

3. (No change.)  
 (b)-(e) (No change.)  
 (f) Each individual shall be provided with the following bedroom furnishings, in good repair, the style of which is consistent with his or her preference unless otherwise specified by the [IDT] PT:  
 1.-2. (No change.)  
 3. A box spring of sufficient size, unless a platform bed **or spring bed frame** is used;  
 i. (No change.)  
 4. (No change.)  
 5. Ample linen supplies consisting of, at a minimum:  
 i.-ii. (No change.)  
 iii. One mattress cover, one blanket, and one bed covering. **Shipping plastic shall be removed from the mattress and box spring.**  
 6. (No change.)  
 7. One mirror [chosen by the individual], securely fastened to the wall and/or fastened to a dresser at a height appropriate for the use of the person(s) occupying the room.  
 (g) (No change.)  
**(h) Every bedroom shall have an operable door for privacy, equipped with standard hardware that provides a privacy lock that can be readily opened from the outside in an emergency, and with only appropriate staff having access to the key, as needed. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bedroom doors.**

## 10:44A-6.14 Bathrooms

- (a)-(c) (No change.)  
 (d) Bathroom doors shall be equipped with standard hardware, which provides a privacy lock, [and] which can be readily opened from the outside in an emergency, **and with only appropriate staff having access to the key, as needed.** Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.  
**(e) Bathrooms shall be clean and ventilated.**

## 10:44A-6.15 Kitchens

- (a) Kitchens shall be clean and [well] ventilated.  
 (b)-(c) (No change.)  
 (d) Refrigeration and storage of food shall be provided at [not] **no** more than [45] **40** degrees Fahrenheit ([seven] **four** degrees Celsius). Freezer compartments shall operate at no more than [32] **zero** degrees Fahrenheit ([zero] **-18** degrees Celsius).  
**(e) Kitchen appliances shall, at a minimum, include a refrigerator, freezer (or refrigerator with a freezer compartment), an oven, and a cooktop, maintained in good condition.**

## 10:44A-6.16 Basement use

- (a) (No change.)  
 (b) Basements may be used as activity rooms if they are dry, warm, [adequately lighted and have been approved, in writing, for such use by the local construction official] **and have adequate lighting.**

## 10:44A-6.17 Maintenance requirements

- (a) (No change.)  
 (b) Accumulation of garbage or waste shall be prevented.  
**1. All garbage collected for disposal shall be stored in water-tight containers with tight-fitting covers.**  
 (c) When there is evidence of infestation, pest control services shall be arranged in a timely manner.  
**1. Agency staff may treat the infestation provided they have been trained by a licensed extermination company and the infestation has been determined to be under control by a licensed extermination company after treatments have been completed.** The licensee shall retain documentation of **all such training and service.**  
 (d)-(e) (No change.)

## (a)

OFFICE OF PROGRAM INTEGRITY AND  
ACCOUNTABILITYManual of Standards for Community Care  
Residences**Proposed Amendments: N.J.A.C. 10:44B-1.3, 1.4,  
1.5, 2.1, 2.2, 2.3, 2.4, 2A.1, 2A.2, 3.1, 3.2, 3.3, 3.4,  
3.5, 4.1, 4.2, 5.1, 5.2, 6.1, 6.3, 6.4, and 6.5**

Authorized By: Sarah Adelman, Commissioner, Department of Human Services.

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

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

Proposal Number: PRN 2022-086.

Submit comments in writing by August 20, 2022, to:

Douglas Swan  
 Office of Program Integrity and Accountability  
 Department of Human Services  
 PO Box 700  
 Trenton, New Jersey 08625-0700  
[Doug.swan@dhs.nj.gov](mailto:Doug.swan@dhs.nj.gov)

The agency proposal follows:

**Summary**

This chapter is proposed for amendment pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. This chapter contains the rules to establish minimum requirements for the provision of residential services to individuals with developmental disabilities residing in community care residences. The Department of Human Services (Department) is proposing the following amendments to update the rules to be consistent with best practices and to include provisions for the Fee-for-Service Initiative; the Centers for Medicare and Medicaid Services' guidelines for funding; the Central Registry of Offenders against Individuals with Developmental Disabilities (N.J.S.A. 30:4D-77); P.L. 2017, c. 328 (an act concerning background checks and licensing of certain entities); Stephen Komminos' Law (P.L. 2017, c. 238); and updated organizational changes. To that end, the Department is proposing these substantive amendments to this chapter.

The Department has reviewed the rules and has determined these amendments to be reasonable and proper for the purposes for which they are proposed, as required pursuant to N.J.S.A. 30:6-32 et seq. The rules set minimum requirements that are necessary to implement the Department's statutory mandate to license community care residences for individuals with developmental disabilities.

The following are summaries of the amendments to be made to the subchapters of N.J.A.C. 10:44B:

**General revisions:** Throughout the chapter, references to "development agency" and some references to "the Division (the Division of Developmental Disabilities)" are being replaced with "placing agency." The functions of the development agency have been incorporated into the definition and role of the placing agency. Similarly, some references to the Division of Developmental Disabilities (Division) are removed because use of the term "placing agency" incorporates these references. Additionally, references to "habilitation plan" are being replaced with "service plan" to be consistent with Department terminology and practices. Finally, all references to the "licensing agency" have been changed to "Office of Licensing" to reflect current terminology.

Subchapter 1, General Provisions, provides the purpose and scope of the chapter, which is to protect the health, safety, welfare, and rights of individuals with developmental disabilities when living in community care residences.

N.J.A.C. 10:44B-1.3 defines the terms used throughout the chapter. The proposed amendments redefine "abuse" and "neglect" to reflect the definitions in the Central Registry statute (N.J.S.A. 30:4D-77). The definition of "Alternate" has been revised to require placing agencies to approve alternate providers. Community care residences are redefined to conform with the Federal guidelines in the Home and Community Based

Settings Rule (42 CFR 441.301 et seq.) that they not be located adjacent to, or on the grounds of, public institutions. The definition of “authorized family member” removes a reference to the individual being his or her “own guardian,” as such language is technically incorrect. The definition of “goals” has been deleted and replaced by “outcomes.” The definition of “guardian” is amended to align with how the term is as used at N.J.S.A. 3B:12-24.1. “Interferon Gamma Release Assay (IGRA)” is added as an acceptable test for *M. tuberculosis*. The definition of “licensing agency” is removed because it is incorporated by the definition of “Office of Licensing.” The Office of Licensing is no longer a part of the Division and is redefined as a component of the Department. “Outcome” is added and defined as a statement of objectives to be achieved under service plans related to personal needs and preferences of the individuals served. The definition of “placing agency” is being expanded to incorporate the definition of “development agency” and to explicitly incorporate the Division. The definition of “placing agency” is also being amended as the entity responsible for recruiting, training, and supporting community care residents’ licensees. “Respite Care Program” is amended to specify 30 days as the “temporary” period of time services can be provided before placing agency approval is required. “Special Response Unit (SRU)” is proposed for deletion because it is now the Department’s Office of Investigations.

N.J.A.C. 10:44B-1.4 provides guidance for community care license applicants. References to regional offices, the Division, and development agencies are proposed for deletion because the placing agency is now the entity that handles the pre-inspection process. At subsection (h), the proposed amendment deletes the list of crimes and in its place adds statutes that include the crimes that would prohibit the approval of a license for an applicant, occupant over the age of 18, or an alternate. New paragraph (l)3 is proposed to add the requirement for license applicants to complete specific first aid and Cardiopulmonary Resuscitation trainings. New subsection (o) is proposed to add drug testing requirements for applicants.

N.J.A.C. 10:44B-1.5 includes rules for licensing and inspection, as well as negative licensing actions, such as: denial, suspension, or revocation due to non-compliance with State and/or Federal laws that govern community care residences. Regulations regarding annual inspections are relocated from N.J.A.C. 10:44B-1.5(c) to (d)4i, to provide clarity regarding plans of correction.

Subchapter 2, Management of the Residence, includes rules that detail the requirements for licensees, the process and boundaries for the placement and departure of a community care resident, the requirements regarding an alternate who will assume the role and responsibility of a community care residence when the licensee is absent, as well as the licensee’s reporting/disclosure requirements including, but not limited to: mistreatment, hospitalization, death, police activity in the residence, changes to the contact information of the residence, and/or whether the licensee has plans to voluntarily discontinue operation of a community care residence.

The proposed amendments at N.J.A.C. 10:44B-2.1 revise a cross-reference at N.J.A.C. 10:44B-1.4(h) and add occupants to the list of licensees, as well as family members who must be of sound physical and emotional health to participate in the care of community care residents at subsection (a). Subsection (b) adds alternates to the required finger printing screening criteria. The amendments specify the Office of Investigations as the replacement for the former Special Response Unit. Proposed amendments at subsection (f) retain some of the existing language as introductory text. New paragraph (f)1 is added, incorporating the remaining text with amendments that require first aid and Cardiopulmonary Resuscitation training provided by training entities that meet the current emergency cardiovascular care guidelines. An amendment is proposed at subsection (n) to require an alternate, approved by the placing agency, to provide services to the individual receiving community care when the licensee is taking their annual two-week leave. New subsection (o) requiring random drug testing, consistent with P.L. 2017, c. 238, is proposed for licensees.

The proposed amendments at N.J.A.C. 10:44B-2.2, Placements and departures, reflect Federal guidelines, 42 CFR 441.301 et seq. Amendment proposed at subsection (b) reduce the number of individuals that can be placed in one residence from four to three. Amendments

proposed at subsection (d) provide that written agreements regarding boarder’s placement will be signed by administrators of community care residences within the Division, not regional offices, and the director of the placing agency. Subsection (f) is proposed for amendment to increase the number of days that a licensee must notify the placing agency of their intention to have an individual depart from the residence from 30 to 60 days. New subsection (g) is proposed to require a written lease between the individual, where applicable, the individual’s guardian, and the licensee. The lease must provide the individual with all of the rights and responsibilities accorded through New Jersey landlord and tenant law and must be comparable to leases for others in the State. New paragraph (g)1 provides the requirement for a consumer residency agreement or another form of written agreement, when a formal lease agreement is absent, that provides necessary consumer protections comparable to the New Jersey landlord and tenant law, including unlawful eviction protection and provides for appeals that are afforded to other persons in the State.

Proposed amendments at N.J.A.C. 10:44B-2.3 revise and update the guidance and requirements for alternates who assume responsibilities to provide services for community care residents in the licensee’s absence. Paragraph (a)1 has been amended to add the requirement for having the alternate provide their Social Security number, in addition to other information, to the placing agency prior to assuming the role of a licensee. Licensees have been required to identify the alternate to the placing agency, but the amendment will require placement agency approval as well. Subsection (b) provides discretion for the Department to allow alternates with criminal records to provide care only in accordance with the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq. The amendments to this subsection also delete the general reference to “criminal records” and add a cross reference to N.J.A.C. 10:44B-1.4(h)1 and 2 that provide statutory references to specific crimes and disorderly person offenses that would prohibit the approval of an alternate.

Subchapter 2A, Records, include rules setting forth the requirements for maintaining licensee records that must be kept at the residence, as well as the documentation, maintenance, and confidentiality requirements for the records of the community care residents.

N.J.A.C. 10:44B-2A.1(a)9, is proposed for deletion to remove a requirement concerning respite placement record retention.

At N.J.A.C. 10:44B-2A.2(d)7, an amendment is proposed to allow names to be listed in the service plan, rather than signatures, of members who participated in developing the service plan. Paragraph (d)8 is proposed for amendment to update the requirements for Mantoux testing and adds an alternative to include IGRA blood testing. Paragraph (d)14 is proposed for deletion to remove the requirement for maintenance of children’s immunization records. Subsection (e) is proposed for amendment to clarify that records for individuals in respite placements currently or within the previous year are required.

Subchapter 3, Care of the Individual, provides rules to ensure individuals in community residences are not prohibited from exercising their human, legal, and civil rights and that they are provided information about their rights.

N.J.A.C. 10:44B-3.1 includes amendments at subsection (b) to add language that provides for person-centered planning and documentation in an individual’s service plan (ISP) when the individual would be unable to exercise their individual rights on their own. Paragraph (b)1 adds “dignity” and “freedom” from coercion to the current, list including privacy and respect. Paragraph (b)6 updates phone usage guidance to allow individuals to make and receive calls at any time. Paragraph (b)8 includes an update to allow individuals to have visitors of their choice at any time. Paragraph (b)17 clarifies the individual’s right to be free of restraints and adds the right to be free of restrictive intervention. Subsection (c) addresses house rules. Existing paragraphs (c)1 and 2 are proposed for deletion. Recodified paragraphs (c)1 and 2 are proposed with amendments to add language allowing individuals to rise and retire when they choose and to have visitors at the time of the individual’s choosing. Proposed new paragraph (d)1 clarifies that an individual must have unlimited access to their bedroom. Subsection (e) has a proposed revision to clarify that individuals have a right to have access to competitive integrated employment. An amendment is proposed at paragraph (e)1 to specify that the licensee shall provide and make arrangements for the individual’s access to scheduled and unscheduled community activities,

including providing or obtaining transportation. Paragraph (e)5 is replaced to require the licensee to provide supervision to the individual as detailed in the individualized service plan (ISP). Proposed updates at subsection (g) provide that individuals must have access to a telephone for ingoing and outgoing calls “whenever they choose.” Proposed new subsection (l) prohibits the use of monitoring devices without the approval of the licensing agency.

N.J.A.C. 10:44B-3.2 governs the community care resident’s personal funds. Proposed amendments at subsection (b) add the requirement that the community care resident’s name should be the only one on a bank account holding their personal funds. The proposed amendment at subsection (d) permits an increase in the personal funds amount that may be maintained in the home for an individual to \$200.00. An amendment is proposed at paragraph (f)1 to remove Maximus payments from the list of transactions that must be recorded on behalf of an individual who cannot manage their own personal funds. Amendments at paragraph (h)2 add sewer and tolls or parking to the list of things the licensee must provide at their expense. Similarly, the proposed amendment at paragraph (h)4 updates the non-exhaustive list of grooming supplies including, the addition of deodorant, lotion, and feminine products that the licensee must have available for the individual. However, new subparagraph (h)4i provides an exception for the licensee and requires the individual to pay if they prefer brand specific items and it poses a hardship for the licensee, as long as the interdisciplinary team (IDT) approves and documents that the individual will pay in the service plan. Amendments at paragraph (h)5 add electric toothbrushes and electric razors to the list of items the individual must pay for themselves and deletes “deodorant, lotion, and feminine products.”

N.J.A.C. 10:44B-3.3 includes an update to the health, hygiene, and grooming rules to include that an individual must have the opportunity to shave, “as desired,” rather than “as necessary.”

New N.J.A.C. 10:44B-3.4(f)2 is proposed to define the allocation of the cost of medically prescribed diets.

N.J.A.C. 10:44B-3.5 includes proposed amendments that require clothing to be appropriate to gender identity and weather, and deletes “community standards” at subsection (a) and a requirement at new subsection (d) that an individual’s clothing not be discarded without approval of the placing agency.

Subchapter 4, Habilitation Plan, includes rules that provide the requirements for service plans developed for each community care individual by the interdisciplinary team, as well as guidance for daily activities, such as education, employment, rehabilitation, and/or chores in the home. The section heading is revised from “Habilitation plan” to “Service plan.”

At N.J.A.C. 10:44B-4.1(a), the existing text requires documentation of who was involved in developing the service plan. The rulemaking removes the requirement for the sign-in sheet and no longer requires a current copy of the individual education plan for individuals attending school to be maintained in the individual’s record. At subsection (c), the terms “goals and objectives” is replaced with “outcomes.” At subsection (f), the reference to “habilitation” is replaced with “service” regarding the individual’s plan.

N.J.A.C. 10:44B-4.2 includes proposed updates to clarify that the employment opportunities afforded to an individual must be competitive integrated employment in the community. The amendments delete existing paragraph (a)1, regarding children receiving an appropriate education because the rules apply to adults receiving services from the Division of Developmental Disabilities.

Subchapter 5, Health Services, sets forth requirements for medical and health care, including requirements that individuals in community care residences have appropriate medical providers (that is, doctors, advance practice nurses, dentist, etc.), have had the appropriate medical screening exams (now amended to include the IGRA blood test for *M. tuberculosis*), and keep up with necessary follow ups, as well as the compliance with the requirement for the residence to have a first aid kit available on-site.

N.J.A.C. 10:44B-5.2 provides requirements for medication, including administration when the IDT and service plan state that the individual cannot take their medication on their own, storage, documentation, and recordkeeping. Subsection (a) includes an amendment to clarify that only licensees and alternates who have successfully completed medication

training are permitted to administer medication to individuals. Paragraph (a)1 includes an amendment to require alternates to complete the medication administration records when they are the ones administering the medication.

Subchapter 6, Physical Plant and Safety, provides rules that govern the physical exterior and interior maintenance of the residence, as well as the safety requirements for the residence and any vehicles used by licensees to transport community care residents.

N.J.A.C. 10:44B-6.1 provides general requirements for the home. Proposed amendments include home temperature requirements at subsection (f) adding a new paragraph (f)2 to require the licensee to take steps to ensure the health and safety of individuals if the temperature in the home exceeds 82 degrees Fahrenheit for more than four hours. Subsection (i) is proposed for replacement to update the telephone requirements. Subsection (q) proposes language to require a privacy lock on bathroom doors. The proposed amendment at subsection (v) clarifies the requirements for sliding glass door safety by prohibiting the placement of sticks or bars in the door track and permitting security devices that are quick release and visible.

N.J.A.C. 10:44B-6.4 includes amendments regarding bedroom privacy requirements, and choice of roommate requirements. Proposed amendments at paragraph (g)1 require doorknob privacy locks and a key or other device that is readily available to the licensee or the alternate to open the doorknob from the outside for emergency entry into the room. Subsection (i) is proposed for replacement to prohibiting individuals from sharing a bedroom, unless there is documentation in each individual’s service plan that they requested and/or chose their roommate.

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

#### **Social Impact**

The proposed amendments will have a positive social impact by ensuring that community care residences for individuals with developmental disabilities continue to be subject to regulatory oversight pursuant to statute. Such residences will continue to be inspected by the Department to ensure their compliance with rules designed to promote the health, safety, and welfare of the individuals receiving services.

#### **Economic Impact**

The proposed amendments will have no adverse economic impact on participants in the Community Care Residence (CCR) Program. The proposed amendments will affect the nearly 250 community care residences that serve approximately 400 individuals with developmental disabilities, funded by, and contracted with the Division. Some additional supplies, equipment, or costs are expected to be required for licensees of the Department as a result of the amendments being proposed. The rules require expenditures to be made to meet certain standards that will help ensure the safety of both the licensees and service recipients in a residence. Any additional items for service recipients are, generally, those already present in the home, or can be covered with funds from the Social Security Income payment of the individual receiving services. Most of the expenses have been incorporated into the payments made to the providers of services by funding from the Department.

#### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), require State agencies that adopt, readopt, or amend any State rule that exceeds any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. Some of the amendments being proposed are promulgated in order to implement and comply with guidelines established under Federal law, 42 CFR 441.301 et seq., and the Statewide Transition Plan that incorporates or refers to Federal law, standards, or requirements but does not exceed them. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65), do not require a Federal standards analysis of the amendments being proposed.

#### **Jobs Impact**

The proposed amendments will not result in the generation or loss of any jobs.

**Agriculture Industry Impact**

The proposed amendments will have no impact on the agriculture industry.

**Regulatory Flexibility Analysis**

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

Specifically, N.J.A.C. 10:44B-2.3 explains the reports that must be created, as well as the records that must be kept and the method of their maintenance. N.J.A.C. 10:44B-3.2 defines the minimal requirements of personal health, hygiene, and grooming that must be afforded to individuals with developmental disabilities who live in the residences. N.J.A.C. 10:44B-3.3 defines the minimal requirements for food that must be afforded to individuals with developmental disabilities who live in the residences. N.J.A.C. 10:44B-3.4 defines the minimal requirements for clothing that must be afforded to individuals with developmental disabilities who live in the residences. Subchapter 5 sets the minimal requirements for health services that must be afforded to individuals with developmental disabilities who live in the residences, as follows: N.J.A.C. 10:44B-5.1 pertains to general medical and health care and N.J.A.C. 10:44B-5.2 pertains to medication. Subchapter 6 sets the minimal requirements of the physical plant and safety that must be afforded to individuals with developmental disabilities who live in the residences, as follows: N.J.A.C. 10:44B-6.1 contains general home requirements, N.J.A.C. 10:44B-6.2 contains the fire safety requirements, and N.J.A.C. 10:44B-6.3 contains requirements pertaining to individual rooms.

The costs of these requirements are necessary for the health and safety of the individuals with developmental disabilities who live in community care residences and are covered by the payments made to the providers of services by funding from the Department. There are no professional services required by the rules, and the licensees are reimbursed for expenses they incur on behalf of residents.

**Housing Affordability Impact Analysis**

The proposed amendments will have no impact on housing affordability in New Jersey and are unlikely to evoke a change in the average costs associated with housing in this State because the rules pertain to the Department’s Community Care Residence licensing program.

**Smart Growth Development Impact Analysis**

The proposed amendments will not have an impact on smart growth regarding housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to the Department’s Community Care Residence licensing program.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The proposed amendments will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles or adults in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:44B-1.3 Definitions

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

["Abuse" means an act or omission of an act that will deprive an individual of his or her rights, which may include but are not limited, physical abuse, sexual abuse, and/or verbal abuse, psychological abuse, or mistreatment.]

**"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.**

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

...  
 "Authorized family member" means a relative of the individual with a developmental disability authorized by [the individual’s guardian or by the individual, if the individual is his or her own guardian,] **the individual, or guardian, as applicable**, to receive information pursuant to P.L. 2012, c. 69.

...  
 "Community residence for [the] **individuals with developmental disabilities** [developmentally disabled]" means any community residential facility housing up to 16 individuals with [a] developmental [disability] **disabilities** that also provides food, shelter, personal guidance, and/or training [for developmentally disabled persons individuals with a developmental disability who require assistance, temporarily or permanently, in order to live independently in the community]. Such residences shall not be considered health care facilities within the meaning of the ["Health Care Facilities Planning Act,["] P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.), and shall include, but not be limited to, group homes, halfway houses, supervised apartments [living arrangements], 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.**

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

...  
 ["Goal" means a written statement of attainable, measurable, behavioral or service objectives with an outcome that is expected to be achieved partially or completely within the year the service plan is in effect. Goals must be related to the personal outcomes desired by the individual.]

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

...  
 "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.**

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

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

**"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.

... ["Office of Licensing" or "Office" means the licensing unit of the Department of Human Services for programs in the Division of Developmental Disabilities]

"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.

"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.

... "Placing agency" means the [entity, or authority] 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 [licensing agency] Office of Licensing addressing identified non-compliance.

... "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.

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

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

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

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

(a) All initial inquiries for a license to operate a community care residence shall be made to [the appropriate regional office of the Division or development] the placing agency. [Current regional offices addresses and telephone numbers may be found by visiting the Department's website at [www.state.nj.us/humanservices](http://www.state.nj.us/humanservices).

Regional offices cover the following counties:

<b>Regional Office:</b>	<b>Counties of Jurisdiction:</b>
Northern Regional Office	Sussex, Morris, Warren, Passaic, Bergen, Hudson
Upper Central Regional Office	Essex, Somerset, Union
Lower Central Regional Office	Middlesex, Monmouth, Mercer, Ocean, Hunterdon
Southern Regional Office	Camden, Atlantic, Gloucester, Cumberland, Salem, Cape May, Burlington]

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

(d) The applicant shall provide the [Division's or development] 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 [development or] placing agency, his or her ability to provide any physical assistance that may be required by individuals.

(e) (No change.)

(f) The [regional office or development] 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 [regional office or development] placing agency shall make recommendations regarding the capacity of the home during the application process.

1. (No change.)

(g) The applicant, [and] all occupants of the household who are 18 years of age or older, and all alternates shall be fingerprinted through the [appropriate regional office or development] 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 [following] 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:

- [1. Crimes against a person or persons, including, but not limited to:
  - i. Murder;
  - ii. Manslaughter;
  - iii. Death by auto;
  - iv. Simple assault;
  - v. Aggravated assault;
  - vi. Recklessly endangering another person;
  - vii. Terroristic threats;
  - viii. Kidnapping;
  - ix. Interference with custody of children;
  - x. Sexual assault;
  - xi. Criminal sexual contact;
  - xii. Lewdness; or
  - xiii. Robbery;

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

- i. Endangering the welfare of a child; or
  - ii. Endangering the welfare of an incompetent person;
3. A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a controlled dangerous substance, as defined in N.J.S.A. 24:21-1 et seq.;
4. Financial crimes, such as fraud, theft, bribery, embezzlement, forgery, counterfeiting, identity theft, or burglary;]

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

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

(i) (No change.)

(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) (No change.)

(l) Applicants shall attend and successfully complete a training and orientation program conducted and/or approved by the [Division] placing agency.

1. The orientation and training program, and any subsequent modifications, shall be jointly reviewed and approved by the [Division] placing agency and the [licensing agency] Office of Licensing.

2. The orientation and training program conducted by any [development] 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)-(n) (No change.)

**(o) The applicant shall consent to and undergo drug testing for controlled dangerous substances.**

10:44B-1.5 Licenses and inspection

(a) Upon receipt of, and approval by, the [licensing agency] **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 [licensing agency] **Office of Licensing**.

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

2. (No change.)

(b) (No change.)

(c) The residence shall be subject to inspection by the [licensing agency] **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.

[1. 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 that 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 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.

2. 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.

3. 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.]

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

1. (No change.)

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

3. (No change.)

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 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)-(j) (No change.)

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

1.-2. (No change.)

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

i. (No change.)

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

4. (No change.)

## SUBCHAPTER 2. MANAGEMENT OF THE RESIDENCE

10:44B-2.1 Licensee requirements

(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)1 through 2 [5].

2. (No change.)

3. The licensee, [and] 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 [Division's or development] **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. (No change.)

4.-5. (No change.)

(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 [Division or development] **placing agency**. At the discretion of the [placing], development,] **agency** or [licensing agency] **Office of Licensing**, fingerprinting of other persons regularly visiting the home may be required.

(c) (No change.)

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

(e) The licensee shall not deny access to any part of a community care residence to any person(s) with proper identification and statutory authority to protect the rights of, and advocate on behalf of, the individuals placed in the residence. Such persons include, but are not limited to, the case manager, legal guardian, guardianship worker, representatives of the [licensing agency] **Office of Licensing**, the Department, the Division, the placing agency, [the developing agency] and the [Special Response Unit] **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 [licensing agency] **the Office of Licensing**. A licensee shall annually attend a continuing education program conducted or approved by the Department. [Within 120 days of the initial placement of a service recipient in the community care residence, the licensee shall successfully complete American Red Cross Standard First Aid Training (and maintain a valid certificate on file) and Cardiopulmonary Resuscitation Training (and maintain a valid certificate on file). Current licensees shall successfully complete American Red Cross Standard First Aid Training and Cardiopulmonary Resuscitation Training by March 20, 2018.]

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 [licensing agency] **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)-(m) (No change.)

(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.**

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

(a) (No change.)

(b) No more than [four] **three** individuals shall be placed in any one residence.

(c) (No change.)

(d) For all boarders there shall be a written agreement signed by the assigned [regional] administrator of community [services] **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) (No change.)

(f) The licensee shall notify the placing agency, in writing, [30] **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.**

#### 10:44B-2.3 Alternates

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

1. [The] **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[, development agency, and the licensing agency].**

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

ii. Only persons identified to, **and approved by,** the [licensing agency.] **Office of Licensing and** placing agency[, and development agency] shall act as an alternate or alternates.

2.-5. (No change.)

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

(b) The Department may allow alternates [with a criminal record] **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)-(e) (No change.)

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

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

(c) The licensee shall immediately notify the placing agency and [licensing agency] **Office of Licensing** in the event of:

1.-3. (No change.)

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

1.-3. (No change.)

(e) The licensee shall notify the placing agency[, development agency,] and the [licensing agency] **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.

### 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.-3. (No change.)

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

5.-6. (No change.)

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[; and].

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

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

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

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

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

2.-3. (No change.)

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

1.-6. (No change.)

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

8. Annual physical examination, and the date and results of [the annual] **previous Mantoux Skin Test or IGRA blood testing** for tuberculosis [or annual statement from the physician or nurse practitioner indicating the individual is free from tuberculosis];

9.-13. (No change.)

[14. For children, an immunization record;]

Recodify existing 15.-16. as **14.-15.** (No change in text.)

(e) The record for each individual residing in the home as a respite placement, **currently, or within the past year,** shall include:

1.-3. (No change.)

### SUBCHAPTER 3. CARE OF THE INDIVIDUAL

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

(a) (No change.)

(b) Licensees shall assure that individuals are permitted to exercise all those rights outlined in the [pamphlet "Personal Rights,"] **rights document** distributed by the Division. [Individuals] **Unless otherwise**

addressed through a person-centered planning process documented in the ISP, individuals shall have the right to:

1. Privacy [and], **dignity, respect, and freedom from coercion**;
- 2.-5. (No change.)
6. Make or receive private phone calls [during set times] **at any time**;
7. (No change.)
8. Have visitors of their choice [during reasonable set times] **at any time**;
- 9.-16. (No change.)
17. Be free from [unnecessary] restraints, **restrictive intervention**, or from being isolated; and
18. (No change.)

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

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

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

[3.] **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**.

[4.] **2.** Complete privacy shall be afforded to individuals during visits with their guests.

i. Visiting is to be permitted [during reasonable hours] **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.-4. (No change.)

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

**5. The licensee shall provide supervision to the individual, as detailed in the ISP.**

(f) (No change.)

(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)-(k) (No change.)

**(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.**

#### 10:44B-3.2 Personal funds

(a) (No change.)

(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) (No change.)

(d) Unless otherwise determined by the IDT, an individual's personal funds in excess of \$[100.00]**200.00** shall be maintained in a separate bank account in the individual's name, accessible only by the individual and the licensee.

(e) (No change.)

(f) For all personal funds that the individual is not capable of managing on his or her own, the licensee shall maintain an accurate record of all

transactions of the individual's personal funds on the placing agency's approved form. The record shall include:

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

2.-3. (No change.)

(g) (No change.)

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

1. (No change.)

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

3. (No change.)

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, [deodorant, lotion, and feminine products] shall be available to the individual at his or her own expense.

6.-9. (No change.)

(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 [within the Office of Program Integrity and Accountability] will select licensees at random and notify them of an audit with instructions on how to comply.

2.-5. (No change.)

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

(a) (No change.)

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

1.-2. (No change.)

3. Opportunity to shave, as [necessary] **desired**;

4.-6. (No change.)

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

#### 10:44B 3.4 Food

(a)-(e) (No change.)

(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. (No change.)

**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)-(h) (No change.)

#### 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, [community standards,] season, and weather conditions.

1.-2. (No change.)

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

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



## SUBCHAPTER 4. [HABILITATION] 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 sign-in sheet page of] the service plan. [A current copy of the Individual Education Plan for individuals attending school shall be maintained in the individual's record.] (These requirements do not apply to Respite Care Programs.)

(b) (No change.)

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

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

(f) An agency or organization that causes a written, individualized [habilitation] **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) (No change.)

## 10:44B-4.2 Day activities

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

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

(b) (No change.)

## SUBCHAPTER 5. HEALTH SERVICES

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

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

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

1. If the Mantoux Skin Test for tuberculosis is negative, the test shall be repeated yearly, or immediately upon exposure to tuberculosis.

2. If the Mantoux Skin Test for tuberculosis is positive, certification by a physician or nurse practitioner that the individual is free of contagion shall be obtained yearly.]

**(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 [and Mantoux Skin Test] 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)-(i) (No change.)

## 10:44B-5.2 Medication

(a) When an individual cannot administer his or her own medication due to intellectual or behavioral disabilities, as determined by the IDT and recorded in the service plan, the licensee or his or her alternate, **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 [development] **placing** agency. The medication record shall include:

i.-vii. (No change.)

2.-3. (No change.)

(b)-(h) (No change.)

## SUBCHAPTER 6. PHYSICAL PLANT AND SAFETY

## 10:44B-6.1 General home requirements

(a)-(e) (No change.)

(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. (No change.)

**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)-(h) (No change.)

(i) [A hardwired, landline telephone with a corded handset shall be] **An operable telephone shall be available** in the residence.

1. (No change.)

(j)-(p) (No change.)

(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.-4. (No change.)

(r)-(u) (No change.)

(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)-(bb) (No change.)

## 10:44B-6.3 Fire safety

(a)-(h) (No change.)

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

1.-4. (No change.)

(j) (No change.)

(k) If there is any reason to believe that an evacuation problem exists, the licensee shall contact a representative of [the Division of Developmental Disabilities and/or] the [development] **placing** agency to observe a fire drill conducted in the residence, and follow all recommendations made by the [development] **placing** agency.

(l)-(r) (No change.)

(s) There shall be at least two means of egress from the residence, as approved by the [licensing agency] **Office of Licensing**.

(t)-(u) (No change.)

## 10:44B-6.4 Individual bedrooms

(a) Individuals shall occupy only those bedrooms that have been inspected and approved by the [licensing agency] **Office of Licensing**.

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

(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** [be one that] can be unlocked readily from the inside. [Where doorknob locks require a] **The** key or other device to open **the doorknob** from the outside[, such key or device] shall be [placed in close proximity to the door] **kept readily available only to the licensee or alternate** for emergency entry into the room.

- 2. (No change.)
- (h) (No change.)
- (i) Male and female individuals shall not share the same licensed bedroom unless there is documentation in each of the individuals' service plans that this arrangement has been requested by both individuals and approved by their IDTs.]
- (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)-(l) (No change.)
- (m) At no time shall an occupant of the home, family member, or visitor occupy a licensed room while it is being occupied by individuals. A vacant licensed room may be temporarily occupied by someone other than individuals, only upon written request by the licensee and approval by the placing [and licensing] agency.
- (n)-(p) (No change.)

10:44B-6.5 Transportation and vehicle safety

- (a) (No change.)
- (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[, development,] and [licensing agencies] **Office of Licensing**, a designated driver, with a valid driver's license, to transport individuals.
- (c)-(e) (No change.)

(a)

**OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY**  
**Standards for Community Residences for Persons with Head Injuries**  
**Proposed Amendments: N.J.A.C. 10:44C-1.1, 1.3, 1.4, 1.7, 1.8, 1.9, 1.12, 2.1, 2.2, 2.4 through 2.10, 3.2, 3.3, 3.4, 3.6, 4.1, 4.2, 4.3, 4.4, 5.2, 5.5, 5.6, 5.7, 6.1, 6.2, 6.3, 6.5, 6.6, 6.9, 6.13, 6.14, and 6.15**  
**Proposed Repeal: N.J.A.C. 10:44C-1.5**

Authorized By: Sarah Adelman, Commissioner, Department of Human Services.  
 Authority: N.J.S.A. 30:11B-1 et seq., specifically N.J.S.A. 30:11B-4.  
 Calendar Reference: See the Summary below for an explanation of exception to the calendar requirement.  
 Proposal Number: PRN 2022-085.

Submit comments in writing by August 20, 2022, to:  
 Douglas Swan  
 Office of Program Integrity and Accountability  
 Department of Human Services  
 PO Box 700  
 Trenton, New Jersey 08625-0700  
[Doug.swan@dhs.nj.gov](mailto:Doug.swan@dhs.nj.gov)

The agency proposal follows:

**Summary**

The Department of Human Services (Department) is proposing amendments to comply with the Department's Fee-for-Service initiative, the Centers for Medicare and Medicaid Services' guidelines for funding Home and Community Based Services (42 CFR 441.300 et seq.), and Stephen Komninos' Law, P.L. 2017 c. 238. The rules constitute the minimum requirements for community residences, also known as group homes or supervised apartments, for persons with head injuries (traumatic brain injuries) that are licensed by the Department. The purpose of the proposed amendments is to protect the health, safety, welfare, and human rights of persons who reside in these residences, and to allow such

individuals to develop their fullest potential in an environment that is normalized and supportive. The proposed amendments provide for individualized delivery of services to persons served, the establishment and maintenance of a safe environment, the support and encouragement to undertake dignified risk, and the delineation of personal rights to protect them.

The proposed amendments are necessary to implement the Department's statutory mandate to license community residences for persons with traumatic brain injuries. The Department has reviewed the proposed amendments and has determined that they are necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were promulgated.

A summary of the proposed amendments follows:

**SUBCHAPTER 1. GENERAL PROVISIONS**

**N.J.A.C. 10:44C-1.1 Purpose and scope**

Proposed amendments at N.J.A.C. 10:44C-1.1 clarify the scope of the chapter by removing the terms "supported living programs" because this type of service will not be offered in the future in a licensed setting and add a clarifying explanation for "community care residences."

**N.J.A.C. 10:44C-1.3 Definitions**

The following describes the proposed additions, deletions, and changes to terms that are, or have been, referenced throughout the chapter.

The proposed amendment to the definition for the term "abuse" removes the examples, which might be interpreted as limiting the reportable instances of abuse to those enumerated as examples. A more general definition of abuse will encourage the required reporting of incidents, which can then be reviewed and classified, accordingly. "Advanced practice nurse" is amended to clarify that advanced practice nurses can order certain medications, treatments, and devices. Definitions for "community agency" and "community agency head" are proposed to define an agency licensed by the Department to provide services to individuals with head injuries (traumatic brain injuries) and define the person who is responsible for the overall operations of the agency. The definition for "community residence for persons with head injuries" is amended to include "integration with the community" to require the residential facility to provide persons receiving services the ability to engage with the community. The definition was also revised to specify that such facilities cannot be located on, or adjacent to, public institutions serving a similar population, as required at 42 CFR 441.301 et seq. "Conditional license" is deleted and replaced with the term "provisional license," which is similarly defined.

The term "direct service staff" is being replaced with "direct support professional" and the definition clarifies that it pertains to community residences for persons with head injuries. The term "eviction" is added and defined as a legal process by which a tenant/resident can be removed from the premises. The definition for "full license" is being amended to be effective for up to one year, rather than two years, to update the definition to be consistent with current Department practices. The definition of "group homes" is amended to include "integration with the community" as a necessary component of the services provided, as required at 42 CFR 441.301. The definition of "Individual Treatment Plan" is amended to include "in a person-centered planning process," as required at 42 CFR 441.301. The term "initial license" is deleted because it is no longer used. If an applicant is in substantial compliance with this chapter, a full license will be issued. The term "licensing agency" is being deleted, to be consistent with organizational changes within the Office of Program Integrity and Accountability (OPIA), specifically, that the functions of Developmental Disabilities Licensing are now within the OPIA-Office of Licensing. The definition of "negative licensing action" is amended to replace the word "conditional" with the word "provisional" to be consistent with current Department terminology. The definition for "personal guidance" is being amended to update the terminology used by replacing "handicaps" with "disabilities."

The definition for the term "program description" is being amended to remove the reference to the provision of Department funding because decisions regarding Department funding are not contingent upon the review of the program description. The term "provisional license" is added to replace references to "conditional licenses" throughout the