

SUBCHAPTER 28C - DIGNITY AND RESPECT

SECTION .0100 - SAFE ENVIRONMENT

10A NCAC 28C .0101 PROTECTION FROM HARM

- (a) State facility employees and volunteers at a state facility shall protect clients from harm, abuse, neglect and exploitation in accordance with G.S. 122C-66.
- (b) State facility employees shall not subject a client to any sort of punishment, neglect, or indignity or inflict physical or mental abuse upon any client including, but not limited to, striking, burning, cutting, teasing, taunting, jerking, pushing, tripping or baiting a client.
- (c) State facility employees, visitors and clients other than mentally retarded clients in a facility, shall not engage in any offenses relating to another client as specified in G.S. 122C-65.
- (d) State facility employees shall use only that degree of force necessary to repel or secure a violent and aggressive client. The degree of force that is necessary depends upon the individual characteristics of the client (such as age, size and physical and mental health) and the degree of aggressiveness displayed by the client. The State Facility Director may establish policies on the use of force and specific techniques. State facility employees using specific physical intervention techniques shall be trained in their use.
- (e) State facility employees shall not borrow money from a client or a client's family or receive gratuity except a non monetary gift of nominal value from a client. The state facility employee shall not sell or buy goods or services to or from a client except through established state facility policy. The state facility shall provide safeguards for protecting the client from this type of exploitation and abuse.
- (f) State facility employees shall exercise all due precaution to protect each client from physical or mental abuse by other clients.
- (g) The State Facility Director shall establish policies to protect the client from exploitation by other clients by discouraging the loaning or borrowing of money and possessions between clients and by discouraging the selling and buying of goods or services between clients.

History Note: Authority G.S. 122C-65; 122C-66; 122C-67; 131E-67; 143B-147;
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0102 CORPORAL PUNISHMENT

Corporal punishment is prohibited, as specified in G.S. 122C-59.

History Note: Authority G.S. 122C-59; 131E-67; 143B-147;
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0103 REPORTING ABUSE, NEGLECT OR EXPLOITATION

- (a) The State Facility Director shall develop a written policy specifying procedures for reporting and investigating all cases of alleged or suspected abuse, neglect or exploitation occurring when the client is under the supervision of the state facility. The policy shall be in accordance with G.S. 122C-66 and shall include at least the following provisions:
- (1) specifications of the progressive steps in the reporting and investigation process for all cases of alleged or suspected abuse, neglect or exploitation, staff positions responsible for investigation, and time periods to be observed for each step;
 - (2) a requirement for immediate intervention by any state facility employee witnessing abuse, neglect or exploitation;
 - (3) a system of immediate reporting of any suspected abuse, neglect or exploitation which includes but is not limited to the internal client advocate and appropriate state facility employees and provisions for confidential reporting;

- (4) the arrangement for immediate medical evaluation where major physical injury is involved or suspected;
 - (5) the designation of a state facility employee or position to conduct a preliminary investigation, including the review of written reports by all state facility employees involved;
 - (6) in the event that a complete investigation is indicated, the notification of the State Facility Director, the legally responsible person of a minor or incompetent adult client, and the internal client advocate. The Human Rights Committee may be notified that there is a complete investigation indicated; however, Human Rights Committee involvement shall be in accordance with 10 NCAC 16G .0209.
 - (7) a requirement for immediate reporting of any alleged or suspected abuse, neglect or exploitation whenever there is a reasonable cause to believe that the client is in need of protective services (as defined in G.S. Chapter 108A, Article 6 and G.S. Chapter 7A, Article 44) to the county department of social services by the State Facility Director or designee as specified in G.S. Chapter 108A, Article 6 or G.S. Chapter 7A, Article 44;
 - (8) a provision to allow an independent investigation by the internal client advocate and Human Rights Committee, when in accordance with 10A NCAC 28A .0209, reporting directly to the State Facility Director; and
 - (9) a provision to ensure that all state facility employees remain aware of the procedures and are aware of their rights and responsibilities if they are witness to, or aware of, or accused of abuse, neglect or exploitation.
- (b) Cases of suspected abuse, neglect or exploitation occurring when the client is not under the direct or immediate supervision of the state facility shall be reported to the county department of social services by any state facility employee suspecting the abuse, neglect or exploitation as specified in G.S. Chapter 108A, Article 6 or G.S. Chapter 7A, Article 44.

History Note: Authority G.S. 7A, Article 44; 108A, Article 6; 122C-51; 122C-59; 122C-65; 122C-66; 122C-67; 131E-67; 143B-147;
 Eff. October 1, 1984;
 Amended Eff. July 1, 1989;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0104 SAFE BUILDINGS AND GROUNDS

- (a) Each client in a state facility shall live and receive care, treatment, or habilitation in a safe and sanitary environment.
- (b) The State Facility Director shall assure the provision of a safe and sanitary environment which is in compliance with the sanitation, health and environmental safety codes of state and local authorities.
- (c) The State Facility Director shall have specific plans and shall develop and enforce policies designed to keep the state facility in good repair and operation in accordance with the needs of health, comfort, safety and well-being of the clients.

History Note: Authority G.S. 122C-51; 131E-67; 143B-147;
 Eff. October 1, 1984;
 Amended Eff. July 1, 1989;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0105 MEALS

- (a) Each client in a state facility shall receive a balanced and nutritionally adequate daily diet.
- (b) Dietary services of the state facility shall adequately meet the individual dietary needs of the client and meet the preferences of the client to the extent possible.
- (c) The dietary service and dietary service personnel shall meet local and state codes.
- (d) The state facility dietary service shall serve at least three meals per day on a schedule which approximates a generally accepted morning, noon and evening meal.
- (e) Meals shall be served attractively.
- (f) Appropriate therapeutic feeding techniques shall be used if the client is unable to feed himself or herself.

History Note: Authority G.S. 122C-51; 131E-67; 143B-147;
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0106 REPORTING CLIENT INJURIES

Whenever a minor or incompetent adult client experiences a major physical injury, the legally responsible person shall be immediately notified. Whenever a competent adult experiences a major physical injury, the client's designated next of kin may be notified of the injury when such notification is in accordance with G.S. 122C-53(a).

History Note: Authority G.S. 122C-51; 122C-53; 131E-67; 143B-147;
Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .0200 – ESTHETIC AND HUMANE ENVIRONMENT

10A NCAC 28C .0201 STATE FACILITY ENVIRONMENT

(a) The State Facility Director shall assure the provision of an esthetic and humane environment that enhances the positive self-image of the client and preserves human dignity. This includes:

- (1) providing warm and cheerful furnishings;
- (2) providing flexible and humane schedules; and
- (3) directing state facility employees to address clients in a respectful manner.

(b) The State Facility Director shall also, to the extent possible, make every effort to:

- (1) provide a quiet atmosphere for uninterrupted sleep during scheduled sleeping hours; and
- (2) provide areas accessible to the client for personal privacy that may be provided for and limited in compliance with the provisions of G.S. 122C-62(e).

History Note: Authority G.S. 122C-51; 122C-62(e). 131E-67; 143B-147(a)(1);
Eff. October 1, 1984;
Amended Eff. June 1, 2014; April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0202 ACTIVITIES

(a) Each state facility shall provide space, supervision and equipment for client activities and exercise in accordance with G.S. 122C-62(b)(5) and G.S. 122C-62(d)(5).

(b) The State Facility Director shall assure that clients have reasonable access to entertainment equipment in working order such as a television, radio, phonograph, and appropriate recreational equipment.

(c) Any imposed limitation on the client's freedom to exercise his rights in Paragraph (a) of this Rule by the responsible professional shall be documented in accordance with G.S. 122C-62(e).

History Note: Authority G.S. 122C-62; 131E-67; 143B-147;
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0203 PERSONAL LIVING SPACE

Each client in a state facility may suitably decorate his room, or portion of a multi-resident room, with respect to the client's choice, normalization principles, and with respect for the physical structure. The State Facility Director may establish written policies and justifications which limit this right for special admissions such as medical, surgical, forensic, or short-term admissions where admission is for less than 30 days.

*History Note: Authority G.S. 122C-51; 131E-67; 143B-147;
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

10A NCAC 28C .0204 HEALTH, HYGIENE AND GROOMING

(a) The State Facility Director shall assure each client the right to dignity, privacy and humane care in the provision of personal health, hygiene and grooming care including, but not limited to:

- (1) individualized bathing schedules to promote privacy;
- (2) an opportunity for a shower or tub bath daily, or more often as needed;
- (3) the opportunity to shave every day;
- (4) access to the services of a barber or a beautician on a regular basis; and
- (5) provision of linens and towels, toilet paper and soap for all clients and other individual personal hygiene articles for indigent clients. Such other articles include but are not limited to toothpaste, toothbrush, sanitary napkins, tampons, shaving cream and shaving utensil.

(b) Bathtubs or showers and toilets which ensure individual privacy shall be available. All bathtubs and shower areas shall be divided by curtains, doors or partitions. Toilets shall be in separate stalls.

(c) Adequate toilets, lavatory and bath facilities equipped for use by clients with mobility impairments, shall be available.

*History Note: Authority G.S. 122C-51; 131E-67; 143B-147;
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

SECTION .0300 - PRIVACY AND PERSONAL FREEDOM

10A NCAC 28C .0301 COMMUNICATION RIGHTS

(a) In order to ensure the protection of client rights specified in G.S. 122C-62(a)(1) and G.S. 122C-62(d)(2), each state facility shall post the state facility schedule for the collection and distribution of mail and packages in areas accessible to clients. Limited postage shall be made available to indigent clients. State facility employees shall provide assistance to clients as needed in sending and receiving correspondence. Such physical assistance may include writing letters, wrapping packages or reading letters to clients upon their request.

(b) Adult clients in state facilities shall have access to telephones in private areas in order to ensure the protection of the client right specified in G.S. 122C-62(b)(1). Access to telephones by minor clients in state facilities shall be in accordance with G.S. 122C-62(d)(1). State facility employees shall assist adult and minor clients in placing calls upon request of the client.

(c) In order to ensure the protection of client rights specified in G.S. 122C-62(b)(2) and G.S. 122C-62(d)(3), each state facility shall post visiting hours in areas accessible to clients. The State Facility Director may establish the same visiting hours for the entire state facility or different visiting hours for different client living areas within the state facility. Suitable areas indoors shall be made available for adult clients and visitors to visit in private, and minor clients and visitors to visit as free as possible from disturbance by other clients. The areas where clients may receive visitors may be specified by the State Facility Director.

(d) Clients being held at a state facility to determine capacity to proceed to trial pursuant to G.S. 15A-1002 may receive visitors as specified in G.S. 122C-62(b)(2) and G.S. 122C-62(d)(3). The following limitations shall be imposed in accordance with G.S. 122C-62(g); however, no limitations shall be imposed on visitations by those persons specified in G.S. 122C-62(a)(2), (a)(3), (c)(1), (c)(2), and (c)(3):

- (1) Each state forensic facility may establish a policy limiting visitations by:
 - (A) precluding visits for up to the first three days;
 - (B) imposing a visit duration limit; and
 - (C) limiting the number of visitors, as long as criteria are established making such limitations on an individual basis in order to promote the health, safety and welfare of the clients.
- (2) The client shall prepare a list of visitors whom he desires to see. Only those visitors specified by the client will be permitted to visit with the client. Clients shall be informed whenever a visitor

arrives at the state facility who is not on the list of visitors designated by the client, and the client shall have the option to add the visitor to the list.

- (3) All visitors shall present proper identification upon request.
- (4) Visitors, other than the client's immediate family, clergyman and attorney, shall be approved for visitation by the client's responsible professional.
- (5) To ensure that no contraband is carried into the unit where the client is located, no purses, handbags or other items capable of concealing contraband will be permitted in the unit and visitors may be subject to routine searches.

(e) Adult clients retain the rights specified in G.S. 122C-62(a)(1), (2) and (3) at all reasonable times. Minor clients retain the rights specified in G.S. 122C-62(c)(1), (2) and (3) at all reasonable times. These rights may not be limited or restricted.

(f) Any imposed limitation or restriction on the client's freedom to exercise his rights as specified in G.S. 122C-62(b)(1), (2), (3) and (4) or G.S. 122C-62(d)(1), (2) and (3) by the responsible professional shall be documented in accordance with G.S. 122C-62(e).

History Note: Authority G.S. 122C-62; 131E-67; 143B-147; Eff. October 1, 1984; Amended Eff. April 1, 1990; July 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0302 PERSONAL CLOTHING

(a) All clients have the right to retain and wear their own clothes as specified in G.S. 122C-62(b)(6) and G.S. 122C-62(d)(6) except when such clothes are determined to be inappropriate to the treatment regimen by the responsible professional, and the reason for that determination is documented in accordance with G.S. 122C-62(e).

(b) The State Facility Director has an obligation to supply an adequate allowance of clothing to clients whom the state facility deems indigent and who cannot provide their own clothing. Such clothing shall be seasonable, of proper size, of the character worn by the client's peers in the community, and in good condition.

(c) Personal clothing left by discharged clients shall be held for a 30-day period, during which time efforts shall be made to contact the client. If the clothing is not claimed by the client within 30 days, it shall be handled in accordance with state facility policy.

(d) Clothing provided by the state facility may be kept by the client upon discharge from the state facility, at the State Facility Director's discretion.

(e) The State Facility Director shall make provision for the laundering of client clothing.

History Note: Authority G.S. 122C-62; 131E-67; 143B-147; Eff. October 1, 1984; Amended Eff. July 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0303 PERSONAL POSSESSIONS

(a) Client access to personal possessions shall be in accordance with G.S. 122C-62(b)(6) and G.S. 122C-62(d)(6) except when the possessions are determined to be potentially dangerous articles or otherwise inappropriate to the treatment regimen by the responsible professional and the reason for the determination is documented in accordance with G.S. 122C-62(e). Each state facility may develop a policy which restricts any of the following potentially dangerous articles to ensure the safety of clients: scissors, cigarette lighters, matches, razors, mirrors, pocket knives, switch blades, or products which contain potentially abusive substances.

(b) Personal possessions deposited with the state facility for safe-keeping shall be made available to the client upon request at reasonable intervals, unless the client is an incompetent adult or a minor, in which case these items shall be made available to the incompetent adult client or minor or legally responsible person upon request by the legally responsible person. These items shall be returned to the client or legally responsible person upon discharge of the client from the state facility, except as specified in Rules .0307, .0308, or .0309 of this Section.

History Note: Authority G.S. 122C-62; 131E-67; 143B-147; Eff. October 1, 1984;

Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0304 STORAGE AND PROTECTION OF CLOTHING AND POSSESSIONS

(a) The state facility shall make a concerted effort to protect the client's personal clothing and possessions from theft, damage, destruction, loss, and misplacement. This includes but is not limited to the following:

- (1) advising the client, upon admission, to deposit jewelry and other valuable articles with the state facility for safe-keeping;
- (2) providing individual locked storage space for the client's own use in accordance with G.S. 122C-62(b)(10) and G.S. 122C-62(d)(8) which will hold a reasonable amount of clothing and other personal possessions. Staff assistance shall be available if the client is unable due to physical or mental inability to manipulate the locking mechanism, except when such storage space is determined to be inappropriate to the treatment regimen by the responsible professional and the reason for that determination is documented in accordance with G.S. 122C-62(e);
- (3) developing an inventory of each client's clothing and personal possessions upon admission and reviewing and updating it annually; and
- (4) discretely marking personal clothing items and, for clients being provided long term care, discretely marking clothing items provided by the state facility with the client's name. Clients who elect to launder their own clothing shall not be required to have clothing marked but shall be informed that they thereby assume the risk of possible loss.

(b) The State Facility Director shall establish policies and procedures for managing clothing and possessions under the state facility's exclusive control. The policy shall also outline procedures for determining loss or damage and for determining any appropriate replacement or reimbursement in accordance with the rules in 10A NCAC 01C, Section .0300.

History Note: Authority G.S. 122C-62; 131E-67; 143B-147;
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0305 SOCIAL INTERACTION

The state facility shall establish policies to assure the provision of suitable opportunities for the client's social interaction with members of the same and opposite sex and to actively seek, unless specifically contraindicated, interaction with non-handicapped persons other than staff.

History Note: Authority G.S. 122C-51; 122C-62; 131E-67; 143B-147;
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0306 CONFIDENTIALITY

State facility employees shall comply with G.S. 122C-52 through G.S. 122C-56 and the confidentiality rules codified in 10A NCAC 26B and available in "Confidentiality Rules" division publication APSM 45-1. This document is available for inspection in each state facility or in the Publications Office of the Division.

History Note: Authority G.S. 122C-52 through 122C-56; 131E-67; 143B-10; 143B-147;
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0307 SEARCH AND SEIZURE

(a) In keeping with 10A NCAC 28A Section .0300, which requires all state facilities to have a plan for explaining rights to both clients and state facility employees, state facility employees shall notify the client and his legally responsible person of the policy on search and seizure, including the provisions of this Rule and Rules .0308 and .0309 of this Section at the time of admission.

(b) Authorized searches by state facility employees are as follows:

- (1) State facility employees may search the client and the client's possessions at the time of the client's admission to the state facility. At the time of admission, the client may place personal items in a storage area which is secure. The state facility employees shall record in the personal property inventory the items placed in storage which shall be counter-signed by the client. The original of the personal property inventory shall be maintained by the state facility, and a copy shall be given to the client or his legally responsible person.
- (2) State facility employees may search a client and the client's possessions when the client is returning to the state facility from an off-campus visit or after the client has received visitors, when it is reasonable to believe a client may have items in his possession that are dangerous, illegal or otherwise prohibited by the state facility.
- (3) State facility employees may search a client, the client's possessions or the client's living area if the state facility employees have good, substantial and reliable cause to believe that the client has been drinking or using drugs or has dangerous or stolen articles or substances. Situations justifying such a search may include, but are not necessarily limited to, the following:
 - (A) when drinking, drug abuse or possession of dangerous articles or substances has been witnessed by state facility employees, reported by another client or another reliable informant, or is clearly indicated by surrounding circumstances;
 - (B) when inappropriate changes in the client's behavior are observed or reported, such as slurred speech, ataxia, odor of alcohol, and disruptive behaviors, excluding expected changes due to prescribed psychotropic medication;
 - (C) when a breathalyzer test or urine drug screen results in a positive reading [A breathalyzer test or drug screen will be administered by nursing staff when appropriate as indicated by the circumstances in Subparagraphs (b)(3)(A) and (B) of this Rule or ordered by a licensed physician.]; or
 - (D) when a stolen item has been witnessed by state facility employees, reported by another client or other reliable informant or is clearly indicated by surrounding circumstances and no criminal charges are anticipated.

(c) Scope of Searches. Except as provided in Rule .0309 of this Section, the procedures outlined in this Rule and Rule .0308 of this Section are intended for internal security, to protect the state facility from civil liability, and to provide an inventory of client's personal property, and are not intended for purposes of criminal prosecution.

- (1) Searches by state facility employees shall be conducted only on the state facility premises and may include searching a client, a private or semi-private room and any surrounding area, closet, bed, chest of drawers, ceiling and personal effects of the client.
- (2) Searches by state facility employees may include state facility buildings and grounds.
- (3) Only physicians may perform body cavity searches if it is determined that there is probable cause to do so. Such a search shall be performed in the presence of a member of the nursing staff. The physician or member of the nursing staff shall be of the same sex as the client.

(d) Search Procedure.

- (1) All searches shall be authorized in writing by the State Facility Director or state facility employee in charge of the state facility at the time of the incident except:
 - (A) searches conducted pursuant to Subparagraph (b)(1) or (2) of this Rule; or
 - (B) searches performed when state facility employees have a reasonable suspicion that a client has in his possession a weapon or instrument making the client presently dangerous to himself or others, and this danger is imminent as to render prior written authorization impracticable.
- (2) At least two state facility employees shall be present during a search. An internal client advocate may be present during a search. A state facility employee of the same sex as the client shall be present during a search.
- (3) A client affected by a proposed search, other than those specified in Subparagraphs (b)(1) and (2) of this Rule, shall be notified before the search is conducted and shall be given the opportunity to

be present during the search. Individual locked storage spaces shall only be searched when the client is present unless there is an immediate danger of personal injury.

- (4) Searches conducted in accordance with this Rule shall be documented in the client record.
- (e) Disposition of Seized Property.
- (1) If personal property seized in a search includes fire-arms or ammunition, the state facility employees shall contact the local law enforcement agency for advice regarding disposition of the property. The State Facility Director shall notify the appropriate deputy director regarding disposition of the personal property.
 - (2) If personal property seized in a search includes controlled substances illegally possessed (contraband), the substances shall be sent to the state facility pharmacy to be held for destruction under the supervision of the Department of Justice.
 - (3) If personal property seized in a search includes any alcoholic beverages, the beverages shall be sent to the State Facility Director for proper disposition.
 - (4) If personal property seized during a search includes prescription drugs in properly labeled containers; over-the-counter medications; dangerous items such as knives, scissors, razors, or glue; grooming aids that contain alcohol; or other items prohibited by the state facility, such items may be stored and returned to the client at the time of discharge. Such stored items shall be listed on the personal property inventory. A copy of the personal property inventory shall be given to the client or his legally responsible person.
 - (5) Items belonging to the minor client or minor's legally responsible person which are seized during a search of the minor or the minor's possessions, with the exception of the items specified in Subparagraph (e)(2) of this Rule, shall be given to the legally responsible person if he or she so desires.
- (f) Use of the search procedure specified in this Rule shall be subject to review by the Human Rights Committee.

History Note: Authority G.S. 90-101; 122C-58; 122C-62; 131E-67; 143B-147; Eff. October 1, 1984; Amended Eff. April 1, 1990; July 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0308 SEARCH OF UNIT/WARD

- (a) The entire unit, ward or parts of the unit, ward and building may be searched by state facility employees if there is good, substantial and reliable cause to believe that a threatening situation exists that may be dangerous to the client or state facility employee. At the forensic unit at Dorothea Dix Hospital, routine searches may be conducted periodically in accordance with the provisions of Paragraphs (b) through (f) of this Rule.
- (b) The appropriate unit or ward director or designated supervisory staff on duty shall give written authorization (based on facts of justification and what they expect to find from the search) for a search to be conducted. Written authorization will include scope of search.
- (c) Clients affected by a proposed search shall be notified at the time of search and shall be given the opportunity to be present during the search of the immediate area, unless this is not practical due to the dangerousness of the situation or because the client is not on the state facility premises. Individual locked storage spaces shall only be searched when the client is present unless there is an immediate danger of personal injury. Clients not present when a search is conducted shall be informed that a search took place when they return to their unit or ward.
- (d) The search must be conducted by no less than two state facility employees. Reasonable efforts shall be made to notify an internal client advocate prior to the search unless there exists an imminent danger which does not permit time for such notification. In all cases, an internal client advocate shall be notified of the search.
- (e) When confiscated items can be attributed to a particular client, written justification and authorization for the search shall be entered in an incident report filed with the State Facility Director's office. The search and findings shall be documented in the client record.
- (f) An inventory of confiscated items shall be made and kept on file with a copy of the inventory given to the client or his legally responsible person if ownership is determined.

History Note: Authority G.S. 122C-58; 122C-62; 131E-67; 143B-147; Eff. October 1, 1984; Amended Eff. April 1, 1990; July 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0309 ISSUANCE OF A SEARCH WARRANT

If there is probable cause to believe that a client is in possession of the following items and if criminal prosecution of the client is anticipated, such information shall be conveyed by proper affidavit to a magistrate or other official authorized to determine whether a search warrant should be issued:

- (1) contraband or otherwise unlawfully possessed items including, but not limited to, illegal drugs, weapons, or stolen items;
- (2) an item which constitutes evidence of a criminal offense; or
- (3) an item which constitutes evidence of the identity of a person participating in a criminal offense.

History Note: Authority G.S. 15A-241 through 15A-245; 131E-67; 143B-147; Eff. October 1, 1984; Amended Eff. April 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28C .0310 CLIENT'S PERSONAL FUNDS

(a) Where the state facility has been designated as representative payee or when the client is a Medicaid recipient, provisions in Paragraphs (b) through (g) of this Rule shall be interpreted in accordance with any requirements of the funding source.

(b) In accordance with G.S. 122C-62(b)(8) and G.S. 122C-62(d)(9), the maximum amount of money clients will be allowed to have and spend will be determined by the treatment/habilitation team or will be determined by each unit in a state facility based upon the needs and abilities of the client population. Client requests to retain money above the maximum allowable amount shall be reviewed by the client treatment/habilitation team and the decision shall be documented in the client record. Any imposed limitation or restriction by the responsible professional on the client's right to have and spend the sum of money determined to be reasonable shall be documented in accordance with G.S. 122C-62(e).

(c) The state facility shall develop written policies and procedures which:

- (1) allow the client to deposit and withdraw money from a personal fund account;
- (2) regulate the receipt and distribution of funds in personal fund accounts;
- (3) provide for the receipt of deposits in personal fund accounts from friends, relatives or others and withdrawal by the client;
- (4) provide for the keeping of adequate financial records on all transactions affecting funds on deposit in personal fund accounts;
- (5) provide for the issuance of receipts to persons depositing or withdrawing funds; and
- (6) provide for a periodic accounting of personal fund accounts.

(d) Where the client, due to his physical or mental condition, is unable to manage his own funds, the legally responsible person may request that the State Facility Director provide for the handling of a portion of funds in the personal fund account for a personal needs allowance of the client. If the State Facility Director provides for the handling of these funds, proper accounting must be maintained for such monies. The funds must be kept separate from any operating funds of the state facility.

(e) The state facility may not deduct from a personal fund account any amount owed or alleged to be owed to the state facility or a state facility employee or visitor to the state facility or other client of the state facility for damages done or alleged to have been done by the client to the state facility, property of the state facility, state facility employee, visitor or other client, unless the client or his legally responsible person authorizes the deduction.

(f) The state facility may not deduct from a personal fund account any amount owed or alleged to be owed to the state facility for treatment or habilitation services unless the client or legally responsible person authorizes the deduction. The state facility may develop a policy for deduction from personal fund accounts for treatment or habilitation services which provides for this authorization by the client or legally responsible person upon or subsequent to admission of the client.

(g) Competent adult clients may maintain or invest their money in other than personal fund accounts at the state facility. This shall include, but not be limited to, investment of funds in interest bearing accounts.

History Note: Authority G.S. 122C-51; 122C-58; 122C-62; 131E-67; 143B-147;

Eff. October 1, 1984;

Amended Eff. April 1, 1990; July 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.