

SUBCHAPTER 13J – THE LICENSING OF HOME CARE AGENCIES

SECTION .0100 – RESERVED FOR FUTURE CODIFICATION

10A NCAC 13J .0100 RESERVED FOR FUTURE CODIFICATION

SECTION .0200 – RESERVED FOR FUTURE CODIFICATION

10A NCAC 13J .0200 RESERVED FOR FUTURE CODIFICATION

SECTION .0300 – RESERVED FOR FUTURE CODIFICATION

10A NCAC 13J .0300 RESERVED FOR FUTURE CODIFICATION

SECTION .0400 – RESERVED FOR FUTURE CODIFICATION

10A NCAC 13J .0400 RESERVED FOR FUTURE CODIFICATION

SECTION .0500 – RESERVED FOR FUTURE CODIFICATION

10A NCAC 13J .0500 RESERVED FOR FUTURE CODIFICATION

SECTION .0600 – RESERVED FOR FUTURE CODIFICATION

10A NCAC 13J .0600 RESERVED FOR FUTURE CODIFICATION

SECTION .0700 – RESERVED FOR FUTURE CODIFICATION

10A NCAC 13J .0700 RESERVED FOR FUTURE CODIFICATION

SECTION .0800 – RESERVED FOR FUTURE CODIFICATION

10A NCAC 13J .0800 RESERVED FOR FUTURE CODIFICATION

SECTION .0900 - GENERAL

10A NCAC 13J .0901 DEFINITIONS

Terms used in this Subchapter have the meanings as defined in G.S. 131E-136 and as follows:

- (1) "Activities of Daily Living" (ADL) means mobility, eating, bathing, dressing, and toileting.
- (2) "Agency" means a home care agency.
- (3) "Agency director" means the person having administrative responsibility for the operation of the agency.
- (4) "Client" means as defined in G.S. 131E-136 (2b).
- (5) "Clinical respiratory services" means the provision of respiratory equipment and services that involve the assessment of a client's pulmonary status, monitoring of a client's response to therapy, and reporting to the client's physician. Procedures include: oximetry, blood gases, delivery of medication via aerosolization, management of ventilatory support equipment, pulmonary function testing, and infant monitoring.
- (6) "Department" means the North Carolina Department of Health and Human Services.
- (7) "Extensive Assistance" means a client is totally dependent or requires hands on assistance more than half the time while performing part of an activity, and meets one of the following criteria:
 - (a) requires extensive assistance in more than two activities of daily living (ADLs), as defined in Item (1) of this Rule;
 - (b) needs an in-home aide to perform at least one task at the nurse aide II level; or
 - (c) requires extensive assistance in more than one ADL and has a medical or cognitive impairment as defined in Item (19) of this Rule.

- (8) "Follow-up care" means services provided to a licensed hospital's discharged client in their home by a hospital's employees. No services shall exceed three visits in any two month period and shall not extend beyond a 12 month period following discharge, except pulmonary care, pulmonary rehabilitation, or ventilator services.
- (9) "Governing body" means the person or group of persons having legal authority for the operation of the agency.
- (10) "Hands-on care" means any home care service that involves touching the patient in order to implement the patient's plan of care.
- (11) "Health care practitioner" means as defined in G.S. 90-640(a).
- (12) "Infusion nursing services" means those services related to the administration of pharmaceutical agents into a body organ or cavity. Routes of administration include sub-cutaneous intravenous, intraspinal, epidural, or intrathecal infusion. Administration shall be by or under the supervision of a registered nurse in accordance with their legal scope of practice.
- (13) "In-home aide services" are hands-on services that assist individuals, their family, or both with home management tasks, personal care tasks, or supervision of the client's activities to enable the individual, their family, or both to remain and function at home.
- (14) "In-home caregiver" means any individual who provides home care services as enumerated in G.S. 131E-136.
- (15) "Instrumental Activities of Daily Living" (IADL) means meal preparation, housekeeping, medication reminders, shopping, errands, transportation, money management, phone use, reading, and writing.
- (16) "Licensed Clinical Social Worker" means as defined in G.S. 90B-3(6a).
- (17) "Licensed practical nurse" means as defined in G.S. 90-171.30 or G.S. 90-171.32.
- (18) "Limited Assistance" means care to a client who requires hands-on care involving guided maneuvering of limbs with eating, toileting, bathing, dressing, personal hygiene, self-monitoring of medications, or other tasks assigned that require hands on assistance half the time or less during the activity and does not meet the definition of extensive assistance.
- (19) "Medical or cognitive impairment" means a diagnosis and client assessment that documents at least one of the following:
 - (a) pain that is present more than half the time that interferes with an individual's activity or movement;
 - (b) dyspneic or short of breath with minimal exertion during the performance of ADLs and requires continuous use of oxygen; or
 - (c) individual is not alert and oriented or is unable to shift attention and recall directions more than half the time.
- (20) "Nursing registry" means a person or organization that maintains a list of nurses, in-home aides, or both that is made available to persons seeking nursing care or in-home aide service, but does not collect a placement fee from the worker or client, coordinate the delivery of services, or supervise or control the provision of services.
- (21) "Nursing services" means professional services provided by a registered nurse or a licensed practical nurse under the supervision of a registered nurse.
- (22) "Occupational therapist" means as defined in G.S. 90-270.67(2) or G.S. 90-270.72.
- (23) "Occupational therapist assistant" means as defined in G.S. 90-270.67(3) or G.S. 90-270.72.
- (24) "Occupational therapy" means as defined in G.S. 90-270.67(4).
- (25) "On-call services" means unscheduled home care services made available to clients on a 24-hour basis.
- (26) "Personal care" means assistance to an individual with ADL and medical monitoring.
- (27) "Physical therapist" means as defined in G.S. 90-270-24(2), G.S. 90-270-30, or G.S. 90-270-31(b).
- (28) "Physical therapist assistant" means as defined in G.S. 90-270.24(3) or G.S. 90-270-31(b).
- (29) "Physical therapy" means as defined in G.S. 90-270.24(4).
- (30) "Physician" means as defined in G.S.90-9.1 or G.S. 90-9.2.
- (31) "Plan of care" means the written description of the authorized home care services and tasks to be provided to a client.
- (32) "Practice of respiratory care" means as defined in G.S.90-648(10).
- (33) "Premises" means the location or licensed site that the agency provides home care services or maintains client service records or advertises itself as a home care agency.

- (34) "Qualified" means suitable for employment as a consequence of having met the standards of education, experience, licensure, or certification established in the applicable job description created and adopted by the agency.
- (35) "Registered nurse" means as defined in G.S. 90-171.30 or G.S. 90.171.32.
- (36) "Respiratory care practitioner" means as defined in G.S. 90-648(12).
- (37) "Scope of services" means those specific services provided by a licensed agency as listed on their home care license.
- (38) "Survey" means an inspection by the Division of Health Service Regulation in order to assess the compliance of agencies with the home care licensure rules.
- (39) "Social worker" means as defined in G.S. 90B-3(8).
- (40) "Speech and language pathologist" means as defined in G.S. 90-293(5).
- (41) "Skilled Services" means all home care services enumerated in G.S. 131E-136(3) with the exception of in-home aide services.
- (42) "The practice of speech and language pathology" means as defined in G.S. 90-293(7).

History Note: Authority G.S. 131E-136; 131E-140;
 Eff. July 1, 1992;
 RRC Objection due to lack of statutory authority Eff. November 16, 1995;
 Amended Eff. January 1, 2010; February 1, 1996;
 Readopted Eff. June 1, 2018.

10A NCAC 13J .0902 LICENSE

Each agency premises shall obtain a license unless exempted by G.S. 131E-136(3).

History Note: Authority G.S. 131E-140;
 Eff. July 1, 1992;
 Amended Eff. February 1, 1996;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .0903 APPLICATION FOR AND ISSUANCE OF LICENSE

- (a) An application for the operation of an agency premises shall be submitted to the Department prior to the scheduling of an initial licensure survey or the issuance of a license. The agency shall establish, maintain and make available for inspection such documents, records and policies as required in this Section and statistical data sufficient to complete the licensure application and upon request of the Department, to submit an annual data report, as noted in Rule .1002(b) of this Subchapter. If the applicant cannot demonstrate to the Division of Health Service Regulation that he or she has ever owned or operated a home care agency prior to submission of the application, the Division shall not issue a license until the applicant has received training approved by the Division which shall include the requirements for licensure, the licensure process, and the rules pertaining to the operation of a home care agency.
- (b) The Department shall issue a license to each agency premises. Initial and ongoing licensure inspections may include all premises of an agency. Licensure shall be for a period of one year. Each license shall expire at midnight on the expiration date on the license and is renewable upon application.
- (c) The license shall be posted in a prominent location accessible to public view within the premises. The agency shall also post a sign at the public access door with the agency name.
- (d) The license shall be issued for the premises and persons named in the application and shall not be transferable. The name and street address under which the agency operates shall appear on the license. The license shall reflect the services provided by the agency.
- (e) Prior to change of ownership or the establishment of a new agency, the agency must be in compliance with all the applicable statutes and rules. If the agency is authorized to provide Medicare certified Home Health Services, it shall also be in compliance with statutes and rules established under G.S. 131E, Article 9.
- (f) The licensee shall notify the Department in writing of any proposed change in ownership or name at least 30 days prior to the effective date of the change.
- (g) Any agency adding a new service category as outlined in G.S. 131E-136(3)(a) through (f) shall notify the Department in writing at least 30 days prior to the provision of that service to any clients. The Department shall approve the added service upon determining the agency is in compliance with the rules specific to the service being provided as contained in Section .1100 of this Subchapter.

(h) An agency shall notify the Department in writing if it discontinues or is unable to provide for a period of six continuous months any service category as outlined in G.S. 131E-136(3)(a) through (f) that is listed on the agency's license.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996; May 1, 1993;
Temporary Amendment Eff. April 1, 2006;
Amended Eff. November 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .0904 INSPECTIONS

(a) Any agency licensed by the Department shall be subject to proper inspections by authorized representatives of the Department at any time as a condition of holding such license.

(b) Any organization subject to licensure which presents itself to the public as a home care agency, which does not hold a license, and is or may be in violation of Rule .0902 of this Section and G.S. 131E-138 shall be subject to inspections at any time by authorized representatives of the Department.

(c) Authorized representatives of the Department shall make their identities known to the person in charge prior to inspection.

(d) Inspection of service records shall be carried out in accordance with G.S. 131E-141(b).

(e) An inspection shall be considered proper whenever the purpose of the inspection is to determine whether the agency complies with the provisions of this Subchapter or whenever there is reason to believe that some condition exists which is not in compliance with the rules in this Subchapter. The agency shall allow immediate access to its premises and the records necessary to conduct an inspection and determine compliance with the rules of this Subchapter. Failure to do so shall result in termination of the survey and may result in injunctive relief as outlined in G.S. 131E-142(b).

(f) An agency shall file a plan of correction for cited deficiencies within 10 working days of receipt. The Department shall review and respond to a written plan of correction within 10 working days of receipt.

(g) Representatives of the Department may visit clients in their homes to assess the agency's compliance with the clients' plans of care and with the licensure rules. Clients will be contacted by the agency staff in the presence of Department staff for permission to visit.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .0905 MULTIPLE PREMISES

If a person operates multiple agency premises:

- (1) the Department may conduct inspections at any or all of the premises and may issue a license to each of the premises based upon a sample inspection of any of the premises;
- (2) with 72 hours advance notice, the Department may request records from any of the premises necessary to ensure compliance with the rules of this Subchapter be brought to the site being inspected, including the portions of personnel records subject to review. For agencies for whom a business or government policy precludes the disclosure of employee evaluations, a statement signed by the employee's supervisor attesting to its completion shall be accepted.
- (3) the premises may share hands-on care staff or administrative staff, and may centralize the maintenance of records.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .0906 COMPLIANCE WITH LAWS

(a) The agency shall be in compliance with all applicable federal, state, and local laws, rules, and regulations including Title XI Part A Section 1128B of the Social Security Act - Criminal penalties for acts involving Federal health care programs. A

failure to comply with Federal law may subject the agency to civil or criminal penalties as set forth in 42 U.S.C. §1320a-7a - Making or causing to be made false statements or representations - and 42 U.S.C. §1320a-7b - Illegal remunerations.

(b) Staff of the agency shall be currently licensed or registered in accordance with applicable laws of the State of North Carolina.

(c) Nothing in this Rule shall prohibit the Department from conducting inspections as provided for in Rule .0904 of this Section.

(d) Any agency deemed to be in compliance by virtue of accreditation by one of the specified accrediting bodies listed in G.S. 131E-138(g) shall submit to the Department a copy of its accreditation report within 30 days after the agency receives its report each time it is surveyed by the accrediting body. The agency shall notify the Department of any action taken that affects its accreditation status, either temporarily or permanently. The Department may conduct annual validation surveys to assure compliance.

History Note: Authority G.S. 131E-138; 131E-140;

Eff. July 1, 1992;

Amended Eff. October 1, 2006; February 1, 1996;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .0907 ADVERSE ACTION

(a) An agency may appeal any adverse decision made by the Department concerning its license by making such appeal in accordance with the Administrative Procedure Act, G.S. 150B and departmental rules 10A NCAC 01 et seq.

(b) The Department may amend a license by reducing it from a full license to a provisional license whenever the Department finds that:

- (1) the licensee has substantially failed to comply with the provisions of G.S. 131E, Part C of Article 6 and the rules promulgated under that Part; and
- (2) there is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and
- (3) there is a reasonable probability that the licensee will be able thereafter to remain in compliance with the home care licensure rules for the foreseeable future.

The Department shall give the licensee written notice of the amendment of its license. This notice shall be given by registered or certified mail or by personal service and shall set forth the reasons for the action.

(c) The provisional license shall be effective immediately upon its receipt by the licensee and must be posted in a prominent location, accessible to public view, within the licensed premises in lieu of the full license. The provisional license shall remain in effect until:

- (1) the Department restores the licensee to full licensure status; or
- (2) the Department revokes the licensee's license; or
- (3) the end of the licensee's licensure year. If a licensee has a provisional license at the time that the licensee submits a renewal application, the license, if renewed, shall also be a provisional license unless the Department determines that the licensee can be returned to full license status. A decision to issue a provisional license is stayed during the pendency of an administrative appeal and the licensee may continue to display its full license during the appeal.

(d) The Department may revoke a license whenever:

- (1) The Department finds that:
 - (A) the licensee has substantially failed to comply with the provisions of G.S. 131E, Part C of Article 6 and the rules promulgated under those parts; and
 - (B) it is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or
- (2) The Department finds that:
 - (A) the licensee has substantially failed to comply with the provisions of G.S. 131E, Part C of Article 6; and
 - (B) although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with the home care licensure rules for the foreseeable future; or
- (3) The Department finds that there has been any failure to comply with the provisions of G.S. 131E, Part C of Article 6 and the rules promulgated under those parts that endangers the health, safety or welfare of the clients receiving services from the agency.

The issuance of a provisional license is not a procedural prerequisite to the revocation of a license pursuant to Subparagraphs (d)(1)(2) and (3) of this Rule.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

SECTION .1000 - ADMINISTRATION

10A NCAC 13J .1001 AGENCY MANAGEMENT AND SUPERVISION

(a) The governing body or its designee shall establish and implement written policies governing agency operation. Such policies shall be available for inspection by the Department. The policies shall include:

- (1) a description of the scope of services offered;
- (2) admission and discharge policies;
- (3) supervision of personnel;
- (4) development of, and updates to, the plan of care;
- (5) management of emergency care situations in the home;
- (6) time frame for completion and return of service records to the agency;
- (7) personnel qualifications;
- (8) an organizational chart;
- (9) program evaluation;
- (10) employee and client confidentiality; and
- (11) coordination of and referral to and from other community agencies and resources.

(b) The agency shall designate an individual to serve as agency director. The agency director shall have the authority and responsibility for administrative direction of the agency and shall meet one or more of the following qualifications:

- (1) a health care practitioner as defined in G.S. 90-640(a);
- (2) an individual who has at least two years of supervisory or management experience in home care or any other provider licensed pursuant to G.S. 131E or G.S. 122C; or
- (3) an individual who holds a bachelor's degree in health, business or public administration science and has at least one year of supervisory or management experience in home care or other licensed health care program.

Such qualifications do not apply with respect to persons acting in the capacity of agency director prior to October 1, 2006.

(c) The agency shall designate a person responsible for supervising each type of home care service contained in Section .1100 of this Subchapter that is provided by the agency either directly or by contract. This individual may be the supervisor for one or more home care services and may also serve as the agency director.

(d) There shall be written documentation that specifies the responsibilities and authority of the agency director and supervisor.

(e) If the position of agency director becomes vacant, the Department shall be notified within five working days in writing of such vacancy along with the name of the replacement, if available. Agency policies shall define the order of authority in the absence of the administrator.

(f) The agency shall have the ultimate responsibility for the services provided under its license; however, it may make arrangements with contractors and others to provide services in accordance with Rule .1111 of this Subchapter.

(g) An agency shall have written policies which identify the specific geographic area in which the agency provides each service. If an agency plans to expand its geographic service area without opening an additional site, the Department shall be notified in writing 30 days in advance.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. October 1, 2006; February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1002 ADMINISTRATIVE, FINANCIAL AND STATISTICAL RECORDS

(a) The agency shall establish, maintain and make available for inspection the home care annual budget.

(b) The agency shall record, maintain and make available as requested to the Department statistical records. The records shall include the following:

- (1) Number of home care staff, and their full-time equivalents including administrative, clerical, professional and paraprofessional and their total number of units of services;
- (2) Client demographics, including county of residence and age;
- (3) Number of units of service by applicable service category; and
- (4) Total charges and number of visits by payor source (for Medicare certified agencies).

(c) Records shall be retained for a period of not less than three years.

(d) When an agency operates as a part of a health care facility licensed under Article 5 or 6 of G.S. 131E, or as a part of a larger diversified agency, records of home care activities and expenditures that are separate and identifiable shall be maintained for the agency.

History Note: Authority G.S. 131E-140;

Eff. July 1, 1992;

Amended Eff. February 1, 1996;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1003 PERSONNEL

(a) Written policies shall be established and implemented by the agency regarding infection control and exposure to communicable diseases consistent with Subchapter 19A of Title 15A, North Carolina Administrative Code. These policies shall include provisions for compliance with 29 CFR 1910 (Occupational Safety and Health Standards) which is incorporated by reference including subsequent amendments. Copies of Title 29 Part 1910 can be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 or by calling Washington, D.C. (202) 512-1800. The cost is twenty-one dollars (\$21.00) and may be purchased with a credit card.

(b) Hands-on care employees must have a baseline skin test for TB. Individuals who test positive must demonstrate noninfectious status prior to assignment in a client's home. Individuals who have previously tested positive to the TB skin test shall obtain a baseline and subsequent annual verification that they are free of TB symptoms. This verification shall be obtained from the local health department, a private physician or health nurse employed by the agency. The Tuberculosis Control Branch of the North Carolina Department of Health and Human Services, Division of Public Health, 1902 Mail Service Center, Raleigh, NC 27699-1902 shall provide, free of charge, guidelines for conducting verification and Form DHHS 3405 (Record of Tuberculosis Screening). Employees identified by agency risk assessment, to be at risk for exposure shall be subsequently tested at intervals prescribed by OSHA standards.

(c) The agency shall not hire any individual either directly or by contract who has a substantiated finding on the North Carolina Health Care Personnel Registry in accordance with G.S. 131E-256(a)(1).

(d) Written policies shall be established and implemented which include personnel record content, orientation and in-service education. Records on the subject of in-service education and attendance shall be maintained by the agency and retained as set out in Paragraph (f) of this Rule.

(e) Job descriptions for every position shall be established in writing which include qualifications and specific responsibilities. Individuals shall be assigned only to duties for which they are trained and competent to perform and when applicable for which they are licensed.

(f) Personnel records shall be established and maintained for each home care employee. When requested, the records shall be available on the agency premises for inspection by the Department. These records shall be maintained for at least one year after termination from agency employment. The records shall include the following:

- (1) an application or resume which lists education, training and previous employment that can be verified, including job title;
- (2) a job description with record of acknowledgment by the employee;
- (3) reference checks or verification of previous employment;
- (4) records of tuberculosis screening for employees for whom the test is necessary as described in Paragraph (a) of this Rule;
- (5) documentation of Hepatitis B immunization or declination for hands-on care employees in accordance with the agency's exposure control plan;
- (6) airborne and bloodborne pathogen training for hands on care employees, including annual updates, in compliance with 29 CFR 1910 and in accordance with the agency's exposure control plan;
- (7) performance evaluations according to agency policy and at least annually. These evaluations may be confidential pursuant to Rule .0905 of this Subchapter;

- (8) verification of employees' credentials as applicable; and
- (9) records of the verification of competencies by agency supervisory personnel of all skills required of home care services personnel to carry out client care tasks to which the employee is assigned. The method of verification shall be defined in agency policy.

(g) For in-home aides not listed on the nurse aide registry, personnel records shall include verification of core competencies by a registered nurse that includes the following core personal care skills for in-home aides hired after April 1, 2009:

- (1) Assisting with Mobility including ambulation, transfers and bed mobility;
- (2) Assisting with Bath/Shower;
- (3) Assisting with Toileting;
- (4) Assisting with Dressing;
- (5) Assisting with Eating; and
- (6) Assisting with continence needs.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996; June 1, 1994;
Temporary Amendment Eff. April 1, 2006;
Amended Eff. January 1, 2010; October 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1004 EVALUATION

(a) The agency's governing body or its designee shall annually conduct a comprehensive evaluation of the agency's total operation.

(b) The evaluation shall review the quality of the agency's services with findings used to verify policy implementation, to identify problems, and to establish problem resolution and policy revision as necessary.

(c) The evaluation shall consist of a policy and administration review, including the scope of services offered, arrangements for services with other agencies or individuals, admission and discharge policies, supervision and plan of care, emergency care, service records, personnel qualifications, and program evaluation. Data to be assessed shall include the following:

- (1) number of clients receiving each service;
- (2) number of visits or hours for each service;
- (3) client outcomes;
- (4) adequacy of staff to meet client needs;
- (5) numbers and reasons for nonacceptance of clients; and
- (6) reasons for discharge.

(d) The agency's governing body or its designee shall evaluate the agency's client records every 90 days. The evaluation shall include a review of sample active and closed client records to ensure that agency policies are followed in providing services, both direct and under contract, and to assure the quality of service meets the client's needs. The review shall consist of a representative sample of all home care services provided by the agency.

(e) Documentation of the evaluation shall include the names and qualifications of the persons carrying out the evaluation, the criteria and methods used to accomplish it, and any action taken by the agency as a result of its findings.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Readopted Eff. June 1, 2018.*

10A NCAC 13J .1005 HOSPICE CARE

(a) If an agency offers or provides a hospice program of care, such services shall be in compliance with all provisions of 10A NCAC 13K (Hospice Licensing Rules), with the exception of rules requiring a separate hospice license.

(b) A hospice shall be eligible for a home care license if it meets the requirements of 10A NCAC 13J and meets the standards for the specific home care services offered. The extent of the licensure review shall be at the discretion of the Department.

(c) If an agency that operates a hospice, a hospice inpatient facility, or a hospice residential care facility, under its home care license, substantially fails to comply with the provisions of Article 10 of G.S. 131E or of 10A NCAC 13J, the Department

may amend the agency's home care license by revoking the agency's right to operate a hospice, a hospice inpatient facility, or a hospice residential care facility, or offer hospice services under its home care license.

History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1006 NURSING POOL

(a) If an agency offers or provides a nursing pool, and does not wish to obtain a separate license for its nursing pool, such services shall be in compliance with all provisions of 10A NCAC 13L (Nursing Pool Licensing Rules).

(b) If an agency that operates a nursing pool under its home care license substantially fails to comply with the provisions of Part E of Article 6 of G.S. 131E or of 10A NCAC 13L, the Department may amend the agency's home care license by revoking the agency's right to operate a nursing pool under its home care license.

History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1007 CLIENT RIGHTS AND RESPONSIBILITIES

(a) An agency shall provide each client with a written notice of the client's rights and responsibilities in advance of furnishing care to the client or during the initial evaluation visit before the initiation of services. The agency shall maintain documentation showing that all clients have been informed of their rights and responsibilities as set forth in G.S. 131E-144.3.

(b) An agency shall provide notice to clients as set forth in G.S. 131E-144.4. The Division of Health Service Regulation shall investigate all allegations of non-compliance with rules of this Subchapter.

(c) An agency shall comply with G.S. 131E-144.6(b).

History Note: Authority G.S. 131E-140; 131E-144.3;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Readopted Eff. June 1, 2018.

SECTION .1100 - SCOPE OF SERVICES

10A NCAC 13J .1101 ACCEPTANCE OF CLIENTS FOR SERVICE PROVISION

Within the scope of services provided, the agency shall develop and implement written policies governing the acceptance of clients and client services. These policies and procedures shall include the following:

- (1) adequacy and suitability of agency personnel and resources to provide the services required by the client and information on resources available to cover staff absence;
- (2) reasonable expectation that the client's need for requested services can be met adequately at home by the agency;
- (3) adequate physical facilities in the client's home for their plan of care;
- (4) availability or absence of family or substitute family member able and willing to participate in the client's care when necessary to ensure the safety of the client;
- (5) information on the scope of services provided and the geographic area served with each service;
- (6) notification to the referral source when one or more needed and requested services (including assessment) cannot be provided to a specific client within a time frame requested by the referral source and established by agency policy;
- (7) advance notification of at least 48 hours to the client or responsible party when service provision is to be reduced or terminated, except in cases where the client is in agreement with changes, there is a danger to a client or staff member, or the physician terminates services; and
- (8) referral to and coordination with other appropriate agencies when the agency is unable to respond to a request for service promptly, or to continue to provide service.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1102 NURSING SERVICES AND DUTIES

(a) If an agency provides nursing services, those services shall be provided by or under the supervision of a registered nurse and in accordance with the North Carolina Nursing Practice Act, G.S. Chapter 90, Article 9A, and the client's plan of care shall include the following as a minimum:

- (1) regularly assess the nursing needs of the client;
- (2) develop and implement the client's nursing plan of care;
- (3) provide nursing services, treatment, and diagnostic and preventive procedures;
- (4) initiate preventive and rehabilitative nursing procedures appropriate for the client's care and safety;
- (5) observe signs and symptoms and report to the physician any reaction to treatment, drugs, or changes in the client's physical or emotional condition;
- (6) teach, supervise, and counsel the client and family members about providing care for the client at home; and
- (7) supervise and train other nursing service personnel.

(b) Licensed practical nurse duties are delegated by and performed under the supervision of a registered nurse. Consistent with the client's plan of care, duties may include:

- (1) participating in assessment of the client's health status;
- (2) implementing nursing activities, including the administration of prescribed medical treatments and medications;
- (3) assisting in teaching the client and family members about providing care to the client at home; and
- (4) delegating tasks to in-home aides and supervising their performance of tasks within the limitations established in 21 NCAC 36 .0225(d)(3) adopted by reference.

(c) If an agency provides nursing services, the agency shall provide on-call nursing services on a 24 hour basis, seven days a week. The agency shall retain current on-call schedules and previous schedules for one year and make them available, on request, to the Department.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1103 PHYSICAL THERAPY SERVICES

(a) If an agency provides physical therapy services, such services shall be provided by or under the supervision of a licensed physical therapist and in accordance with G.S. Chapter 90, Article 18B, Physical Therapy, and the plan of care and shall include:

- (1) assessment of the client to determine level of physical function;
- (2) establishment and implementation of the physical therapy treatment plan;
- (3) observation, recording, and reporting to the physician any reaction to treatment or changes in the client's condition;
- (4) instruction of the family in the client's total physical therapy program; and
- (5) instructing of family members, in-home aides and other health team personnel in performing appropriate therapy treatment.

(b) When a licensed physical therapist assistant is providing services in the home, the licensed physical therapist shall be accessible at all times clients are receiving services, and meet the supervisory requirements specified in Rule .1110 of this Section.

(c) The licensed physical therapist shall visit the client to perform all initial assessments, establish the plan of care, and perform all discharge assessments. The physical therapist shall visit to perform plan of care updates and assess the client's functional status, as prescribed in Rule .1202 of this Subchapter.

History Note: Authority G.S. 131E-140;

Eff. July 1, 1992;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1104 SPEECH THERAPY/PATHOLOGY SERVICES

If an agency provides speech therapy, or services in speech and language pathology or audiology such services shall be provided in accordance with G.S. 90, Article 22, North Carolina Licensure Act for Speech and Language Pathologists and Audiologists and the client's plan of care and shall include the following at a minimum:

- (1) assessment of clients with speech, language, voice, dysphagia, and/or hearing disorders;
- (2) establishment and implementation of the speech therapy treatment plan;
- (3) recording and reporting to the physician any reaction to treatment or changes in the client's condition;
- (4) teaching other health team personnel and family members techniques to help improve and correct the client's speech, language, voice, dysphagia, or hearing potential; and
- (5) counseling the client and family about the client's speech, language, voice, dysphagia, and/or hearing disabilities.

History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1105 OCCUPATIONAL THERAPY SERVICES

(a) If an agency provides occupational therapy, such services shall be provided by or under the supervision of a licensed occupational therapist in accordance with G.S. Chapter 90, Article 18D, Occupational Therapy and the client's plan of care and shall include:

- (1) assessment of the client's functional ability to perform activities of daily living;
- (2) establishment and implementation of the occupational therapy treatment plan;
- (3) observation, recording, and reporting to the physician any reaction to treatment and any changes in the client's condition;
- (4) instruction of family members, in-home aides and other health team personnel in appropriate therapy methods; and
- (5) design, development and fitting orthotic devices and self-help devices.

(b) When a certified occupational therapist assistant is providing services in the home, the licensed occupational therapist shall be accessible at all times clients are receiving services, and meet the supervisory requirements specified in Rule .1110 of this Section.

(c) The licensed occupational therapist shall visit the client to perform all initial assessments, establish the plan of care, and perform all discharge assessments. The occupational therapist shall visit to perform plan of care updates as described in Rule .1202 of this Subchapter.

History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1106 MEDICAL SOCIAL WORK SERVICES

If an agency provides medical social work services, such services shall be provided by or under the supervision of a medical social worker and in accordance with the client's plan of care and shall include the following:

- (1) assisting the physician and other members of the health team in understanding the significant social and emotional factors related to the client's health problems;
- (2) assessing social and emotional factors in order to estimate the client's capacity and potential to cope with problems of daily living;
- (3) helping the client and family to understand, accept, and follow medical recommendations and provision of services planned to restore the client to optimum social and health adjustment within their capacity;

- (4) assisting the client and family with personal and environmental difficulties which predispose toward illness or interfere with the client obtaining maximum benefits from medical care; and
- (5) assisting the client and family in the utilization of appropriate community resources.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1107 IN-HOME AIDE SERVICES

- (a) If an agency provides in-home aide services, the services shall be provided in accordance with the client's plan of care. The plan of care shall be signed and dated by the health care practitioner and the client or the client's responsible party. The client shall have access to a copy of the in-home aide plan of care in the home.
- (b) The plan of care shall contain the level of assistance required by the client for each ADL. If the client's plan of care requires the in-home aide to provide extensive assistance, the in-home aide shall be listed on the Nurse Aide Registry pursuant to G.S. 131E-255. However, if the client's plan of care requires the in-home aide to provide only limited assistance, the in-home aide is not required to be listed on the Nurse Aide Registry.
- (c) In-home aides shall follow instructions for client care written by the health care practitioner. In-home aide duties may include the following:
 - (1) help with prescribed exercises that the client and in-home aides have been taught by a health care practitioner;
 - (2) provide or assist with ADLs;
 - (3) assist client with self-administration of medications that are ordered by a health care practitioner or other person authorized by state law to prescribe;
 - (4) perform IADLs that are essential to the client's care at home; and
 - (5) record and report changes in the client's condition, family situation, or needs to the health care practitioner.
- (d) For agencies providing in-home aide services, the initial assessment shall be conducted in the client's home by the health care practitioner. The initial assessment shall include the client's functional status in the areas of social, mental, physical health, environmental, economic, ADLs, and IADLs.
- (e) The initial assessment shall be conducted prior to the development of the plan of care and signed and dated by the health care practitioner.
- (f) Agencies providing in-home aide services shall provide availability of the health care practitioner for supervision and consultation.
- (g) Agencies participating in the Home and Community Care Block Grant or Social Services Block Grant through the Division of Aging and Adult Services shall comply with the in-home aide service level rules contained in 10A NCAC 06A and 10A NCAC 06X, which are hereby incorporated by reference with all subsequent amendments and editions. Copies of these rules may be accessed at no cost at [http://reports.oah.state.nc.us/ncac.asp?folderName=Title 10A - Health and Human Services\Chapter 06 - AGING - PROGRAMS OPERATIONS](http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2010A%20-%20Health%20and%20Human%20Services/Chapter%2006%20-%20AGING%20-%20PROGRAMS%20OPERATIONS).
- (h) In order to assure supervision of services provided by in-home caregivers, geographic service areas for these services shall be limited to the area that includes the county where the agency is located, counties that are contiguous with the county where the agency is located, or within 90 minutes driving time from the site where the agency is located, whichever is greater. Agencies providing services to any client prior to January 1, 2006 who resides in a geographic service area that prior to January 1, 2006 is beyond the counties that are contiguous with the county where the agency is located or greater than 90 minutes driving time from the site where the agency is located, may continue to provide services to the client in these areas until the client is discharged from the agency.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. January 1, 2010; October 1, 2007; October 1, 2006; February 1, 1996;
Readopted Eff. June 1, 2018.*

10A NCAC 13J .1108 INFUSION NURSING SERVICES

- (a) If an agency provides infusion nursing services, the services shall be provided by or under the supervision of a registered nurse with training in infusion services or special training in the drug and nutritional therapies the agency offers, as identified

in agency policies, and in accordance with the North Carolina Nursing Practice Act, G.S. Chapter 90, Article 9A, and a plan of care signed by a physician.

(b) If an agency provides or arranges for infusion services, the agency shall provide on-call infusion nursing services on a 24 hour basis, seven days a week.

(c) If the agency provides or contracts for infusion pharmacy services there shall be policies and procedures governing the scope of pharmacy services provided. Pharmacy services shall be provided in accordance with the Pharmacy Laws of North Carolina and related rules and shall be provided on a 24-hour basis, seven days a week.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1109 CLINICAL RESPIRATORY SERVICES, INCLUDING PULMONARY, OR VENTILATION SERVICES

(a) If an agency provides clinical respiratory services or ventilation services, the services shall be provided by or under the supervision of a respiratory therapist or a registered nurse with demonstrated competency in the delivery of respiratory services under a plan of care signed by a physician. Within the agency's defined scope of service, respiratory staff, including contractors, shall maintain an active license, certification or registry and shall demonstrate proof of education and experience sufficient for the safe delivery of service.

(b) Clinical respiratory services shall include the following:

- (1) assessment of the client's ongoing need for services;
- (2) teach and train client or caregivers to self-administer home respiratory care procedures;
- (3) collect laboratory specimens;
- (4) evaluate functioning of ventilator support equipment;
- (5) evaluate functioning of infant monitors; and
- (6) when ordered by a physician, administration of aerosolized medication.

(c) If an agency provides these services, the agency shall provide on-call respiratory services emergency response on a 24 hour basis, seven days a week.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
RRC Objection due to lack of statutory authority and ambiguity Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1110 SUPERVISION AND COMPETENCY OF IN-HOME CAREGIVERS

(a) In-home caregivers subject to occupational licensing laws shall meet requirements consistent with the rules established by the occupational licensing board that they are subject. Each agency shall document that its in-home caregivers are competent to perform client care tasks or activities that they are assigned. Meeting competency includes a demonstration of tasks to the health care practitioner. In-home caregivers shall perform delegated activities under the supervision of persons authorized by state law to provide such supervision.

(b) Those in-home caregivers who are not subject to occupational licensing laws shall only be assigned client care activities that they have demonstrated competency, and the documentation of competency is maintained by the agency. Meeting competency includes a demonstration of tasks to the health care practitioner. Each agency shall document that its in-home caregivers demonstrate competence for all assigned client care tasks or activities. In-home caregivers shall be supervised by the health care practitioner who may further delegate specific supervisory activities to in-home caregivers as designated by agency policy, provided that the following criteria are met:

- (1) there is availability of the health care practitioner for supervision and consultation; and
- (2) accountability for supervisory activities delegated is maintained by the health care practitioner.

(c) In-home caregivers subject to Paragraph (a) of this Rule shall be subject to the method and frequency of supervision defined in the agency's policy. The health care practitioner shall supervise an in-home caregiver subject to Paragraph (b) of this Rule by making a supervisory visit to each client's place of residence every 90 days with or without the in-home

caregiver's presence, and annually, while the in-home caregiver is providing care to each client. The supervisory visit shall include review of the client's general condition, progress, and response to the services provided by the in-home caregiver.

(d) Documentation of supervisory visits shall be maintained in the agency's records and shall contain date of visit, findings of visit, and signature of person performing the visit.

(e) When follow-up corrective action is needed for any type of in-home caregiver based on findings of the supervisory visit, documentation of such corrective action by the health care practitioner shall be maintained in the employee(s) record.

(f) A health care practitioner conducting a supervisory visit for any in-home caregiver may simultaneously conduct the case review every 90 days as required in Rule .1202 of this Subchapter.

(g) The health care practitioner shall be available for supervision during the hours that in-home care services are provided.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. July 1, 1993;
RRC Objection due to lack of statutory authority and ambiguity Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Temporary Amendment Eff. April 1, 2006;
Amended Eff. November 1, 2006;
Readopted Eff. June 1, 2018.*

10A NCAC 13J .1111 ARRANGEMENTS FOR SERVICES WITH OTHER AGENCIES OR INDIVIDUALS

(a) When an agency makes arrangements for providing services through other agencies or individuals, or where the agency contracts with a state or county agency to provide licensed home care services, there shall be a written agreement, signed by both parties, which includes the following:

- (1) specific service to be provided;
- (2) period of time the contract is to be in effect;
- (3) availability of services;
- (4) financial arrangements;
- (5) verification that any individual providing service is appropriately licensed or registered as required by statute;
- (6) provision for supervision of contract personnel where applicable;
- (7) assurance that individuals providing services under contractual arrangements meet the same requirements as those specified for home care agency personnel;
- (8) provision for the documentation of services rendered in the client's service record;
- (9) provision for the sharing of assessment and plan of care data; and
- (10) the geographic service area the contractor agrees to serve.

(b) All contract services shall be provided in accordance with the client's plan of care.

(c) The agency shall assure that all contract services are provided in accordance with the agreement. Agreements are to be reviewed and updated, if necessary, on an annual basis.

(d) The agency who is subcontracting its work must maintain or produce a complete home care record for the client.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1112 HOME MEDICAL EQUIPMENT AND SUPPLIES

If an agency provides medical supplies and equipment in conjunction with home care services as defined in G.S. 131E-136(3), the agency shall have policies and procedures governing their management. These policies shall address the following:

- (1) set-up, delivery, electrical safety, and environmental requirements for equipment.
- (2) proper cleaning and storage, preventive maintenance, and repair according to manufacturer's guidelines.
- (3) transportation, tracking, and recall of equipment to meet all applicable regulatory requirements.
- (4) emergency preparedness and backup of systems for equipment or power failure.
- (5) client instruction materials for each item of home medical equipment or supplies provided.

History Note: Authority G.S. 131E-140;

Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

SECTION .1200 - CASE REVIEW AND PLAN OF CARE

10A NCAC 13J .1201 POLICIES

An agency shall develop and implement written policies and procedures to assure that services and items to be provided are specified under a plan of care.

History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1202 CASE REVIEW AND PLAN OF CARE

(a) The plan of care shall be established in collaboration with the client and incorporated in the service record. The plan of care shall be reviewed every 90 days by the health care practitioner and revised as needed based on the client's needs. If the client record is purged, the original and updated authorization or orders for care shall be maintained in the client's record. All records shall be available to Department staff for review if requested. If physician orders are needed for the services, the health care practitioner shall notify the physician of any changes in the client's condition that indicates the need for altering the plan of care or for terminating services. Based upon the findings of the client assessment, the plan of care shall include the following:

- (1) type of service(s) and care to be delivered;
 - (2) frequency and duration of service;
 - (3) activity restrictions;
 - (4) safety measures; and
 - (5) service objectives and goals.
- (b) Where applicable, the plan of care shall include:
- (1) equipment required;
 - (2) functional limitations;
 - (3) rehabilitation potential;
 - (4) diet and nutritional needs;
 - (5) medications and treatments;
 - (6) specific therapies;
 - (7) pertinent diagnoses; and
 - (8) prognosis.
- (c) If the health care practitioner is assigned responsibility for two or more of the following, these functions may be conducted during the same home visit:
- (1) assessment of client's condition, progress, and response every 90 days;
 - (2) provision of regularly scheduled professional services; or
 - (3) supervision of in-home caregiver.

History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. May 1, 1993;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. February 1, 1996;
Readopted Eff. June 1, 2018.

SECTION .1300 - PHARMACEUTICALS AND MEDICAL TREATMENT ORDERS

10A NCAC 13J .1301 POLICIES, PROCEDURES, AND STAFF RESPONSIBILITY

If the agency administers any pharmaceuticals or medical treatments, it shall develop and implement policies and procedures relative to the administration of pharmaceuticals and treatments. The policies shall specify staff accountability for:

- (1) recognizing side effects;

- (2) recognizing toxic effects;
- (3) recognizing allergic reactions;
- (4) recognizing immediate desired effects;
- (5) recognizing unusual and unexpected effects;
- (6) recognizing changes in the client's condition that contraindicates continued administration of the medication;
- (7) anticipating those effects which may rapidly endanger a client's life or well-being; and
- (8) notifying the physician of any problems.

History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1302 ORDERS

- (a) Orders for pharmaceuticals and medical treatments, or orders for in-home aide services when orders for in-home aide services are required, shall be signed by the physician or other person authorized by State law to prescribe such treatments and the original incorporated in the client's service records. Care may commence in the interim with a verbal order.
- (b) Verbal orders for the administration of pharmacological agents and other medical treatment interventions shall be given to a licensed nurse, or other person authorized by state law to receive such orders. The order once recorded shall include the date and signature of the person receiving the order, shall be recorded in the client record, and shall be countersigned by the physician or other person authorized by State law to prescribe.
- (c) Verbal orders for allied health services personnel, other than nursing or other than in-home aide services, shall be given to either a licensed nurse or the appropriate health professional. The order once recorded shall include the date and signature of the person receiving the order, shall be recorded in the client record and shall be countersigned by the physician or other person authorized by State law to prescribe.
- (d) The home care agency shall develop and implement written policies and procedures for obtaining countersignatures on verbal orders within 60 days of the date of the verbal order.

History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 2004; February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

10A NCAC 13J .1303 RESERVED FOR FUTURE CODIFICATION

SECTION .1400 - SERVICE RECORDS

10A NCAC 13J .1401 REQUIREMENT

- (a) The agency shall develop and implement written policies governing content and handling of client records.
- (b) The agency shall maintain a client record for each client. Each page of the client record shall have the client's name. All entries in the record shall reflect the actual date of entry. When agency staff make additional, late, or out of sequence entries into the client record, the documentation shall include the following applicable notations: addendum, late entry, or entry out of sequence, and the date of the entry. A system for maintaining originals and copies shall be described in the agency policies and procedures.
- (c) The agency shall assure that originals of client records are kept confidential and secure on the licensed premises unless in accordance with Rule .0905 of this Subchapter, or subpoenaed by a court of legal jurisdiction, or to conduct an evaluation as required in Rule .1004 of this Subchapter.
- (d) If a record is removed to conduct an evaluation, the record shall be returned to the agency premises within five working days. The agency shall maintain a sign out log that includes to whom the record was released, client's name and date removed. Only authorized staff or other persons authorized by law may remove the record for these purposes.
- (e) A copy of the client record for each client must be readily available to the appropriate health professional(s) providing services or managing the delivery of such services.
- (f) Client records shall be retained for a period of not less than five years from the date of the most recent discharge of the client, unless the client is a minor in which case the record must be retained until three years after the client's 18th birthday.

When an agency ceases operation, the Department shall be notified in writing where the records will be stored for the required retention period.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1402 CONTENT OF RECORD

- (a) If the agency is providing services to a client, the service record shall contain the following information:
- (1) Admission data:
 - (A) identification data such as name, address, telephone number, date of birth, sex, and marital status;
 - (B) a copy of the signed client's rights form or documentation of its delivery;
 - (C) names of next of kin, legal guardian, or other family members;
 - (D) source of referral; and
 - (E) assessment of home environment.
 - (2) Service data:
 - (A) initial assessments by the health care practitioner of the client's functional status in the areas of social, mental, physical health, environmental, economic, ADLs, and IADLs;
 - (B) identification of problems, the establishment of goals and proposed intervention, and indication of the client's understanding of and approval for services to be provided. If the client is diagnosed as not competent, the approval of the client's responsible party shall be recorded;
 - (C) a record of all services provided with entries with date and time of service, and signed by the individual providing the service;
 - (D) discharge summary that includes an overall summary of services provided by the agency and the date and reason for discharge. When a specific service to a client is terminated and other services continue, there shall be documentation of the date and reason for terminating the specific service; and
 - (E) evidence of coordination of services when the client is receiving more than one in-home care service.
- (b) If the agency is providing services to a client that require a physician's order, the service record shall include all of the items described in Paragraph (a) of this Rule and the following items:
- (1) Admission data:
 - (A) admission and discharge dates from hospital or other institution when applicable; and
 - (B) names of physician(s) responsible for the client's care.
 - (2) Service data:
 - (A) client's diagnoses;
 - (B) physician's orders for pharmaceuticals and medical treatments; and
 - (C) if the agency is providing services to a hospital or nursing facility patient, the agency's record shall include referral information, dates and times of services, and documentation of services provided.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;
Amended Eff. February 1, 1996;
Readopted Eff. June 1, 2018.*

SECTION .1500 – COMPANION, SITTER, AND RESPITE SERVICES

10A NCAC 13J .1501 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Companion, sitter, or respite services personnel" means an individual as used in G.S. 131E-136, who spends time with or provides non-hands-on care services for clients.
- (2) "Non-Hands-on Care Services" means basic home management tasks, shopping, meal preparation, transportation, companion services, socialization, medication reminders, and other services that do not

- require the service provider to use "hands-on care" as defined in Rule .0901 of this Subchapter and which do not require training or verification of skills by a Registered Nurse.
- (3) "Respite Care" means planned or emergency care provided to an individual in order to provide temporary relief to the family caregiver.

*History Note: Authority G.S. 131E-140;
Eff. January 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1502 SCOPE OF SERVICES

(a) If an agency provides In-home companion, sitter, or respite services, the services shall be provided in accordance with the client's plan of care. Agencies participating in the Home and Community Care Block Grant or Social Services Block Grant through the Division of Aging and Adult Services shall comply with the service level rules contained in 10A NCAC 06A and 10A NCAC 06X. All other agencies providing in-home companion, sitter, or respite services shall comply with the provisions of the rules in this Section.

(b) In-home companion, sitter, or respite services personnel shall follow the plan of care written by the in-home companion, sitter, or respite services supervisor.

*History Note: Authority G.S. 131E-140;
Eff. January 1, 2010;
Readopted Eff. June 1, 2018.*

10A NCAC 13J .1503 AGENCY MANAGEMENT AND SUPERVISION

Notwithstanding the requirements in Rule .1001 of this Subchapter, the agency shall meet the following requirements:

- (1) The agency shall designate an individual to serve as agency director. The agency director shall have the authority and responsibility for administrative direction of the agency. The agency director shall be a high school graduate, or be certified under the G.E.D. Program, and shall meet one or more of the following qualifications:
 - (a) shall be a health care practitioner as defined in G.S. 90-640(a); or
 - (b) shall have one year experience in home care, companion, sitter, or respite services, or any other provider licensed pursuant to G.S. 131E or G.S. 122C.
- (2) The agency shall designate a person responsible for supervising non-hands-on care services that is provided by the agency either directly or by contract. This individual may be the supervisor for the companion, sitter, or respite services and may also serve as the agency director.

*History Note: Authority G.S. 131E-140;
Eff. January 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

10A NCAC 13J .1504 SUPERVISION AND COMPETENCY OF COMPANION, SITTER, AND RESPITE SERVICES

In addition to the requirements in Rule .1110 of this Subchapter, an agency providing In-home companion, sitter, or respite care services shall meet the following requirements:

- (1) Each agency shall have documentation that its companion and sitters are competent to perform client care tasks or activities to which they are assigned. Such individuals shall perform delegated activities under the supervision of a supervisor designated by agency policy for the services assigned.
- (2) The agency designated supervisor shall supervise the companion and sitter staff by contacting the client receiving care every three months and by making a supervisory visit to each client's place of residence at least every six months, with or without the companion and sitter's presence, and at least annually, while the companion or sitter is in the home providing services to the client.
- (3) The supervisory visit shall include a review of the client's general condition, monitoring progress and response to the services provided by the companion or sitter, and updates to the plan of care as needed.
- (4) Documentation of supervisory visits shall be maintained in the agency's records and shall contain the following:
 - (a) date of visit;

- (b) findings of visit; and
- (c) signature of person performing the visit.
- (5) The agency designated supervisor conducting a supervisory contact for a companion, sitter, or respite provider may simultaneously conduct the quarterly case review as required in Rule .1202 of this Subchapter.
- (6) The agency directed supervisor shall be available for supervision, on-site where services are provided when necessary, during the hours that companion, sitter, or respite services are provided.

History Note: Authority G.S. 131E-140;
Eff. January 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.