

HUMAN SERVICES

DIVISION OF DEVELOPMENTAL DISABILITIES

Moderate Security Unit

Readoption with Amendments: N.J.A.C. 10:42B

Proposed: November 2, 2015, at 47 N.J.R. 2657(a).

Adopted: February 17, 2016, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: April 1, 2016, as R.2016 d.043, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 30:4-25.13 et seq.

Effective Dates: April 1, 2016, Readoption;
May 2, 2016, Amendments.

Expiration Date: April 1, 2023.

Summary of Public Comment and Agency Response:

The following is a summary of the comment received from Robert Stack, President and CEO, Community Options, Inc., and the Division of Developmental Disabilities' (Division's) response.

COMMENT: The commenter believes that the Moderate Security Unit (MSU) would be more effective with a community oversight board "to review treatment modality, punitive issues, and the effects of positive reinforcement, psychotherapy, and circumstantial ramifications for continued incarceration." The commenter refers to "changing values relative to the effects of prison on becoming a viable member in society" and the importance of community involvement in that context, to evaluate the effectiveness of treatments.

RESPONSE: The Division notes that the MSU is an alternative to incarceration and imprisonment for men with developmental disabilities. The Division also notes that the authorizing statute and rules provide for ongoing oversight by the court, which includes a report to the court on the status and progress of the individual at least every six months. The report is also provided, as applicable, to the individual's legal guardian, legal representative, attorney, county prosecutor, certain Division staff, and any other person as ordered by the court. Finally, as with all of its operations, the Division will continue to assess the effectiveness of the MSU, in collaboration with stakeholders as appropriate.

Summary of Agency-Initiated Change:

The Division is changing N.J.A.C. 10:42B-6.1(g) to reflect the current name of the Division of Mental Health and Addiction Services. In the Fiscal Year 2010-2011 State Appropriations Act, the former Division of Mental Health and the former Division of Addiction Services merged to create the combined Division of Mental Health and Addiction Services. The change upon adoption reflects the merger.

Federal Standards Statement

The rules readopted with amendments are not subject to any Federal requirements or standards. Therefore, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:42B.

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

SUBCHAPTER 6. RELEASE FROM THE MSU

10:42B-6.1 Provisions for the release from the MSU

(a)-(f) (No change.)

(g) Before an individual who has committed a sexually violent offense, as defined in N.J.S.A. 30:4-27.26, is released from the MSU, six months prior to the end of probation of commitment, the MSU Director shall require that the individual be evaluated by a psychiatrist for risk assessment and possible referral for commitment under the Sexually Violent Predator Law, N.J.S.A. 30:4-27.25.

1. (No change.)

2. The APO shall contact the Medical Director, Division of Mental Health ***and Addiction*** Services (***[DMHS]* *DMHAS***) to request a review by the Clinical Assessment Review Panel for commitment.

3. The Medical Director of the ***[DMHS]* *DMHAS*** shall advise the APO whether the individual shall be referred to the Attorney General's Office for commitment pursuant to N.J.S.A. 30:4-27.25.

4. (No change.)

(h) (No change.)