hazard or without adequate coverage.

(b) All smoke alarms shall be properly maintained and be in operating condition.

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

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

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

(f) The licensee shall demonstrate competency in the use of the fire extinguisher.

(g) The licensee shall conduct and record unannounced fire drills once a month when individuals are in the home.

1. Drills shall be held at varying times of the day and night and, at a minimum, one drill a year shall be conducted while the individuals are asleep.
2. The licensee shall vary the exit routes from the home and the location of the hypothetical fire.

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

1. Fire drills shall be timed exactly utilizing a timing device that measures time to the second.

(i) Documentation of the fire drills shall be maintained on the Office of Licensing's form, filed in the licensee's administrative records, and shall include:

1. The date and time of the fire drill;
2. The exact time required for evacuation;

## § 10:44B-6.3 Fire safety

3. The location of the hypothetical fire and exit(s) used; and
  4. The names of persons involved.
- (j) A fire drill shall be conducted within 24 hours of any admission to the home and within 24 hours of a fire drill exceeding three minutes.
- (k) If there is any reason to believe that an evacuation problem exists, the licensee shall contact a representative of the placing agency to observe a fire drill conducted in the residence, and follow all recommendations made by the placing agency.
- (l) An area of at least three feet surrounding the furnace, hot water heater, fireplace, or wood or pellet burning stove shall be maintained free from combustible materials/items of any kind.
- (m) Portable area or space heaters and halogen lights shall be prohibited.
- (n) Extension cords shall be UL approved and only used with small appliances and/or indoor holiday decorations in accordance with manufacturer's instructions.
- (o) The licensee shall ensure that any occupant, visitor, or individual in the home who smokes does so in a safe manner, and shall provide ashtrays in all areas where smoking is permitted. Smoking in bed shall be prohibited.
- (p) Wood or pellet burning stoves shall be permitted only if proof of its proper installation is provided by the local construction official.
- (q) Fireplaces and wood or pellet burning stoves and all components shall be kept clean and well maintained.
1. An A-rated fire extinguisher shall be available in the same room as the wood or pellet burning stove or fireplace.
  2. 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.
  3. Fireplaces, if used, must be professionally inspected, and cleaned if necessary, annually, and documentation of such shall be maintained.
- (r) Combustive materials shall be stored in non-combustible containers. The accumulation of combustible materials in any part of the residence is prohibited.
- (s) There shall be at least two means of egress from the residence, as approved by the Office of Licensing.
- (t) Electric and gas clothes dryers shall be maintained and used in a safe manner.
1. Lint trap screens in clothes dryers shall be maintained in good repair and cleaned after each use.
  2. Dryer vent ducts shall be maintained in good repair, remain unblocked and uncrushed, and properly connected to the dryer.
  3. The area around the dryer shall be maintained free of lint, clothing, and garbage.
  4. Exterior dryer vent exhausts shall be kept clean, free of lint, and provided with a commercially made protective cover that is designed to prevent pests from entering the dryer vent.
- (u) Candles shall only be used with a noncombustible shield surrounding the candle and the flame, and kept at least 12 inches away from anything that can burn. The use of candles in bedrooms or sleeping areas, in utility rooms, or in rooms adjacent to utility rooms, for emergency lighting, or left unattended, is prohibited.

## § 10:44B-6.3 Fire safety

**HISTORY:**

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Revised subsection (a) and added new (b), relettering (b)-(m) as (c)-(n) and adding new subsection (o).

In (f): Added text regarding exits and evacuation routes.

In (g)3: changed "48" to "24" hours.

Deleted (a)3i on respite care.

Amended by R.2004 d.404, effective November 1, 2004.

See: [36 N.J.R. 2589\(a\)](#), [36 N.J.R. 4961\(a\)](#).

In (g), inserted "and/or the Department" following "Division of Developmental Disabilities" in 5.

Recodified from [N.J.A.C. 10:44B-6.2](#) and amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Rewrote the section. Former [N.J.A.C. 10:44B-6.3](#), Individual rooms, recodified to [N.J.A.C. 10:44B-6.4](#).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

**Notes**

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[Chapter Notes](#)

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## [N.J.A.C. 10:44B-6.4](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

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### **§ 10:44B-6.4 Individual bedrooms**

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- (a) Individuals shall occupy only those bedrooms that have been inspected and approved by the Office of Licensing.
- (b) Individuals that use wheelchairs and do not ambulate shall not have bedrooms above or below the first floor of any residence.
- (c) The licensee's bedroom shall be located within one floor of an individual's bedroom.
- (d) Licensed bedrooms shall be limited to floors on or above grade level, however, under certain conditions, below grade level occupancy may be permitted if more than half the height of the room is above grade level, and it is provided with two or more independent means of egress, at least one of which leads directly outside; and there are no other conditions that hinder the health, safety, or welfare of the individual.
- (e) Third floor bedroom occupancy by individuals shall be prohibited.
- (f) Every licensed bedroom shall be provided with at least one fully accessible, unblocked, and operable window opening directly outdoors.
  - 1. First floor windows shall have an operable window space of five square feet.
  - 2. Second floor windows shall have an operable window space of 5.7 square feet.
  - 3. Plastic or any other form of covering on a licensed bedroom window shall be prohibited.
  - 4. Window treatments, such as curtains, blinds, window shades, etc., shall be installed on the windows to afford privacy and maintained in good condition.
- (g) Licensed bedrooms shall be provided with a solid surface entry door in good condition that opens easily, latches securely, and that has a doorknob. These doors shall not be prevented from opening completely or be blocked in any way.
  - 1. The doorknob must have a privacy lock, which can be unlocked readily from the inside. The key or other device to open the doorknob from the outside shall be kept readily available only to the licensee or alternate for emergency entry into the room.
  - 2. Licensed bedrooms shall not be a means of access to any other room, except a bathroom that is for sole use of the bedroom's occupants. The primary access to an individual's bedroom shall not be through a bathroom or other bedroom.
- (h) There shall be a limit of two individuals to a bedroom, which shall contain the following minimum areas:
  - 1. 70 square feet for occupancy by one person; and
  - 2. 130 square feet for occupancy by two people.

## § 10:44B-6.4 Individual bedrooms

- (i)** Individuals shall not share a bedroom unless there is documentation in each individual's service plan, through a person-centered planning process, that this choice is based on the personal preference of each individual and that the individual has participated in the selection process.
- (j)** At least one half of the floor area of the licensed room shall have a ceiling height of at least 7 1/2 feet but shall be no less than five feet. The floor area of that part of any room where the ceiling is less than five feet shall not be considered in determining allowable floor space.
- (k)** Every licensed bedroom shall be provided with sufficient electrical outlets and lamps or light fixtures for the individual(s) to read, dress, or engage in hobbies or desired activities.
- (l)** The licensee shall not store personal belongings of any other persons, in a licensed bedroom, besides the individuals occupying the licensed room. Licensees may temporarily use an unoccupied licensed bedroom for their own minimal storage while the room is vacant, but shall remove all belongings prior to placement of an individual into the bedroom.
- (m)** At no time shall an occupant of the home, family member, or visitor occupy a licensed room while it is being occupied by individuals. A vacant licensed room may be temporarily occupied by someone other than individuals, only upon written request by the licensee and approval by the placing agency.
- (n)** The licensee shall provide each individual with the following:
1. A separate bed, maintained in good, firm, sanitary condition and which consists of a clean, fire-resistant mattress no less than four-inches thick, which is of proper size and height for the individual's comfort.
    - i. Hospital beds shall be utilized only for individuals requiring them and upon documentation from the physician.
    - ii. Fold-up or convertible type beds, roll away beds, cots, futons, hide-a-beds, trundle beds, bunk beds, Vail beds, air beds, and mattresses on the floor shall be prohibited.
    - iii. A clean and well maintained box spring shall be in use on all beds, except when the bed has a bed spring or is a platform bed.
    - iv. The use of vinyl or fabric mattress and/or box spring protectors is permitted provided they are designed for that purpose and are of fire-resistant material. Shipping plastic or any other form of covering is prohibited.
    - v. Protective railings around the bed may not be utilized unless the individual has a medical condition that warrants their use and there is written authorization by the physician and documentation in the service plan;
  2. At least two sets of sheets, pillowcases, and blankets per individual in good, clean condition, which shall be changed and washed a minimum of once a week. Bed linens shall be changed before each new admission;
  3. A standard size or larger pillow made of fire resistant material, and non-allergenic material if necessary;
  4. A dresser or sufficient drawer space for each individual to neatly store personal items or clothing and which is maintained in good condition. Out-of-season clothing may be stored in a place other than the individual's bedroom;
  5. An enclosed closet or free standing sturdy wardrobe large enough to accommodate the individual's clothing and that has doors or enclosures that are operable and maintained in good condition;
  6. A mirror that is of sufficient size for the individual to dress and view him- or herself and which is secured so that it cannot be knocked over or broken; and
  7. A nightstand or side bed stand.

## § 10:44B-6.4 Individual bedrooms

- (o) The licensee shall assist an individual in maintaining or decorating his or her room according to the individual's personal taste and preference.
- (p) The licensee shall assist an individual in maintaining his or her bedroom in a safe and clean manner.
  1. If the individual refuses or does not have the ability to learn to maintain his or her bedroom in a safe and clean manner, it shall be the licensee's responsibility to ensure that the room is maintained in a safe and clean manner.
  2. The licensee shall ensure that the individual has sufficient space to move about the room safely and that garbage or waste is disposed of on a regular basis.

## History

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### HISTORY:

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Added new (a)1-2.

Revised text in (b) regarding primary access to bedrooms.

In (h)3, added platform bed text.

In (h)5, added text specifying storage of clothing.

Moved (h)8(i) to (h)7(i) regarding bed linen.

Recodified from [N.J.A.C. 10:44B-6.3](#) and amended by R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Section was "Individual rooms". Rewrote the section.

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

Rewrote the section.

Annotations

## Notes

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[Chapter Notes](#)

## Case Notes

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Revocation of license to operate a Community Care Residence on grounds of the licensee's creation of a hazardous condition in violation of [N.J.A.C. 10:44B-6.1](#) by the overuse of extension cords which resulted in one client's death in an ensuing fire, was warranted since the licensee had an obligation to maintain her home free from hazards to the health, safety, and welfare of the individuals placed in her care, which included the responsibility to ensure that extension cords were not being used improperly in the house in accordance with [N.J.A.C. 10:44B-6.3\(g\)\(1\)](#); the licensee's improper use of an extension cord at the fire location, which was consistent with the gross



§ 10:44B-6.4 Individual bedrooms

misuse of extension cords throughout the house, created an unsafe living environment amounting to "neglect." [Div. of Developmental Disabilities v. Cruz, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524](#), Final Decision (June 22, 2007).

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## [N.J.A.C. 10:44B-6.5](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 3, February 5, 2024

***NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44B. MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES > SUBCHAPTER 6. PHYSICAL PLANT AND SAFETY***

### **§ 10:44B-6.5 Transportation and vehicle safety**

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- (a) The vehicles that the licensee uses to transport individuals shall comply with all applicable safety and licensing rules established by the New Jersey Motor Vehicle Commission, including, but not limited to, the following:
1. Valid vehicle liability insurance;
  2. Current inspection sticker; and
  3. Current registration.
- (b) The licensees who drive shall have a driver's license valid in the State of New Jersey.
1. Licensees who do not possess a driver's license shall identify to the placing agency and Office of Licensing, a designated driver, with a valid driver's license, to transport individuals.
- (c) The interior of vehicles shall be free of obstacles preventing clear passage to operable doors.
- (d) The vehicle shall be equipped with working seatbelts for all passengers.
- (e) Individuals shall be supervised while in vehicles in accordance with the determination of the IDT and as stated in the service plan.

### **History**

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#### **HISTORY:**

New Rule, R.2013 d.062, effective April 15, 2013.

See: [44 N.J.R. 2327\(a\)](#), [45 N.J.R. 896\(b\)](#).

Amended by R.2023 d.006, effective January 3, 2023.

See: [54 N.J.R. 1137\(a\)](#), [55 N.J.R. 52\(b\)](#).

In (b)1, substituted "agency" for ", development," and "Office of Licensing" for "licensing agencies".

Annotations

### **Notes**

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[Chapter Notes](#)

§ 10:44B-6.5 Transportation and vehicle safety

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