

## **10A NCAC 28A .0102 DEFINITIONS**

(a) In addition to the definitions contained in this Rule, the terms defined in G.S. 122C-3, 122C-4 and 122C-53(f) also apply to all rules in Subchapters 28A, 28B, 28C, and 28D of this Chapter.

(b) As used in the rules in Subchapters 28A, 28B, 28C, and 28D of this Chapter, the following terms have the meanings specified:

- (1) "Abuse" means the same as defined in 42 CFR Part 488 Subpart E, which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations is available free of charge at <https://www.govinfo.gov/app/collection/CFR>.
- (2) "Associate Professional (AP)" within the mental health, developmental disabilities and substance abuse services (mh/dd/sas) system of care means an individual who is either a:
  - (A) graduate of a college or university with a Masters degree in a human service field with less than one year of full-time, post-graduate degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than one year of full-time, post-graduate degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and supervision shall be provided by a qualified professional with the population served until the individual meets one year of experience;
  - (B) graduate of a college or university with a bachelor's degree in a human service field with less than two years of full-time, post-bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than two years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets two years of experience;
  - (C) graduate of a college or university with a bachelor's degree in a field other than human services with less than four years of full-time, post bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than four years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience; or
  - (D) registered nurse who is licensed to practice in the State of North Carolina by the North Carolina Board of Nursing with less than four years of full-time accumulated experience in mh/dd/sa with the population served. Upon hiring, an individualized supervision plan shall be developed and reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience.
- (3) "Basic necessities" mean the essential items or substances needed to support life and health which include, but are not limited to, a nutritionally sound diet balanced during three meals per day, access to water and bathroom facilities at frequent intervals, seasonable clothing, medications to control seizures, diabetes and other like physical health conditions, and access to social contacts.
- (4) "Certified clinical supervisor (CCS)" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Board.
- (5) "Certified alcohol and drug counselor" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Board.
- (6) "Client" has the same meaning assigned in G.S. 133C-3. "Client" may also be referred to as a patient or resident.
- (7) "Client record" means any record made of confidential information as defined G.S. 122C-3.
- (8) "Clinical Director" means Medical Director, Director of Medical Services or such person acting in the position of Clinical Director, or his designee.
- (9) "Clinically competent" means authorization by the State Facility Director for a qualified professional to provide specific treatment or habilitation services to clients based on the professional's education, training, experience, competence and judgment.

- (10) "Consent" means concurrence by a client or his legally responsible person following receipt of information from the qualified professional who will administer the proposed treatment or procedure. Informed consent implies that the client or his legally responsible person was provided with information concerning proposed treatment, including both benefits and risks, in order to make an educated decision with regard to such treatment.
- (11) "Dangerous articles or substances" mean, but are not limited to, any weapon or potential weapon, heavy blunt object, sharp objects, potentially harmful chemicals, or drugs of any sort, including alcohol.
- (12) "Division" means the Division of State Operated Healthcare Facilities.
- (13) "Division Director" means the Director of the Division or his designee.
- (14) "Emergency" means a situation in a state facility in which a client is in imminent danger of causing abuse or injury to self or others, or when substantial property damage is occurring as a result of unexpected and severe forms of inappropriate behavior, and rapid intervention by the staff is needed.
- (15) "Emergency surgery" means an operation or surgery performed in a medical emergency, as defined in Subparagraph (b)(28) of this Rule, where informed consent cannot be obtained from an authorized person, as specified in G.S. 90-21.13, because the delay would worsen the physical condition or endanger the life of the client.
- (16) "Exclusionary time-out" means the removal of a client to a separate area or room from which exit is not barred for the purpose of modifying behavior.
- (17) "Exploitation" means the same as defined in 42 CFR Part 483 Subpart B, which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations is available free of charge at <https://www.govinfo.gov/app/collection/CFR>.
- (18) "Forensic Division" means the units at any State hospital designated in accordance with G.S. 122C-252 which serves clients who are:
  - (A) admitted for the purpose of evaluation for capacity to proceed to trial;
  - (B) found not guilty by reason of insanity;
  - (C) determined incapable of proceeding to trial.
- (19) "Grievance" means a verbal or written complaint by or on behalf of a client concerning a situation that occurred within the state facility. A grievance does not include complaints that can be resolved without delay by staff present. A complaint that is not resolved shall be filed and processed in accordance with the requirements of 10A NCAC 28B .0203.
- (20) "Human Rights Committee" means a committee, appointed by the Secretary, to act in a capacity regarding the protection of client rights.
- (21) "Independent psychiatric consultant" means a licensed psychiatrist not on the staff of the state facility in which the client is being treated. The psychiatrist may be in private practice, be employed by another state facility, or be employed by a facility other than a state facility as defined in G.S. 122C-3(14).
- (22) "Interpreter services" means specialized communication services provided for the hearing impaired by interpreters certified by the National Registry of Interpreters for the Deaf or the National Association of the Deaf.
- (23) "Involuntary client" means a person admitted to any regional psychiatric hospital or alcohol and drug abuse treatment center under the provisions of Article 5, Parts 7, 8 or 9 of G.S. 122C and includes, but is not limited to, clients detained pending a district court hearing and clients involuntarily committed after a district court hearing. This term shall also include individuals who are defendants in criminal actions and are being evaluated in a state facility for mental responsibility or mental competency as a part of such criminal proceedings as specified in G.S. 15A-1002, unless a valid order providing otherwise is issued from a court of competent jurisdiction, and the civil commitment of defendants found not guilty by reason of insanity as specified in G.S. 15A-1321.
- (24) "Isolation time-out" means the removal of a client to a separate room from which exit is barred where there is direct, uninterrupted supervision by staff for the purpose of modifying behavior. "Isolation time-out" does not include precautions intended to prevent transmission of a communicable disease.
- (25) "Licensed Clinical Addiction Specialist (LCAS)" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Board.

- (26) "Licensed Clinical Mental health (LCMHC)" means a counselor who is licensed as such by the North Carolina Board of Licensed Clinical Mental Health Counselors.
- (27) "Major physical injury" means damage caused to the body resulting in profuse bleeding or contusion of tissues; fracture of a bone; damage to internal organs; loss of consciousness; loss of normal neurological function (inability to move or coordinate movement); or any other painful condition caused by such injury.
- (28) "Medical emergency" means a situation where the client is unconscious, ill, or injured, and the circumstances require immediate medical or other health care related decisions and actions to prevent the worsening of the physical condition, or endanger the life, of the client.
- (29) "Minimal risk research" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those encountered in daily life or during the performance of routine physical or psychological examinations or tests.
- (30) "Minor client" means a person under 18 years of age who:
- (A) has not been married; or
  - (B) has not been emancipated by a decree issued by a court of competent jurisdiction; or
  - (C) is not a member of the armed forces.
- (31) "Misappropriation of resident property" means the same as defined by 42 CFR Part 488 Subpart E, incorporated by reference, including subsequent amendments. The Code of Federal Regulations is available free of charge at <https://www.govinfo.gov/app/collection/CFR>.
- (32) "Neglect" means the same as defined by 42 CFR Part 488 Subpart E, incorporated by reference, including subsequent amendments. The Code of Federal Regulations is available free of charge at <https://www.govinfo.gov/app/collection/CFR>.
- (33) "Normalization" means the principle of helping the client to obtain an existence as close to normal as possible, taking into consideration the client's disabilities and potential, by making available to him patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.
- (34) "Paraprofessional" within the mh/dd/sa system of care means an individual who, with the exception of staff providing respite services or personal care services, has a GED or high school diploma; an individual employed prior to November 1, 2001 to provide a mh/dd/sa service is not required to have a GED or high school diploma. Upon hiring, an individualized supervision plan shall be developed and supervision shall be provided by a qualified professional or associate professional with the population served.
- (35) "Person standing in loco parentis" means one who has put himself in the place of a lawful parent by assuming the rights and obligations of a parent without formal adoption.
- (36) "Physical Restraint" means the application or use of any manual method of restraint that restricts freedom of movement, or the application or use of any physical or mechanical device that restricts freedom of movement or normal access to one's body, including material or equipment attached or adjacent to the client's body that he or she cannot easily remove. Holding a client in a therapeutic hold or any other manner that restricts his or her movement constitutes manual restraint for that client. Mechanical devices may restrain a client to a bed or chair, or may be used as ambulatory restraints. Examples of mechanical devices include cuffs, ankle straps, sheets or restraining shirts, arm splints, mittens and helmets. Excluded from this definition of physical restraint are physical guidance, gentle physical prompting techniques, escorting and therapeutic holds used solely for the purpose of escorting a client who is walking, soft ties used solely to prevent a medically ill client from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar medical devices, and prosthetic devices or assistive technology which are designed and used to increase client adaptive skills. Escorting means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a client to walk to a safe location.
- (37) "Protective devices" means an intervention that provides support for clients or enhances the safety of clients with specific medical or behavioral needs. Such devices may include posey vests, geri-chairs or table top chairs to provide support and safety for clients with physical disabilities; devices such as helmets and mittens for self-injurious behaviors; or devices such as soft ties used to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar medical devices. As provided in Rule .0207 of Subchapter 28D, the use of a protective device for behavioral control shall comply with the requirements specified in Rule .0203 of Subchapter 28D.

- (38) "Psychotropic medication" means medication with the primary function of treating mental illness, personality or behavior disorders. It includes, but is not limited to, antipsychotics, antidepressants, anti-anxiety agents and mood stabilizers.
- (39) "Qualified professional" means, within the mh/dd/sas system of care, an individual who is either:
- (A) an individual who holds a license, provisional license, or certificate issued by the governing board regulating a human service profession, including a registered nurse who is licensed to practice in the State of North Carolina by the North Carolina Board of Nursing who also has four years of full-time accumulated experience in mh/dd/sa with the population served;
  - (B) a graduate of a college or university with a Masters degree in a human service field and has one year of full-time, pre- or post-graduate degree accumulated supervised mh/dd/sa experience with the population served, or a substance abuse professional who has one-year of full-time, pre- or post-graduate degree accumulated supervised experience in alcoholism and drug abuse counseling;
  - (C) a graduate of a college or university with a bachelor's degree in a human service field and has two years of full-time, pre- or post-bachelor's degree accumulated supervised mh/dd/sa experience with the population served, or a substance abuse professional who has two years of full-time, pre- or post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling; or
  - (D) a graduate of a college or university with a bachelor's degree in a field other than human services and has four years of full-time, pre- or post-bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional who has four years of full-time, pre- or post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling.
- (40) "Regional alcohol and drug abuse treatment center" means a state facility for persons with a substance abuse disorder as specified in G.S. 122C-181(a)(3).
- (41) "Regional developmental disability center" means a state facility for the developmentally disabled as specified in G.S. 122C-181(a)(2).
- (42) "Regional psychiatric hospital" means a state facility for the mentally ill as specified in G.S. 122C-181(a)(1).
- (43) "Representative payee" means the person, group, or facility designated by a funding source, such as Supplemental Security Income (SSI), to receive and handle funds according to the guidelines of the source on behalf of a client.
- (44) "Research" means inquiry involving a trial or observation made under conditions determined by the investigator to confirm or disprove an hypothesis or to explicate some principle or effect.
- (45) "Respite client" means a client admitted to a developmental disability center or a neuromedical treatment center for a short-term period, not to exceed 30 days. The primary purpose of such admission is to provide a temporary interval of rest or relief for the client's regular caretaker.
- (46) "Responsible professional" shall have the meaning as specified in G.S. 122C-3; the "responsible professional" shall also be a qualified professional as defined in Subparagraph (b)(39) of this Rule.
- (47) "Seclusion" means isolating a client in a separate locked room for the purpose of managing a client's behavior. "Seclusion" does not include precautions intended to prevent transmission of a communicable disease. In the Forensic Service, Pretrial Evaluation Unit and the Forensic Treatment Program Maximum Security Ward in the Central Regional Hospital, the use of locked rooms is not considered seclusion for clients with criminal charges who are:
- (A) undergoing pretrial evaluations ordered by a criminal court;
  - (B) in treatment for restoration of capacity to proceed;
  - (C) in treatment to reduce violence risk; or
  - (D) considered to be an escape risk.
- (48) "State Facility Director" means the chief administrative officer or manager of a state facility or his designee.
- (49) "Strike" means, but is not limited to, hitting, kicking, slapping or beating whether done with a part of one's body or with an object.
- (50) "Timeout" means the removal of a client from other clients to another space within the same activity area for the purpose of modifying behavior.

- (51) "Treatment" means the act, method, or manner of habilitating or rehabilitating, caring for or managing a client's physical or mental problems.
- (52) "Treatment plan" means a written individual plan of treatment or habilitation for each client to be undertaken by the treatment team and includes any documentation of restriction of client's rights.
- (53) "Treatment team" means an interdisciplinary group of qualified professionals sufficient in number and variety by discipline to assess and address the identified needs of the client.
- (54) "Unit" means an integral component of a state facility established for the delivery of one or more elements of service to which specific staff and space are assigned, and for which responsibility has been assigned to a director, supervisor, administrator, or manager.
- (55) "Voluntary client" means a person admitted to a state facility under the provisions of Article 5, Parts 2, 3, 4 or 5 of G.S. 122C.

*History Note: Authority G.S. 122C-3; 122C-4; 122C-51; 122C-53(f); 143B-147; S.L. 2017-32; Eff. October 1, 1984; Amended Eff. June 1, 1990; April 1, 1990; July 1, 1989; Temporary Amendment Eff. January 1, 1998; Amended Eff. April 1, 1999; Temporary Amendment Eff. January 1, 2001; Temporary Amendment Expired October 13, 2001; Temporary Amendment Eff. November 1, 2001; Amended Eff. April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017; Temporary Amendment Eff. March 1, 2019; Temporary Amendment Expired Eff. December 10, 2019; Amended Eff. January 1, 2024.*