

ii. The balance of the New Jersey annual quota for the summer flounder fishery remaining after the by-catch allowance specified in (i)2i above shall be divided into seasons, percentage of the annual quota apportioned to each season, daily [to] trip limits and the number of allowable landing days in each [week (Sunday through Saturday)] **one- or two-week period. Each one- or two-week period will begin on Sunday and end on the first or second following Saturday. The final period of each season shall end on the last day of the month. The seasons, percentage of quota, daily trip limits, and allowable landing days are as follows:**

(1) January - February: 28 percent, [1,000] **750** pound trip limit and a maximum of two days per two-week period that a vessel may land summer flounder, or [2,000] **1,500** pound trip limit and a maximum of one day per two-week period that a vessel may land summer flounder[. Each two week period shall begin on Sunday and end on the second Saturday with the first two week period beginning on the first Sunday of January];

(2) March - April: 11 percent, [500] **400** pound trip limit and a maximum of two days per week that a vessel may land summer flounder, or [1,000] **800** pound trip limit [with] **and** a maximum of one day per week that a vessel may land summer flounder;

(3)-(4) (No change.)

(5) September - October: 29 percent, 250 pound trip limit and a maximum of six days **per week** that a vessel may land summer flounder, [or 500] **750** pound trip limit [with] **and** a maximum of [three] **two** days per week that a vessel may land summer flounder, [except as follows:

(A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 1,500 pounds;] **or 1,500 pound trip limit and a maximum of one day per week that a vessel may land summer flounder;**

(6) November - December: 11 percent, [500] **750** pound trip limit and a maximum of [three] **two** days per week that a vessel may land summer flounder, [except as follows:

(A) A vessel may elect to land summer flounder only one day per week. If such an election is made, the trip limit shall be 1,500 pounds; and] **or 1,500 pound trip limit and a maximum of one day per week that a vessel may land summer flounder; and**

(7) (No change.)

iii.-xiii (No change.)

3.-9. (No change.)

(j)-(x) (No change.)

HUMAN SERVICES

(a)

OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY

Standards for Community Residences for Persons with Head Injuries

Readoption with Amendments: N.J.A.C. 10:44C

Proposed: September 6, 2016, at 48 N.J.R. 1759(a).

Adopted: December 22, 2016, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: January 10, 2017, as R.2017 d.023, with a **non-substantial change** not requiring public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Dates: January 10, 2017, Readoption;
February 6, 2017, Amendments.

Expiration Date: January 10, 2024.

Summary of Public Comments and Agency Responses:

COMMENT: The Department received a single comment from Debora Bergman, of NeuroRestorative New Jersey. The comment involved the minimum staff requirements at N.J.A.C. 10:44C-2.5(d)5. The comment suggested adding "or a state approved curriculum" to one

of the list of six specific academic credentials necessary to be qualified as a case manager.

RESPONSE: The Department declines to include a nebulous or ill-defined term in a list of minimum staff qualifications. The position of case management for individuals with traumatic brain injuries is important and the academic qualifications should be unequivocally well-defined to assure proper training. Because there are a total of six academic requirements that can be accepted as the minimum requirement for a case manager, there should not be any significant diminution of qualified applicants. In addition, in the case of specific well-qualified individuals, an individual applicant could be granted a waiver. The Department prefers not to formalize a minimum job requirement in a nonspecific manner.

Federal Standards Statement

The rules readopted with amendments have no provisions controlled or regulated by any Federal requirements, except N.J.A.C. 10:44C-5.9(a), which states the "the licensee shall comply with the Occupational Safety and Health Administration's regulations, as they may apply to a particular type of residence the licensee operates, and shall ensure consistent and sound enforcement." The rules readopted with amendments do not exceed the Federal law; therefore, a Federal standards analysis pursuant to Executive Order No. 27 (1994) and P.L. 1995, c. 65, is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:44C.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:44C-1.1 Purpose and scope

(a) (No change.)

(b) Group homes, supervised apartments, and supported living programs designed specifically to meet the needs of individuals with developmental disabilities are licensed under N.J.A.C. 10:44A.

(c) (No change.)

(d) If none of the persons with head injuries at a particular place of residence requires personal guidance, as determined by the transdisciplinary team, licensing shall be available on a strictly voluntary basis, in recognition of a person's right to choose independent living.

10:44C-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 wrongfully inflicting, or allowing to be inflicted, physical abuse, sexual abuse, or verbal or psychological abuse or mistreatment by a caregiver upon a person served. Examples of abuse include, but are not limited to: physical acts causing pain, injury, anguish, or suffering, such as kicking, pinching, biting, punching, slapping, hitting, pushing, dragging, or striking with a thrown or held object. Abuse may also include acts or attempted acts of lewdness, sexual contact, or sexual penetration; as well as verbal or psychological abuse or mistreatment inflicting emotional harm or mental distress; or invocation of fear, humiliation, intimidation, or degradation. Examples include, but are not limited to: bullying; ignoring need; verbal assault; use of racial or ethnic slurs; or intimidating gestures, such as shaking a fist at a person served (See N.J.S.A. 30:6D-73 et seq. and N.J.A.C. 10:44D).

...

"Advocacy" means one or more of the following services:

1.-2. (No change.)

3. Legislative advocacy as permitted by law: seeking legislative enactments that would enhance the rights and/or opportunities for people with disabilities or persons with head injuries;

4.-5. (No change.)

...

"Approved" means approved by the Office of Licensing.

...

“Authorization to operate” means official correspondence issued by the Office of Licensing to permit a licensee to operate beyond the license expiration date, because of a delay in completing a licensing inspection.

“Behavior Support Plan” means a written, approved plan that employs techniques to decrease maladaptive behavior and increase adaptive behavior.

...

“Capacity” means the maximum number of persons with head injuries who may reside in the licensed residence.

“Case manager” means the person responsible for the development, coordination, and overall management of the individual treatment plan for each person served, and who is employed by the licensee. There may also be an external case manager, such as one acting on behalf of an insurance company, managed care organization, or other payor source.

...

“Conditional license” is a negative licensing action issued to prompt corrective actions in existing community residences. A conditional license shall be effective for less than one year.

“Critical information” means information that must be communicated from shift to shift in order to ensure the health, safety, and welfare of the persons served, and includes, but is not limited to: unexpected behavioral outbursts, unexpected or unexplained mood swings on the part of persons served, the administration of PRN medication, problems with transportation, unexpected visits to the doctor or hospital, routine visits to the doctor requiring follow up for a reportable communicable disease, and missed medical appointments.

...

“Direct service staff” means any licensee and any full time, part time, temporary employment services, or contract employee at a community residence for persons served present in the living or program area who work directly with the person served. “Direct service staff” does not include housekeepers, food service workers, maintenance workers, clerical staff, or volunteers.

...

“Exploitation” means the act or process of a caregiver using a person served or his or her resources for another person’s profit or advantage. (See N.J.S.A. 30:6D-73 et seq. and N.J.A.C. 10:44D)

...

“Full license” means the authorization to operate based upon substantial compliance with this chapter. A full license shall be effective for up to two years.

...

“Human Rights Committee” means a group comprised of professionals, individuals served, advocates, and/or interested persons from the community at large who function as an advisory group to the CEO or executive director on issues directly or indirectly affecting the rights of individuals served.

...

“Initial license” means the first authorization to operate based upon substantial compliance with this chapter. An initial license shall be effective for up to six months.

“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 of Human Services to operate a community residence providing services to persons with head injuries.

...

“Negative licensing action” means an action, which imposes a restriction on a licensee and may include suspension of admissions, issuance of a conditional license, a reduction in the licensed capacity, a denial of the license, a non-renewal of the license, a suspension of the license, or a revocation of the license.

“Neglect” means any of the following acts by a caregiver on a person served: 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 a person served. (See N.J.S.A. 30:6D-73 et seq. and N.J.A.C. 10:44D)

...

“Office of Investigations (OI)” means that component of the Department responsible to investigate serious unusual incidents in community programs licensed, contracted, or regulated by the Department.

“Office of Licensing” means the licensing agency, that component of the Department responsible to inspect and license programs under this chapter.

...

“Power of attorney (POA)” means a written document that grants a person (other than the individual granting the permission), the authority to act as an agent for the grantor, within the parameters of duties and powers specified in the document.

...

“Program description” means a document submitted to obtain a license and/or funding from the Department. A program description includes a detailed description of services provided to persons with head injuries and staff coverage, and is reviewed as part of the licensing inspection process. The program description shall be amended to reflect major changes in the provision of services.

...

“Self-advocacy group” means a group of persons with head injuries who meet on a regular basis (such as at house meetings) to discuss common goals, issues, needs, and wishes. With the assistance of a facilitator, if needed, a self-advocacy group can serve as a united voice for persons with head injuries.

“Substantial non-compliance” means:

1. The violation by an owner, applicant, licensee, or executive leadership of the laws of the State of New Jersey pertaining to or governing community residences for persons with head injuries;

2.-7. (No change.)

...

“Waiver” means the temporary suspension of a standard that is granted in writing by the Office of Licensing.

...

10:44C-1.4 Application for a license

(a) Information may be obtained from the Department as follows:

1. An application for a license may be obtained from:

Department of Human Services
Office of Licensing
PO Box 707
Trenton, NJ 08625-0707

(b) (No change.)

(c) An application for licensure as an operator of a community residence for persons with head injuries; shall be submitted to the Office of Licensing.

1. The application shall be composed of the following:

i.-iv. (No change.)

v. A description of the applicant’s experience in providing services to persons with head injuries;

vi.-ix. (No change.)

2.-3. (No change.)

(d) The Office of Licensing shall initially review the materials to determine:

1.-5. (No change.)

(e) The Office of Licensing may employ the services of any qualified professional, as necessary, in the review process in order to conduct a thorough and valid review of the program, supports, and services to be rendered.

(f) (No change.)

(g) Upon a determination that an application is denied, the Office of Licensing shall notify the applicant in writing of the reason through certified mail, return receipt requested.

1. (No change.)

(h) The approved program description shall be available for review, as appropriate, by persons with head injuries, their guardians, their families, and their advocates.

(i)-(k) (No change.)

(l) No person shall own or operate a community residence for persons with head injuries without authorization from the Office of Licensing.

(m) (No change.)

10:44C-1.5 Procedure manual

Prior to opening an initial residence, an applicant shall submit a procedure manual, which meets the requirements of N.J.A.C. 10:44C-2.2, to the Office of Licensing for approval.

10:44C-1.6 Issuance of an initial license

(a) Upon approval of the program description, and upon approval of the licensee's policy and procedure manual, the Office of Licensing shall conduct an on-site initial inspection of the residence.

(b) Prior to the issuance of an initial license, the following, at a minimum, shall be available:

1. (No change.)

2. An emergency evacuation plan;

3.-6. (No change.)

7. A staff schedule that conforms to the program description approved by the Office of Licensing in accordance with N.J.A.C. 10:44C-1.4;

i. The full names of staff shall be written on the staff schedule.

8.-9. (No change.)

(c) The licensee shall document the location of each residence and shall specify the maximum number of persons with head injuries that may occupy the residence, excluding licensee's staff.

1. A room or rooms may be used as an office for exclusive use by staff.

i. Such rooms shall not be utilized for sleeping purposes for any person served, staff member, or any other person unless temporary approval is granted by the Office of Licensing due to an emergent problem.

ii. (No change.)

2. A room may be utilized exclusively by staff for sleeping purposes as part of the staff coverage plan, if previously approved by the Office of Licensing.

(d) The Department shall issue an initial license, which is not transferable to any other person, corporation, agency, or address, effective from the date of the on-site inspection, upon compliance with (a) and (b) above.

1. The applicant or licensee shall submit a plan of correction regarding identified deficiencies cited in the inspection report within 30 days after notification to the applicant or licensee.

(e) If licensure is not approved, an applicant or licensee shall submit a plan of correction regarding identified deficiencies within 30 days after notification to the applicant or licensee.

1. Following receipt of the plan of correction, the Office of Licensing shall conduct an on-site review to verify the corrective action taken.

(f) The licensee shall not operate the program or allow persons to be placed in the residence prior to approval by the Office of Licensing.

(g) Each license issued to a licensee shall remain the property of the Department. If the Office of Licensing suspends or revokes a license, the licensee shall, upon notification, return the license to the Office of Licensing.

10:44C-1.7 Renewal of a license

(a) Upon reinspection, full licenses shall be effective for up to two years from the expiration date of the preceding license, unless otherwise specified by the Office of Licensing by the issuance of a conditional license, a non-renewal of license, suspension of license, or revocation of license.

1. The licensee shall submit a plan of correction regarding identified deficiencies cited in the reinspection report within 30 days or in accordance with a shorter time frame as established by the Office of Licensing.

2. A shorter time frame shall be established by the Office of Licensing in those instances where prompt remediation of a deficiency is required in order to protect the health, safety, welfare, and rights of persons served.

(b) Following receipt of the plan of correction, the Department may conduct an on-site review to verify the corrective action taken.

1. Following an on-site review, the findings of the Department regarding the licensee's plan of correction shall be provided to the licensee. These findings shall indicate that each deficiency is corrected;

partially corrected, not corrected, or further review is required by the Office of Licensing.

i. Should there be continuing deficiencies, or if new deficiencies are noted that document substantial or willful noncompliance, the findings shall indicate that a second plan of correction is required or that the Office of Licensing may impose a negative licensing action.

(c) If a second plan of correction is required by the Office of Licensing, the licensee shall submit the plan of correction within the time frame specified by the Office of Licensing.

(d) Following receipt of the second plan of correction, the Department may conduct an on-site review to verify the corrective action taken.

1. Subsequent to an on-site review, the findings of the Department regarding the licensee's second plan of correction shall be provided to the licensee. These findings shall indicate whether or not each deficiency is corrected.

i. Should there be continuing deficiencies that the licensee has stated in the plan of correction have been corrected, or if other deficiencies are noted which jeopardize the health, safety, welfare, and rights of the persons served, or which document substantial or willful noncompliance, the Office of Licensing shall impose a negative licensing action.

10:44C-1.8 Denial, revocation, non-renewal, or suspension of a license

(a) The Office of Licensing may deny, revoke, refuse to renew, or suspend a license for substantial non-compliance or for willful non-compliance.

(b) If the Office of Licensing denies, revokes, or refuses to renew a license, the licensee shall be prohibited from re-applying for a license for one year from the date of license revocation or non-renewal. After the one year period has elapsed, the licensee may submit to the Office of Licensing a new application for a license.

1. (No change.)

(c) When a license is suspended, the Office of Licensing shall reinstate the license when the licensee achieves compliance with the provisions of this chapter. The Office of Licensing shall not require the licensee to submit a new application for a license unless such application is expressly made a condition of the reinstatement of the license.

(d) Each license issued to a licensee shall remain the property of the Department of Human Services. If the Office of Licensing suspends or revokes a license, the licensee shall, upon notification, return the license to the Office of Licensing.

(e) (No change.)

10:44C-1.10 Waiver or variance

(a) A waiver or variance may be granted by the Office of Licensing provided that such a waiver or variance would present no danger to the health, safety, welfare, or rights of the persons served.

1. (No change.)

2. Issuance of a waiver or variance shall be limited to the following circumstances:

i. (No change.)

ii. Where the waiver or variance is in accordance with the particular needs of the persons with head injuries.

10:44C-1.11 Complaints

(a) The Department shall have the authority to investigate any complaint received regarding a licensee.

1. The licensee and all of its employees shall cooperate with the Department in any investigation.

10:44C-1.12 Voluntary closure

(a) A licensee operating a community residence for persons with head injuries governed by this chapter shall give at least 60 days notice to the Office of Licensing of any planned closure.

1. (No change.)

10:44C-1.13 Office of Licensing

(a) The Office of Licensing shall enforce this chapter upon the authority delegated by the Commissioner of the Department of Human Services.

1. (No change.)

(b) The Office of Licensing may utilize the findings of any State, county, or municipal official empowered by statute or appropriately constituted ordinance, for example, local construction officials or fire officials, to inspect community residences.

(c) The Office of Licensing may utilize the findings of any agency or agent that monitors the residence for the payment authority or that provides case management as required by the Medicaid Waiver.

1. The Office of Licensing may impose a negative licensing action based upon an OI investigation report.

(d) The Office of Licensing may contact parents, relatives, legal guardians, and others interested in the care and rehabilitation of those persons served in community residences for persons with head injuries to obtain facts and opinions regarding their satisfaction with the services rendered by the licensee.

1. (No change.)

(e) The Office of Licensing may utilize the findings of an accrediting body to render a licensing decision.

1. (No change.)

10:44C-1.14 Illegal operations

(a) In cooperation with the Department of Community Affairs and the Department of Health, the Office of Licensing shall investigate any community-based residence alleged to be operating without a license as required by N.J.S.A. 30:11B-1 et seq., 55:13B-1 et seq., the Health Care Facilities Planning Act, 26:2H-1 et seq., or any other law pertaining to the licensing of community-based residential programs, as subsequently adopted into State law.

(b) (No change.)

(c) Subsequent to inspection, joint or independent actions shall be taken as deemed necessary to suppress illegal operations.

1. Actions shall be taken to prevent an applicant from obtaining a license from any State licensing agency when the sole purpose for obtaining that license is to avoid sanctions previously initiated by a State licensing agency exercising legal jurisdiction.

2. (No change.)

10:44C-1.15 Search warrants

(a) In the event that any authorized representative of the Office of Licensing is denied access to any residence, the Office of Licensing shall obtain a search warrant from a court of competent jurisdiction.

1. (No change.)

2. The application for the search warrant shall specify one of the following:

i. (No change.)

ii. The desired inspection is a special inspection in response to information received by the Office of Licensing indicating the possible existence of a condition that violates N.J.S.A. 30:11B-1 et seq., or this chapter.

SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

10:44C-2.1 General requirements

(a) (No change.)

(b) The licensee shall keep the following on file:

1. (No change.)

2. A current copy of this chapter.

i. A current copy of this chapter shall also be kept on file in each residence;

3. Reports of unusual incidents;

4. Copies of all current licenses;

5. Written descriptions of any religious practices or restrictions that are observed if a licensee has a particular religious orientation, approved as part of the program description, in accordance with this chapter;

6. A copy of the policy and procedure manual; and

7. Personnel files.

(c)-(l) (No change.)

(m) Licensees that provide outpatient mental health programs shall assure that the services provided in those programs comply with N.J.A.C. 10:37E and 10:190.

10:44C-2.2 Development and maintenance of procedure manual

(a) The licensee shall develop and implement a manual of written procedures to ensure that the service delivery system complies with State law and rules governing community residences for persons with head injuries.

1.-3. (No change.)

(b) The licensee shall maintain a procedure manual containing the following documents and/or procedures:

1.-4. (No change.)

5. A procedure for handling medical emergencies that contains provisions that conform to the requirements of N.J.S.A. 30:6D-5.1 et seq. (Danielle's Law);

6. Emergency coverage and on-call procedures;

7. A procedure for reporting all unusual incidents including, but not limited to:

i. A written statement expressly prohibiting abuse, neglect, or exploitation; and

ii. A written statement regarding the obligation to report each allegation as required by N.J.S.A. 9:6-8.10, N.J.S.A. 52-27G-1 et seq.;

8. A procedure for investigations;

9. (No change in text.)

10. A New Employee Orientation Checklist, which shall include, at a minimum, all requirements at N.J.A.C. 10:44C-2.6(a)1 through 7;

11. A procedure for the safekeeping of valuable personal possessions;

12. A list and schedule of all charges and fees for which a person served shall be held responsible;

Recodify existing 9.-14. as 13.-18. (No change in text.)

19. A continuous quality improvement system to identify opportunities to improve services and/or supports and to resolve identified problems. The system shall include, at a minimum:

i.-iv. (No change.)

v. An action plan based upon an analysis of (b)19i through iv above.

10:44C-2.4 Personnel

(a) Personnel practices shall comply with all applicable Federal, State, and local laws, ordinances, rules, and regulations pertaining to employment, including civil rights, retirement plans, or social security, minimum wages, hours, and worker's compensation.

1. The licensee shall assure that background checks are conducted for all employees who have direct contact with persons served by the agency, in accordance with N.J.A.C. 10:48A, Background Checks.

Recodify existing 1.-2. as 2.-3. (No change in text.)

(b) (No change in text.)

(c) The licensee shall conduct a criminal background check for each applicant and each current staff member.

1. The licensee may employ the applicant or staff member for no more than six months pending the results of the criminal background check provided the applicant or staff member submits a sworn statement to the licensee attesting that he or she has not been convicted of any offenses enumerated in (a)1, 2, and 3 above.

2. (No change.)

(d) (No change in text.)

(e) Within one year prior to or upon beginning work each direct service staff member shall take a Mantoux tuberculin skin test with five tuberculin units (TU) of PPD tuberculin or an IGRA blood test.

1. (No change.)

2. If the direct service staff member has had a previous positive Mantoux tuberculin skin test, or if the Mantoux tuberculin skin test is significant (10 or more millimeters (mm) of induration), or if the IGRA blood test is positive, the staff member shall submit to the licensee a statement from his or her physician or advanced practice nurse certifying that he or she poses no threat of tuberculosis contagion before he or she is allowed to come in contact with persons served and other staff.

3. If the Mantoux tuberculin skin test is insignificant (zero to nine mm of induration), or the IGRA blood test is negative, no further testing shall be required.

i. The Office of Licensing or the licensee may, at any time, require a direct service staff member to retake the Mantoux tuberculin skin test, if there is a reason to believe or suspect that the staff member may have

contracted tuberculosis or if the State Department of Health recommends re-testing.

4. (No change.)

5. Upon any known or suspected exposure to a confirmed case of *M. Tuberculosis*, the agency shall consult with the local health department and maintain documentation that all requirements for follow up testing were met.

(f) The licensee shall maintain on file, the following for all direct service staff:

1. Mantoux tuberculin skin test or IGRA blood test results, chest x-ray, or physician's or advanced practice nurse's certification; and

2. (No change.)

(g) (No change in text.)

10:44C-2.5 Minimum staff qualifications

(a)-(c) (No change.)

(d) An agency employee serving as a case manager shall have one of the following:

1.-3. (No change.)

4. Certification as an insurance rehabilitation specialist (CIRC);

5. Certification as a brain injury specialist (CBIS); or

6. (No change in text.)

(e) The supervisor responsible for the operation of a residence shall have a high school diploma or equivalent and one year of experience working with persons with head injuries.

(f)-(k) (No change.)

10:44C-2.6 Orientation

(a) Prior to working with persons served, all staff shall receive an orientation to acquaint them with:

1.-3. (No change.)

4. Emergency procedures as identified in the procedure manual; for example, the emergency evacuation plan, the operation of the fire alarm system, emergency medical treatment, use of fire extinguishers, and the procedure for life-threatening emergencies, that incorporates the provisions of N.J.A.C. 10:42A, Life-Threatening Emergencies (Danielle's Law);

5. An overview of head injuries and any special needs of the persons served, for example, medical or behavioral problems requiring specific, tailored training;

6. The appropriate job description and the personnel policies of the organization; and

7. The implementation of the licensee's emergency coverage and on-call procedures.

(b) (No change.)

10:44C-2.7 Staff training

(a) Basic staff training programs shall either be offered by the Department, or provided or obtained by the licensee after obtaining approval from the Department, to ensure staff competency. Within 120 days of employment, each employee shall successfully complete training approved by the Office of Licensing that shall address, at a minimum:

1.-5. (No change.)

(b) (No change.)

(c) Specialized training programs, identified as necessary during the application process or, subsequently, by the TDT, shall include, but not be limited to:

1. (No change.)

2. Mobility procedures and the safe use of mobility devices, including those necessary for transport;

3. Seizure disorders, physical disabilities, or other identified medical needs; and

4. Identified mental health needs, including the need for behavior modification.

i. Persons who work with persons served who require behavior support plans shall receive training in the implementation of all such plans.

(d) All staff who work with persons served who have specialized needs shall receive training in such specialized training programs within 120 days of employment.

1. (No change.)

(e) Training records pursuant to (b) and (c) above shall be maintained in the administrative offices and shall contain the following:

1.-3. (No change.)

(f) (No change.)

(g) All training conducted pursuant to (b) and (c) above shall be conducted by a qualified trainer.

10:44C-2.8 Staff coverage

(a) At each residence, the total number of staff shall be no less than one staff member for every three persons served when the persons are in the home and awake.

1. The ratio can be altered in accordance with the needs of the persons served as approved by the Office of Licensing during the program description approval process.

(b) At each residence, the total number of staff shall be based on the needs of the persons served but shall be no less than one staff member for every five persons served when the persons are sleeping.

1. The ratio can be altered in accordance with the needs of the persons served as approved by the Office of Licensing during the program description approval process.

(c) (No change.)

(d) Reduction of staff coverage as specified in any modification to the program description shall be justified in writing and sent to the Office of Licensing for approval.

1. (No change.)

2. Reduction of staff coverage as specified in the approved Program Description shall be reviewed and approved by the Office of Licensing prior to implementation by the licensee, based on (d)1 above.

3. A written response shall be provided by the Office of Licensing within 15 working days, documenting any conditions that must be met as part of the approval of the reduction of staff coverage.

4. With the exception of an emergency, adjustments of staff ratios as specified in the approved Program Description shall not be implemented until approval is granted by the Office of Licensing.

(e)-(g) (No change.)

(h) The licensee shall assure that, if all staff have not completed necessary specialized training in accordance with N.J.A.C. 10:44A-2.7(c)1, 2, 3, and 4, each required specialized training for that site has been completed by at least one person on each shift.

(i) Staff of a supervised apartment program shall be on-site whenever any person served is present, unless otherwise stated in the served person's ITP.

1. At least one staff member must be available on the grounds of the apartment complex during the night for emergencies.

2. The staff residence/office shall be located so that the response time to each person served is consistent with their supervision needs.

10:44C-2.9 Records: persons served

(a) A file shall be maintained for each person served in a licensed community residence for persons with head injuries.

1. (No change.)

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

(d) The record of each person served shall include:

1. Pre-admission information, as follows:

i. The full name, date of birth, and gender of the person served;

ii. The person's Medicaid numbers or medical insurance numbers;

iii.-ix. (No change.)

x. The results of a Mantoux Skin Test or IGRA blood test completed within the past year; and

xi. (No change.)

2. The results of an annual physical examination;

3. (No change.)

Recodify existing 5.-12. as 4.-11. (No change in text.)

(e) (No change.)

10:44C-2.10 Funds and financial records: persons served

(a)-(c) (No change.)

(d) The licensee shall obtain written authorization for any of the funds of a person served to be entrusted.

1. (No change.)

2. The person served and his or her guardian or power of attorney (POA), where applicable, shall sign the authorization.

(e) (No change.)

(f) If a person's funds are entrusted to an agency, moneys received by a person served in excess of \$100.00 shall be placed in an interest bearing account unless otherwise determined by the TDT.

1. (No change.)

2. The licensee may keep up to \$100.00 of a person's money in a non-interest bearing account or petty cash fund, to be readily available for current expenditures, providing it is kept for safekeeping in an account separate from all other funds for the residence.

i. Any increase in this amount shall be authorized by the person served and his or her guardian or power of attorney (POA), where applicable.

(g)-(j) (No change.)

SUBCHAPTER 3. ADVOCACY AND RIGHTS

10:44C-3.1 General requirements

(a) The provision of services and support shall demonstrate recognition that persons with head injuries have the same rights as all other citizens.

1. (No change.)

(b) Upon admission to the program and upon subsequent request, the licensee shall provide the person served and his or her guardian, where applicable, with the following:

1. (No change.)

2. The names, addresses, and telephone numbers of advocates available to assist the person served in understanding and enforcing these rights, to include, at a minimum:

i.ii. (No change.)

iii. Brain Injury Alliance of New Jersey (1-800-669-4323);

iv. (No change.)

v. Office of Investigations;

vi.-viii. (No change.)

ix. Department of Children and Families' Child Abuse Control Number (1-800-792-8610) and State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873), if applicable; and

x. (No change.)

3. A copy of the licensee's rules and any house rules that apply to the residence of the person served;

4. A copy of the licensee's grievance procedure for appealing agency decisions, or decisions of the TDT, as required at N.J.A.C. 10:44C-2.2(b)13;

5. A copy of the written procedures for safekeeping of valuable personal possessions;

6. A copy of the procedure regarding toll calls/charges; and

7. A copy of the financial rights and services procedures.

(c) If a person served is unable to read (b)1 through 7 above, the text shall be read to the person served in a language or manner the person understands.

1. The licensee shall make provisions to explain portions that are not understood and answer any questions the person served may have regarding (b)1 through 7 above.

(d) A copy of a written acknowledgment that (b)1 through 7 above has been explained and understood shall be immediately signed and dated by the person served, the licensee's representative(s) and the person's guardian, if present.

1.-3. (No change.)

(e) (No change.)

(f) The licensee shall be responsible for utilizing a Human Rights Committee in accordance with N.J.A.C. 10:41A.

(g) (No change.)

10:44C-3.2 Rules governing a residence

(a) The licensee may establish reasonable rules that govern the conduct of persons in a particular residence, including, but not limited to, rules regarding smoking, pets, and visitors, provided:

1. (No change.)

2. Persons served and their guardians, where applicable, are informed of the rules governing a residence prior to their admission, as required at N.J.A.C. 10:44C-3.1(b)3;

3. The persons served affected by such rules are consulted whenever a revision is considered, and there is evidence the rules are necessary to promote order and to benefit the collective group; and

4. The rules include provisions to ensure that a person served exercising his or her rights does so in such a way so as to not infringe upon the rights of, or endanger, others.

(b) The persons served at a particular residence may jointly choose to establish mutually agreed upon house rules regarding conduct in the home, in accordance with (a)1 through 4 above.

(c) Each copy of the rules shall contain a statement that a person served or a group of persons served has the right to challenge such rules as to their appropriateness through the licensee's grievance procedure, as specified at N.J.A.C. 10:44C-2.2(b)13.

(d) (No change.)

10:44C-3.3 Self-advocacy

(a) (No change.)

(b) Persons with head injuries shall be given the opportunity to participate in a self-advocacy group of their choice.

(c) (No change.)

(d) The process of conducting house meetings shall include the person served as much as possible unless the TDT has determined otherwise. The scheduling of such meetings shall include the persons served living in the home. Staff shall assist the persons served with setting the schedules and agendas for house meetings. If the TDT has determined that the person served is unable to participate or if the person served chooses not to participate in house meetings, this shall be noted in the ITP.

10:44C-3.4 Enumeration of rights

(a) The provision of services and support shall demonstrate recognition that persons with head injuries have the same rights as all other citizens.

1. (No change.)

(b) Each person served shall further be afforded the following rights and freedoms while living in a community residence for persons with head injuries:

1.-4. (No change.)

5. Associate with members of either gender;

6.-24. (No change.)

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

SUBCHAPTER 4. SERVICE DELIVERY/REHABILITATION/HABILITATION

10:44C-4.1 Pre-admission and admission

(a) (No change.)

(b) The number of persons with head injuries admitted to a residence shall not exceed the licensed capacity.

(c) Prior to admissions, the licensee shall obtain the following:

1.-3. (No change.)

4. The results of a Mantoux Skin Test for tuberculosis or IGRA blood test, administered within one year prior to the date of admission; and

5. (No change.)

(d) (No change in text.)

10:44C-4.2 Individual treatment plan (ITP)

(a) (No change.)

(b) At service initiation, evaluations covering the areas in (b)1 through 11 below shall be obtained within 30 days and annually thereafter.

1.-11. (No change.)

(c)-(f) (No change.)

10:44C-4.4 Transfer or discharge

(a) (No change.)

(b) In the case of a planned transfer or discharge, at least 30 days prior to the anticipated discharge date, at a minimum, the following shall occur:

1.-2. (No change.)

3. The development of the discharge plan shall include the licensee, the person served and his or her guardian or POA, as appropriate, the TDT and a representative of the managed care organization, as applicable.

i. (No change.)

ii. (No change in text.)

(c) (No change.)

(d) Upon an emergency transfer or discharge of a person served, the licensee shall make recommendations to the person, his or her legal guardian, interested family, and/or his or her personal advocate and the placing agency regarding follow-up care required.

1. The person or his or her legal guardian and/or advocate shall have the right to appeal the emergency discharge in accordance with N.J.A.C. 10:44C-2.2(b)13.

SUBCHAPTER 5. HEALTH AND SAFETY

10:44C-5.1 General health care

(a)-(c) (No change.)

(d) Upon any known or suspected exposure to a confirmed case of *M. Tuberculosis* by a person served, the agency shall consult with the local health department and maintain documentation that all requirements for follow up testing were met.

(e)-(f) (No change.)

(g) Each licensed program site shall have a first aid kit to include:

1.-8. (No change.)

9. Protective gloves.

(h)-(i) (No change.)

10:44C-5.2 Prescription medication

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

(c) A written record shall be maintained of all medication administered by the trained staff members.

1. The record shall include the following:

i.-vi. (No change.)

vii. The initials and corresponding signatures of staff administering the medication or, in the case of electronic records, a means by which the identification of the administering staff is verified;

viii.-ix. (No change.)

(d) If a person served is capable of taking medication without assistance, no daily medication administration record is required.

1. A current list identifying the name of the medication(s), type of medication(s), dosage, frequency, date prescribed, and the location of the medication(s) shall be filed in the record of each person served and updated as changes occur.

(e) (No change.)

(f) Staff shall have access to medication information, either in a reference book or an online resource approved by the licensee, current within three years and written for lay persons, which shall include information on side effects and drug interaction.

(g) Any new medication or change in medication dosage by the physician or advanced practice nurse, as well as new and discontinued prescriptions, shall be immediately noted on the current written medication record by staff consistent with the licensee's procedure.

1.-2. (No change.)

(h) A supply of medication and prescribed nutritional supplements, adequate to insure no interruption in the medication schedule, shall be available to persons served at all times.

(i) The licensee or designee shall supervise the use and storage of prescription medication, ensuring that:

1. A storage area of adequate size for both prescription and over-the-counter medications shall be provided and kept locked for those persons served who are not self-administering their own medication;

2.-3. (No change.)

4. Each prescribed medication for each person served shall be separated within the storage areas, as follows:

i. Oral medications, eye drops, and ear drops shall be separated from other medications; and

ii. (No change.)

5. (No change.)

6. Medications that are outdated or no longer in use shall be safely disposed of according to licensee procedure;

7.-8. (No change.)

(j) A statement signed by the physician or advanced practice nurse regarding the usage and contraindications of over-the-counter medications shall be available for staff reference and use and shall be updated annually. This statement shall constitute a physician's order.

(k) For medications available over-the-counter, the manufacturer's label shall be sufficient for identification purposes.

10:44C-5.4 Telephone numbers

(a) (No change.)

(b) The following telephone numbers for reporting unusual incidents or for filing complaints shall be easily accessed and available to all persons in the residence:

1. The Department's Central Office Critical Incident Management Unit *[(# to be determined)]* *(609) 777-2851*;

2.-3. (No change.)

4. Office of Investigations (609-984-9663).

10:44-5.5 Food

(a) Sanitary practices shall be utilized in the storage, handling, preparation, and serving of all food and drink.

1. Food shall be thawed in a refrigerator.

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

(d) The licensee shall assure that each person served is provided the opportunity for the following:

1. Three nutritionally balanced meals, varied in nature, in the home or in the community.

i. (No change.)

ii. When a prescribed diet is required, the licensee shall assure that all equipment necessary for preparing food is readily accessible and used appropriately.

Recodify existing iv.-vi. as iii.-v. (No change in text.)

(e)-(i) (No change.)

10:44C-5.6 Clothing

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

Recodify existing (a)-(c) as (b)-(d) (No change in text.)

10:44C-5.7 Vehicle safety

(a) All vehicles used under the auspices of the agency to transport persons with head injuries shall include:

1. Emergency equipment, which shall include at least three portable red reflector warning devices and either a spare tire and jack or provisions for roadside assistance and emergency alternate transport;

2. A first aid kit to only include:

i.-vi. (No change.)

vii. Protective gloves; and

viii. Adhesive bandages (for example, Band-Aids); and

3. Snow tires, all weather tires, or chains, when weather conditions dictate their use.

(b) All vehicles used under the auspices of the agency to transport persons served shall comply with all applicable safety and licensing rules established by the New Jersey Motor Vehicle Commission.

1. The licensee shall maintain valid liability insurance on all vehicles used to transport persons with head injuries.

2.-4. (No change.)

5. All equipment stored in any vehicle used under the auspices of the agency to transport persons with head injuries shall be properly secured in order to prevent injury to all persons in the vehicle.

SUBCHAPTER 6. FIRE SAFETY AND PHYSICAL ENVIRONMENT

10:44C-6.1 Fire safety

(a) (No change.)

(b) Each community residence for persons with head injuries shall comply with the provisions of N.J.S.A. 52:27D-192 et seq., the Uniform Fire Safety Act.

1. The Office of Licensing may identify any additional fire safety precautions required.

(c) (No change.)

10:44C-6.2 Emergency evacuation plans

(a) (No change.)

(b) The evacuation plan shall be reviewed at least annually and revised:

1. Within 48 hours of a new person served moving into the residence, the return of a person served absent for more than 30 days, or the discharge of a person served;

2. Whenever the level of assistance required by the current occupants to evacuate the residence changes; and

3. Thirty days following an occupant's admission to a hospital or nursing home.

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

(e) The licensee shall assure that all staff persons assigned to a residence at any time have been trained in the emergency evacuation plan for that residence.

10:44C-6.3 Fire drills

(a) Fire drills, supervised by staff, shall be performed a minimum of once per month.

1. Each shift shall perform at least four fire drills a year, at least one of which shall be during normal sleeping hours for the residents of the home.

2. Fire drills shall be performed at random and varying times, so that persons served are engaged in a variety of routine activities during the drills.

3. Fire drills shall assure that all means of egress are used throughout the year; except those in areas that are not routinely utilized by persons served, such as unfinished basements, furnace rooms, and garages without ramps.

4. An egress time of three minutes or less shall be attained and maintained.

i. The evacuation drill shall be timed from when the alarm is sounded until the last occupant crosses the threshold of a means of egress.

(b) Written records shall be maintained, including the following information:

1. (No change.)

2. The location of each person served at the onset of the drill;

3. The means of egress used;

4. The full names of persons served and staff who participated in the drill; and

5. (No change.)

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

10:44C-6.4 Group classification requirements

(a) (No change.)

(b) One- and two-family homes housing six to 15 persons served shall meet the requirements of Group R-2 of the Uniform Construction Code, see N.J.A.C. 5:23.

10:44C-6.5 Fire extinguishers

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

(c) Integrated hard-wired smoke and/or carbon monoxide detection systems shall be tested quarterly and documentation maintained.

10:44C-6.6 General home requirements

(a) For residences housing persons served with physical disabilities, the licensee shall make accommodations to ensure maximum physical accessibility feasible for entrance to and movement within the residence based upon personal characteristics.

1. (No change.)

2. Two means of egress shall be ramped, located in different parts of the building, and lead to the ground level.

3. Such residences located on a floor above the ground floor shall have been designated for occupancy by non-ambulatory persons served by the fire official, including, but not limited to, safe havens, fireproof stairs, and fire suppression systems.

(b) The exterior of the residence and the surrounding grounds shall be properly maintained and shall be free from any hazard to health or safety.

1. Sheds, garages, and other outbuildings shall be maintained in safe condition or be rendered inaccessible to persons served.

(c) The interior of the residence shall be properly maintained and shall be free from any hazard to health or safety.

1. All interior doors shall be equipped with standard hardware that can be readily opened in an emergency. Hooks and eyes, bolts, bars, and other similar devices shall not be used on interior doors.

i. Where a doorknob lock requires a key or other device to open from the outside, such key or device shall be readily available to staff.

ii. Chain locks are prohibited on apartment doors, unless required by local ordinance or requested by the person served, in which case, the lock shall be changed to the type that can be opened from the outside with a key. The key must be available to staff at all times. In all cases, the person served must have the ability to operate the chain lock.

2. (No change.)

3. Nothing shall be stored within three feet of a boiler, furnace, or water heater.

4. Portable halogen lamps shall be prohibited.

5. Cellophane wrapping on lamps shades shall be prohibited.

6. The use of candles is prohibited.

7. Electric and gas clothes dryers shall be maintained in good repair. Vent ducts shall remain unblocked, uncrushed, and properly connected to the dryer, and the lint trap screen shall be cleaned after each use.

8. Fireplaces and wood or pellet burning stoves and all components shall be kept clean and well maintained.

i. Wood or pellet burning stoves shall be permitted, only if proof of its proper installation is provided by the local construction code official, as evidence by a certificate of approval.

ii. 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.

iii. Fireplaces, as well as wood or pellet burning stoves, if used, must be professionally inspected, and cleaned if necessary, annually, and documentation of such shall be maintained.

9. Every exhaust fan and exhaust fan filter shall be regularly cleaned from accumulated grease.

10. Attics and unfinished spaces without adequate flooring shall be rendered inaccessible to persons served.

(d) Each person served shall have access to a landline or cellular telephone.

(e)-(i) (No change.)

(j) Standby generators shall be permanently installed by a qualified technician in accordance with all local codes, permitting, and inspection requirements.

(k) Portable generators shall only be used in accordance with the following:

1. Under a permit issued by the local enforcement agency, if such a permit is required by local municipal codes;

2. Not plugged directly into the home's electrical receptacles or outlets;

3. Operated outside and away from doors, vents, or open windows leading into the home;

4. Properly grounded, dry, and shielded from contact with liquid;

5. Operated only with heavy-duty electrical cords that are rated for outdoor use, free of any punctures or exposed wiring, kept out of the way of foot traffic, and not run underneath rugs;

6. Powering only devices that, when operated simultaneously, do not draw more electrical capacity than the generator is designed to supply; and

7. Not powering devices hard-wired into the home's electrical system unless the generator is plugged into a transfer switch or panel of transfer switches installed by a qualified technician in accordance with all local codes, permitting, and inspection requirements.

10:44C-6.7 Certificate of occupancy

A certificate of occupancy or other documentation of approval shall be obtained by the licensee from the local construction official as

required by the Uniform Construction Code (see N.J.A.C. 5:23) and/or local ordinance for all repairs or renovations requiring a building permit.

10:44C-6.8 Exits

(a) (No change in text.)

(b) No interior or exterior door, window, or opening in a community residence for persons with head injuries shall be locked, fastened, or blocked, so as to prevent or impede the egress of any person in the residence.

(c) Only commercially available security devices shall be permitted for use with sliding glass exit doors.

(d) Means of egress shall not be obstructed.

10:44C-6.9 Heat sources

(a) Space heaters, including, but not limited to, electrical, kerosene, and quartz heaters, shall be prohibited, unless a waiver is granted by the Office of Licensing.

1. (No change.)

(b) Every home shall have heating facilities that are properly installed, maintained in good and safe working condition, and capable of maintaining all habitable rooms at a temperature of 68 degrees Fahrenheit (18 degrees Celsius) when the outdoor temperature is zero degrees Fahrenheit (-18 degrees Celsius).

(c) (No change.)

10:44C-6.10 Water

(a) Hot and cold running potable water shall be available at all times.

1. The potable water supply from a private well shall be tested at least once every five years by a New Jersey certified laboratory.

(b) Hot water shall not exceed 120 degrees Fahrenheit (49 degrees Celsius) at the tap or be maintained lower than 105 degrees Fahrenheit.

10:44C-6.12 Windows

(a) Every bedroom shall have at least one operable window opening directly to the outside.

1. If a bedroom has only one operable window, it shall not be blocked by an air conditioner or any permanently installed device.

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

10:44C-6.13 Bedrooms

(a) Occupancy shall be limited to floors on or above grade level. Bedrooms may be situated in basements under the following conditions:

1.-2. (No change.)

3. There are no other conditions that may adversely affect the health, safety, welfare, or rights of persons with head injuries.

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

(g) Each person served 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 TDT:

1.-2. (No change.)

3. A box spring of sufficient size, unless a platform bed or spring bed frame is used;

i. Fold-up convertible type beds, roll-aways, cots, hide-a-beds and double deck beds shall be prohibited, unless a situation warrants short-term use.

ii. Vinyl or fabric mattress and box spring protectors shall be designed for that purpose and shall be of fire-resistant material. Any other form of covering, such as shipping plastic, is prohibited.

4.-6. (No change.)

7. One mirror, securely fastened to the wall and/or fastened to a dresser at a height appropriate for the use of the person(s) served occupying the room.

(h) (No change.)

(i) Every bedroom shall have an operable door for privacy.

10:44C-6.15 Kitchens

(a) Kitchens shall be clean and ventilated.

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

(d) Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit (seven degrees Celsius). Freezer compartments shall operate at no more than zero degrees Fahrenheit (-18 degrees Celsius).

10:44C-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) Pest control services shall be arranged in a timely manner when there is evidence of infestation.

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)

DIVISION OF FAMILY DEVELOPMENT

New Jersey Supplemental Nutrition Assistance Program (NJ SNAP)

SNAP Nondiscrimination Policy and Complaints, SNAP Trafficking and Claims, Shelter and Utility Deductions, Separate Household Status for Disabled Individuals, SNAP Income Exclusions, and Methodology for Determining Standard Utility Allowances

Adopted Amendments: N.J.A.C. 10:87-1.11, 1.12, 2.2, 5.9, 5.10, 11.20, 11.21, and 12.1

Proposed: May 2, 2016, at 48 N.J.R. 695(a).

Adopted: November 28, 2016, by Elizabeth Connolly, Acting Commissioner, Department of Human Services.

Filed: January 5, 2017, as R.2017 d.022, 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. 30:1-12.

Effective Date: February 6, 2017.

Expiration Date: December 16, 2022.

Summary of Public Comments and Agency Responses:
No comments received.

Summary of Agency-Initiated Changes:

Upon further review, the Department of Human Services (Department) finds it necessary to make non-substantial changes to the rules in order to utilize person-first language. Person-first language emphasizes the person, not the disability. By placing the person first, the disability is no longer the primary, defining characteristic of an individual, but one of several aspects of the whole person. Person-first language is an objective way of acknowledging, communicating, and reporting on disabilities. It eliminates generalizations and stereotypes, by focusing on the person rather than the disability. As such, the Department is changing N.J.A.C. 10:87-2.2(a)2i from: "Any person who is too disabled to purchase or prepare his or her own food, but who has arranged to have his or her food purchased and prepared separate and apart from others ..." to "Any person who has a disability that prevents him or her from purchasing or preparing his or her own food, but who has arranged to have his or her food purchased and prepared separate and apart from others in the household ..." Additionally, the Department is changing N.J.A.C. 10:87-5.10(a)5 from: "A household comprised entirely of homeless individuals ..." to "A household comprised entirely of individuals who are homeless ..."

Federal Standards Statement

The adopted amendments contain standards that do not exceed those contained in 7 CFR Part 273; therefore, a Federal standards analysis is not required.