

<u>FEE CATEGORY</u>	<u>LICENSE TYPE</u>	<u>ANNUAL FEE (\$)</u>
	Reciprocal recognition of an out-of-State license for a period of less than 180 days.	50 percent of annual fee of applicable category, rounded to the nearest \$5.00.
17.-18.	(Reserved.)	

<u>FEE CATEGORY</u>	<u>LICENSE TYPE</u>	<u>ANNUAL FEE (\$)</u>
5.	Devices under a General License Requiring Registration	[430] 445
6.	General License Registration for Community or Non-Community Water Treatment Systems	[245] 255
7.	Diffuse NARM License	[3,040] 3,160
8.	X-ray fluorescence devices	
A.	A government body, department, agency, authority, or any other unit of any state, Federal, county, or local government using [a] an X-ray fluorescence device	[245] 255
B.	All others	[1,235] 1,285

Table 2

Schedule of Radioactive Materials Annual Fees

<u>FEE CATEGORY</u>	<u>LICENSE TYPE</u>	<u>ANNUAL FEE (\$)</u>
1.	Water Treatment Facilities as defined at N.J.A.C. 7:10-3.6	
A.	Very Small Community Water Systems	[365] 380
B.	Small Community Water Systems	[1,060] 1,100
C.	Medium Community Water Systems	[1,520] 1,580
D.	Large Community Water Systems	[3,040] 3,160
E.	Non-Transient Non-Community Water Systems treating 1,000 gallons per day or less, with accumulated activity of radium greater than or equal to 10 µCi.	[245] 255
F.	Non-Transient Non-Community Water Systems treating more than 1,000 gallons per day, with accumulated activity of radium greater than or equal to 10 µCi.	[610] 635
2.	Amendments	
A.	Request to amend a license requiring no license review including, but not limited to, facility name change or removal of a previously authorized user.	0
B.	Request to amend a license requiring review including, but not limited to, addition of isotopes, procedure changes, new authorized users, or a new radiation safety officer.	[240] 250
C.	Request to amend a license requiring technical review whether or not a site visit is also required. This includes, but is not limited to, a facility move or the addition of a process.	[470] 490
3.	Inspections	
A.	Routine	0
B.	Non-routine Reinspection	Full Cost
C.	Pre-licensing	[470] 490
D.	Reciprocity	[470] 490
E.	Inspection as a result of an incident	Full Cost
4.	Additional Use Sites (Non-contiguous)	
A.	Non-profit educational institutions	25 percent of appropriate fee
B.	Medical Private Practices	50 percent of appropriate fee

## HUMAN SERVICES

### (a)

#### DIVISION OF DEVELOPMENTAL DISABILITIES

##### Background Checks

##### Readoption with Amendments: N.J.A.C. 10:48A

##### Adopted Repeal and New Rule: N.J.A.C. 10:48A-3.7

Proposed: April 3, 2023, at 55 N.J.R. 583(a).

Adopted: July 18, 2023, by Sarah Adelman, Commissioner, Department of Human Services.

Filed: July 24, 2023, as R.2023 d.096, **without change**.

Authority: N.J.S.A. 30:6D-63 et seq.

Effective Dates: July 24, 2023, Readoption; August 21, 2023, Amendments, New Rule, and Repeal.

Expiration Date: July 24, 2030.

##### Summary of Public Comments and Agency Responses:

**The Division of Developmental Disabilities did not receive any comments.**

##### Federal Standards Statement

A Federal standards analysis is not required because the rules readopted with amendments, a new rule, and a repeal are not subject to any Federal requirements or standards.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:48A.

**Full text** of the adopted amendments and new rule follow:

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 10:48A-1.1 Purpose

The purpose of this subchapter is to establish guidelines for obtaining criminal history background checks of employees of agencies under contract with the Division of Developmental Disabilities and community care residence applicants, community care residence licensees, community care residence alternates, and community care residence household members.

##### 10:48A-1.2 Scope

Background checks shall be conducted for those employees of agencies under contract with the Division, working in such contracted programs, who have direct contact with the persons served by the agency. Such employees include, but are not limited to, consultants, interns, and seasonal employees. Background checks shall also be conducted for all community care residence applicants, community care residence licensees, community care residence alternates, and community care residence household members.

10:48A-1.3 Definitions

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

“Archive request” means an excel spreadsheet submitted electronically for a two-year Criminal History Record Information report (CHRI).

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“Community agency” means a public or private agency under contract with, or licensed by, the Department to provide services to Department individuals who have developmental disabilities.

...

“Community agency employee” means any individual, age 18 and older, who is employed by a public or private agency under contract with, or licensed by, the Department to provide services to Department individuals who have developmental disabilities, and includes all personnel who may come into direct contact with individuals who have developmental disabilities.

...

“Community care residence” means a private house or apartment in which a person 18 years or older is under contract with, or licensed by, the Department to provide individuals with developmental disabilities or persons with brain injury, with care and a level of training and supervision that is based upon the documented needs of the individuals.

“Community care residence alternate” means a person 18 years of age or older who has been selected by the applicant to provide care and supervision for individuals who require supervision at the community care residence.

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

“Community care residence household member” means a person 18 years of age or older who resides in a community care residence, but does not include the individual who is receiving services from the Department.

“Community care residence licensee” means a person who has applied for and obtained a license to operate a community care residence.

“DDD fingerprint liaison” means the staff person in the Division of Developmental Disabilities (DDD) who directs the community agency to transmit electronic requests to the live scan vendor.

“Department” means the Department of Human Services.

“DHS Coordinator” means the staff member in the Department of Human Services Employment Controls and Compliance Unit (ECCU) who advises the agency of the results of the criminal history background checks.

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SUBCHAPTER 2. ADMINISTRATION

10:48A-2.1 General standards

(a) N.J.S.A. 30:6D-63 to 72 requires that any community agency under contract with, or licensed by, the Department shall not pay or contract for any employee or agency head for the provision of services unless it has first been determined that no criminal history record information exists on file in the Federal Bureau of Investigation Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify the community agency head, or the community agency employee from such employment. N.J.S.A. 30:6D-63 through 72 also requires that a community care residence shall not be qualified to house individuals unless it has first been determined that no criminal history record information exists on file in the Federal Bureau of Investigation Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify the community care residence applicant, community care residence licensee, community care residence alternate, or community care residence household member.

(b) Fingerprints shall be taken electronically through a “live scan” process. The agency staff, community care residence applicant, community care residence licensee, community care residence alternate, or community care residence household member shall be responsible to schedule an appointment to have fingerprints taken by the current approved vendor using the information on the unique fingerprint form provided by the employer or the Division. The State Bureau of

Identification will check its own records and forward an inquiry to the Federal Bureau of Investigation.

(c) It shall be the responsibility of the community agency head, community care residence applicant, or community care residence licensee to ensure compliance with this chapter.

(d) If the criminal history record indicates a conviction for certain criminal or disorderly persons offenses, the employee shall be terminated from employment, or the community care residence shall not be qualified to house individuals unless the employee, the community care residence applicant, community care residence licensee, community care residence alternate, or community care residence household member affirmatively demonstrates to the Department, clear and convincing evidence of his or her rehabilitation.

(e) If a prospective employee, community care residence applicant, prospective community care residence alternate, or prospective community care residence household member refuses to consent to or cooperate in securing a background check, the person shall not be considered for employment, or the community care residence shall not be qualified to house individuals.

(f) If a current employee refuses to consent to or cooperate in securing fingerprints for the purpose of a background check, the person shall be immediately removed from his or her position and the person’s employment shall be terminated. If a community care residence licensee, community care residence alternate, or community care residence household member refuses to consent to or cooperate in securing fingerprints for the purpose of a background check, the community care residence shall not be qualified to house individuals.

(g) A background check shall be conducted at least once every two years through the electronic submission of an archive request. An archive request shall be submitted by the community agency electronically to the DDD fingerprint liaison to be forwarded to the live scan vendor. The Department shall submit the archive request for a community care residence. The CHRI result will be forwarded to the DHS Coordinator for distribution to the requesting community agency or to the community care residence.

(h) The community agency head and all employees who may come in contact with persons served by the agency, shall submit their fingerprints prior to employment to the Department of Human Services office, as directed by the Division. A community care residence applicant, community care residence licensee, community care residence alternate, or community care residence household member shall submit their fingerprints to the Department, as directed by the Division.

(i) If the background check of the community agency head, community care residence applicant, or community care residence licensee reveals a criminal record as identified below, the Department shall determine within 60 days, if the community agency head, community care residence applicant, or community care residence licensee has been rehabilitated in accordance with N.J.A.C. 10:48A-3.4.

(j) The community agency head shall ensure that each employee who may come in contact with persons served by the agency shall be fingerprinted in accordance with the procedures in this chapter. The community care residence applicant or community care residence licensee shall ensure that each community care residence alternate or community care residence household member shall be fingerprinted in accordance with the procedures set forth in this chapter.

(k) All employees, community care residence applicants, community care residence licensees, community care residence alternates, and community care residence household members shall sign a written consent to the criminal background check (refer to the chapter Appendix, incorporated herein by reference) prior to the time the fingerprints are taken. This consent shall remain on file in the agency or community care residence.

(l) Individuals shall be disqualified for employment and community care residences shall be disqualified from housing individuals if any employee, any community care residence applicant, community care residence licensee, community care residence alternate, or community care residence household member has been convicted of any of the following crimes or disorderly persons offenses in New Jersey:

- 1.-4. (No change.)

## SUBCHAPTER 3. PROCEDURES

## 10:48A-3.1 Fingerprints

(a) Prior to employment, the community agency head or employee shall make an appointment to have his or her fingerprints taken through the live scan process with an agent designated by the Department of Human Services.

(b) At the time the fingerprints are taken, the employee, community care residence applicant, community care residence licensee, community care residence alternate, or community care residence household member is required to:

1. Complete the Certification and Permission for Background Check and Release of Information (see N.J.A.C. 10:48A Appendix ), which will be witnessed by a representative of the community agency, in the case of an agency head or employee. The community agency or community care residence shall retain the consent with the employee's personnel information or in the community care residence, as applicable. The Division shall retain the agency head consent;

2. (No change.)

3. Return the receipt to the community agency head, or designee, or the community care residence applicant or community care residence licensee; and

4. If the prints are rejected by the State Police or FBI as unclassifiable, make an appointment to be reprinted within 10 days of notification that the prints are rejected.

(c) After the fingerprint results are received:

1. The DHS Coordinator shall review the results and determine what may be released to the agency or community care residence;

2. No later than 14 days from receipt of the results, the Department shall make a determination regarding the qualification or disqualification of the individual and shall notify the individual and the community agency or the community care residence in writing. If the individual is disqualified, the conviction(s), which constitutes the basis for the disqualification, shall be identified in the written notice. The written notice may be transmitted electronically, if the individual authorized the Department to transmit the information electronically;

3. The Department's determination of qualification shall not require the community agency to employ the individual, or the community care residence to utilize the individual as a community care residence alternate. The Department's determination of disqualification shall require the community agency to terminate or not offer employment to the individual. The community care residence shall not be qualified to house individuals if the Department has determined that the community care residence applicant, community care residence licensee, community care residence alternate, or community care residence household member is disqualified;

4. If the fingerprints are rejected twice, the State Police shall check the name, date of birth, and Social Security number and forward the results to the DHS Coordinator. The Department of Human Services will, at the same time, request a similar search by the FBI on all prints rejected twice; and

5. In the case of a community agency head, the DHS Coordinator shall convey, in writing, the results of the review to the Assistant Commissioner of the Division of Developmental Disabilities. The Assistant Commissioner will advise the board president in writing.

## 10:48A-3.2 Background checks

(a) The DHS Coordinator shall assign each community agency or community care residence an identification number.

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

## 10:48A-3.3 New employees

(a) Prior to employment, the employee shall be responsible to make an appointment to have his or her fingerprints taken.

(b) (No change.)

(c) If the new employee indicates that he or she has been convicted of a crime or disorderly person offense(s) as described in this chapter, he or she may not be employed unless the Department determines that the applicant has affirmatively demonstrated clear and convincing evidence of his or her rehabilitation in accordance with N.J.A.C. 10:48A-3.4.

(d) (No change.)

## 10:48A-3.4 Rehabilitation

(a) No individual shall be disqualified from employment, and no community care residence shall be disqualified from housing individuals, on the basis of any conviction if the individual, community care residence applicant, community care residence licensee, community care residence alternate, or community care residence household member has affirmatively demonstrated to the Department, clear and convincing evidence of his or her rehabilitation.

(b) (No change.)

(c) A conviction of a crime or disorderly persons offense against children, as set forth at N.J.S.A. 2C:24-4, permanently disqualifies an individual from employment at a community agency that involves or would involve working directly with a person under 18 years of age, and from being a community care resident applicant, community care licensee, community care alternate, or community care household member.

(d) The individual shall have no longer than 14 days from the date of the written notice of disqualification sent pursuant to N.J.A.C. 10:48A-3.1(c) to provide evidence of rehabilitation to the Department.

(e) The Department shall have no longer than 60 days from the date of receipt of evidence of the individual's rehabilitation to make a determination on the individual's qualification. The Department shall notify the individual and the community agency or community care residence, in writing, of the determination no longer than 60 days from the date of receipt of the evidence. The written notice may be transmitted electronically, if the individual authorizes the Department to transmit the information electronically.

## 10:48A-3.5 Subsequent offenses

(a) All employees, community care residence alternates, and community care residence household members shall be advised, in writing, that they are responsible to notify the community agency head or community care residence licensee of any criminal charges related to the offenses listed in this chapter subsequent to the background check.

(b) In the case of the community agency head or community care residence licensee, he or she shall be responsible to notify the Assistant Commissioner and the community agency board, if applicable, in writing, of any criminal charges subsequent to the background check.

(c) The State Police will notify the Department in the event an individual who was the subject of a criminal history background check is arrested or convicted of a crime or offense in New Jersey after the date that the criminal history background check was performed. The Department shall advise the community agency head or community care residence licensee regarding the individual's subsequent arrest or conviction. If the community agency head or community care residence licensee is subsequently arrested or convicted, the DHS Coordinator shall notify the Assistant Commissioner. The Assistant Commissioner will then notify the community agency board, if applicable.

(d) A background check shall be conducted at least once every two years through the electronic submission of an archive request. An archive request shall be submitted by the community agency electronically to the DDD fingerprint liaison to be forwarded to the live scan vendor. The Department shall submit archive requests for community care residences. The CHRI result will be forwarded to the DHS Coordinator for distribution to the requesting community agency or to the community care residence. The Department may determine an alternative means to identify an individual who has been convicted of an offense covered in this procedure. This may include, but not be limited to, a match of a person's Social Security number or other identifying information.

## 10:48A-3.6 Monitoring

(a) Annually, all community agencies shall certify, in writing, to the Assistant Commissioner that they are in full compliance with N.J.S.A. 30:6D-63 through 72 regarding background checks for community provider agencies.

(b) The community agency shall develop written policies regarding background checks.

(c) All community agency or community care residence licensee's records regarding criminal history background checks shall be available for review by Department and Division staff to ensure compliance with this procedure.

10:48A-3.7 Appeals

An individual may petition for a hearing on the accuracy of the criminal history record information with the appropriate State or Federal agency or court.

APPENDIX

CERTIFICATION AND PERMISSION FOR BACKGROUND CHECK AND RELEASE OF INFORMATION

I hereby authorize the Department of Human Services to conduct a criminal history background check and I agree to be fingerprinted in order to complete the State and Federal background check process. I further authorize the release of all information regarding the results of my background check to the Department of Human Services. Check one of the options listed below.

Option 1 I hereby certify under penalties of perjury, that I have not been convicted of any of the offenses listed below and no such record exists in the State Bureau of Identification in the Division of State Police or in the Federal Bureau of Investigation, Identification Division.

Option 2 I hereby affirm that I have been convicted of the following offense listed below on (date)

If I have checked Option 2 or the criminal history background check reveals any conviction(s) for the offenses listed below, I understand that I may be subject to termination from employment, or if I am associated with a community care residence, the residence will not be qualified to house individuals.

FOR PROVISIONAL EMPLOYEES ONLY: As a provisional employee, I further understand that I may be employed by the agency for a period not to exceed six months during which time a background check will be completed. I understand that I will work under the supervision of a superior where possible.

Offenses covered under P.L. 1999, c.358:

In New Jersey, any crime or disorderly person offense:

—involving danger to the person as set forth in N.J.S.A. 2C:11-1 et seq. through 2C:15-1 et seq. including the following:

- 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
xiii. Robbery

—against the children or incompetents as set forth in N.J.S.A. 2C:24-1 et seq. including the following:

- i. Endangering the welfare of a child
ii. Endangering the welfare of an incompetent person
—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. 2C:24-1 et seq.

—in any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described above.

FOR COMMUNITY AGENCY HEAD: I understand the results of this background check will be reported to the President of the Board of my agency.

PLEASE LIST THE NAME AND HOME OR BUSINESS ADDRESS OF THE BOARD PRESIDENT.

Three horizontal lines for listing the name and address of the board president.

Signature lines for Name (please print), Signature, Date, Witnessed by (please print), Witness Signature, and Date.

(a)

COMMISSIONER'S OFFICE
Notice of Readoption
Contract Administration

Readoption: N.J.A.C. 10:3

Authority: N.J.S.A. 30:1-12 et seq.

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

Effective Date: July 24, 2023.

New Expiration Date: July 24, 2030.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 10:3 were scheduled to expire on October 25, 2023. This chapter contains the rules of the Department of Human Services (Department) regarding contract administration.

The chapter is comprised of four subchapters, which are summarized below.

Subchapter 1, Debarment, Suspension, and Disqualification of Person(s), includes definitions of relevant terms referenced throughout the subchapter, such as: affiliates, debarment, DHS contracting, disqualification, person, and suspension. The subchapter also provides the processes causes, conditions, requirements, and lists for debarments, suspensions, and disqualifications. The subchapter addresses the requirements for prior notice and appeals. Lastly, the subchapter states the authority to contract, the impact upon existing rules, and conflict of interest.

Subchapter 2, Capital Funding Program and Funding Agreement, provides guidance for three types of standard contract/agreements that have been developed to consolidate division-specific contracts/agreements. First, the subchapter addresses the Standard Contract/Agreement for Construction, Purchase, or Purchase and Renovation of Community-Based Facilities. Second, the subchapter addresses the Standard Contract/Agreement for Agency-Owned or Leased Community Facilities. Lastly, this subchapter addresses the Funding Agreement for Community-Based Facility Planning and Design Services document to be used by all divisions.

Subchapter 3, Request for Proposal, provides the purpose and scope, defines terms used throughout the subchapter, and addresses the requirements for the request for proposal (RFP). The subchapter provides the circumstances in which services may be obtained through sole sourcing when there are no or only one response to an RFP. Internal controls for proposals, funding proposal requirements, the composition of the RFP review panel, how proposals and applicants are evaluated, the notification of selection requirements, the retention requirements for RFP documents, contract negotiations, and a description of the exceptions that may be allowed in the RFP process are all included in this subchapter. Appendices A, B, C, and D provide an addendum, statement of assurances, a privatization participation disclosure form, and a certification that have been used by the Department.

Subchapter 4 is reserved.

While the Department is readopting these rules, it recognizes that further rulemaking may be necessary to update these rules to reflect current practices. Thus, the Department will continue to review the rules and may consider making substantive amendments prior to the next scheduled expiration. The Department has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required pursuant to Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 52:14B-