

## **CHAPTER 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES**

### **SUBCHAPTER 27A – FISCAL RULES**

#### **SECTION .0100 - ACCOUNTING STANDARDS FOR ALL RECIPIENTS OF FUNDS ADMINISTERED BY THE DIVISION**

##### **10A NCAC 27A .0101 EFFECT OF THIS SECTION**

The requirements of this Section shall apply to all area programs and their subrecipient agencies receiving funds administered by the Division and discussed in Section .0200 of this Subchapter.

*History Note: Authority G.S. 122C-147.1;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; July 1, 1980;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0102 DEVELOPMENT AND MAINTENANCE OF ANNUAL BUDGET**

(a) The area program shall develop and maintain their annual budget in accordance with G.S. 159.

(b) The area program shall prepare and submit to the Division the annual service plan and Memorandum of Agreement in accordance with G.S. 122C-143.2.

*History Note: Authority G.S. 122C-112; 122C-143.2; 122C-144.1;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; July 1, 1980; April 25, 1979;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0103 REPORTS REQUIRED**

The Secretary may require reports in accordance with G.S. 122C-144.1.

*History Note: Authority G.S. 122C-112; 122C-144.1;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; July 1, 1980; April 25, 1979; November 1, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0104 ANNUAL AUDIT REPORT**

Each program receiving funds administered by the Division shall submit an annual audit in accordance with requirements of G.S. 159-34 and the Local Government Commission.

*History Note: Authority G.S. 122C-112; 122C-144.1; 159-34;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1990; October 1, 1983; July 1, 1982;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0105 BUDGET REVISIONS**

Revisions to the budget shall be in accordance with G.S. 159-15.

*History Note: Authority G.S. 159-15;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1990; February 1, 1986; July 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

##### **10A NCAC 27A .0106 CONTRACT REQUIREMENTS FOR AREA PROGRAMS**

(a) This Rule shall apply to all contracts between an area program (hereafter referred to as "contractor") and contract providers (hereafter referred to as "contractees"). For purposes of this Rule, contractees include:

- (1) an individual with whom a contract is made for professional services, including consultants and guest speakers; and
  - (2) an agency, other than another area program, with whom a contract is made for the provision of services to one or more clients.
- (b) The basis for the relationship between the contractor and the for-profit or non-profit contractee is the written contract. All mutual understandings and expectations shall be clearly stated in the contract. All contracts for provision of services to clients, shall contain, at a minimum, the following provisions as indicated in this Rule, except that Subparagraphs (b)(11) and (b) (18) of this Rule shall not apply to contracts with individuals:
- (1) names of the contracting parties;
  - (2) beginning and ending dates of the contract period; however, no contract shall extend beyond the fiscal years, except as allowed by G.S. 159;
  - (3) description of the services to be provided and the expectations of the parties;
  - (4) amount and method of payment;
  - (5) address and social security number or IRS identification number of contractee;
  - (6) the following statement when a contract period is greater than 30 days: "This contract may be terminated at any time upon mutual consent of both parties or after 30 days upon notice of termination by one of the contracting parties;"
  - (7) a statement which indicates that the contract may be terminated immediately with cause upon written notice to the other party; the cause shall be documented in writing to the other party detailing the grounds for termination; and if applicable, the contract may contain a provision indicating method of payment of liquidated damages upon such termination;
  - (8) a clause which indicates that the contractor (area) is held harmless from acts committed by the contractee;
  - (9) signature of each party to the contract;
  - (10) a pre-audit statement in accordance with G.S. 159-28;
  - (11) a statement specifying the procedure for budget revisions, if applicable, and provisions for fund balance;
  - (12) the procedure for resolving disagreement between the contracting parties;
  - (13) for equipment purchased with non unit-cost reimbursement funds, such as start up or special purpose funding, title to assets purchased under the contract in whole or in part rests with the contractor so long as that party continues to provide the services which were supported by the contract; if such services are discontinued, disposition of the assets shall occur as approved by the Division;
  - (14) client records of the contractee shall be accessible for review for the purpose of monitoring services rendered, financial audits of third party payors, research and evaluation;
  - (15) upon request, the contractee shall provide data about individual clients for research and study to the contractor;
  - (16) the contractor requirement to provide to the contractee all pertinent rules, regulations, standards and other information distributed by the Division necessary for the performance of the contractor under the terms of the contract;
  - (17) the contractor requirement to monitor the contract to assure compliance with rules of the Commission, the Secretary and G.S. 122C-142;
  - (18) a copy of the independent audit referenced in Subparagraph (b)(20) of this Rule, if required, shall be forwarded to the Office of the State Auditor at 2 S. Salisbury Street, 20601 Mail Service Center, Raleigh, North Carolina 27699-0601.
  - (19) provisions which outline the responsibility of the contractee for the adoption, assessment, collection and disposition of fees in accordance with G.S. 122C-146;
  - (20) a requirement that the contractee shall make available to the contractor its accounting records for the purpose of audit by State authorities and that the party will, when required by general statute or in accordance with the annual Memorandum of Agreement, have an annual audit by an independent certified public accountant.
- (c) Agreements with another area program for provision of services to clients shall be incorporated into the annual Memorandum of Agreement referenced in Rule .1002 of this Section.

*History Note: Authority G.S. 122C-112; 122C-141; 122C-142; 122C-146; 143-6.1; 159-40; Eff. February 1, 1976; Amended Eff. February 1, 1996; October 1, 1992; February 1, 1986; July 1, 1985; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0107 FUND ROUTING**

- (a) Except as authorized by the General Assembly, all funds allocated by the Division for the provision of community mental health, developmental disability and substance abuse services shall be allocated to the area program.
- (b) The Division may allocate and contract directly for the provision of non-treatment activities including but not limited to administration, training and prevention.

*History Note: Authority G.S. 122C-112; 122C-131; 122C-147.1;*  
*Eff. February 1, 1976;*  
*Amended Eff. February 1, 1996; July 1, 1980; April 25, 1979;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0108 DENIAL, DELAY OR REDUCTION OF PAYMENTS**

The Division may delay, reduce or deny payments to area programs in accordance with G.S. 122C-151.

*History Note: Authority G.S. 122C-151;*  
*Eff. February 1, 1976;*  
*Amended Eff. February 1, 1996; April 1, 1990;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0109 RECOVERY OF DIVISION FUNDS IN NON-COMPLIANCE SITUATIONS**

- (a) The Division shall review all non-compliance situations occurring in area programs to determine if division funds were involved in the non-compliance situations. Non-compliance situations are those situations or actions that occur which are not in accordance with division, department, state, and federal rules, regulations, or statutes.
- (b) The Division's effective rate of participation, shall be determined in accordance with the Memorandum of Agreement.
- (c) Division participation in non-compliance situations shall be recovered through receipt of a check or by reducing the current year's payment of allocated division funds otherwise due the area program. The area program shall reimburse the Division within 60 days of being invoiced or notified of the required payback, unless notification of appeal is rendered by the Area Authority.
- (d) If the Director of the area program disagrees with the non-compliance decision, within 60 days of receipt of the notification of non-compliance, the Director of the area program may send to the Division Director a request for appeal pursuant to G.S. 122C-145, and 10 NCAC 1K .0900 (DHR Administrative Standards).
- (e) Pending the final agency decision on the appeal of the non-compliance decision, the Division shall not withdraw or reduce the amount of funds due the area program.

*History Note: Authority G.S. 122C-112; 122C-147;*  
*Eff. July 1, 1980;*  
*Amended Eff. February 1, 1996; April 1, 1990; July 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0110 EXPENDITURE OF DIVISION FUNDS SETTLED ON AN EXPENDITURE BASIS**

- (a) The area programs may budget division funds within cost centers that also include, but are not limited to, local funds, federal funds or other division funds. When area programs elect to budget division funds within a cost center that is settled on an expenditure basis with other funds, funds shall be considered to have been expended in the following order:
- (1) special grants from non-divisional sources that are for reimbursement of the same expenditures as those for which divisional categorical funds are appropriated (examples are grants from the Department of Public Instruction or Division of Youth Services - Community-Based Alternative Funds);
  - (2) federal funds from the Division; and
  - (3) state funds from the Division. Revenue from non-divisional sources shall be deducted from total cost center expenditures for the purpose of determining the net cost upon which the state share is based.
  - (4) Client-earned income, such as payments received from patients or third parties (insurance, Medicare, Medicaid), which is received but not expended shall be retained by the area program.
- (b) Settlement of Willie M. and Thomas S. funds shall be in accordance with Rules .1136 and .1148 of this Section, respectively.

*History Note: Authority G.S. 122C-112; 122C-147;  
 Eff. July 1, 1980;  
 Amended Eff. February 1, 1996; October 1, 1992; April 1, 1990; June 1, 1987;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27A .0111 FUND BALANCE: COMPUTATION FOR AREA PROGRAMS**

(a) In order for the Division to have input into the actions regarding fund balances in area programs, the following shall take place after the certified public accountant's audit report is rendered and the tentative settlement report prepared:

- (1) The fund balance set forth within the annual audit of area programs shall be verified by the Division.
- (2) Since single county area programs are considered a department of the county for budgetary and financial reporting, separate fund balances for the single county area programs are not required. In order to assure that single county area programs are in compliance with the G.S. 122C-146 which states that fees received for services shall not reduce or replace the budgeted commitment of local tax revenue, the Division shall review the utilization of county general funds and the disposition of fees received for service each year.
- (3) To determine the unrestricted fund balance for a multi-county area program or single county area program which maintains a separate fund balance and the percent that it represents to the operating budget, the Division shall use the following format:

Current Assets Per Audit Report	\$
Less: Current Liabilities Per Audit Report	( )
Fund Balance	\$
Less: Reserve for Encumbrances	( )
Reserve for Patients Accounts Receivable	
Less: Allowance for Doubtful Accounts Patient	
Accounts Receivable	( ) ( )
Reserve for Accounts Receivable from Governmental	
Entities	( )
Reserve for Inventory	( )
Reserve for DWI Fees	( )
Reserve for Drug Education School Fees	( )
Reserve for Restricted Donations	( )
Fund Balance Restriction Previously Approved by	
DMH/DD/SAS	( )
Willie "M"	( )
Thomas S.	( )
Other(List)	( )
Unrestricted Fund Balance	\$
Currently approved budget including expansion	\$
Percent Unrestricted Fund Balance to Current Annual Budget	percent

- (4) If the unrestricted fund balance is not in excess of 15 percent of the current annual budget, no action is to take place.
- (5) If the unrestricted fund balance is over 15 percent of the current annual budget, the Division shall recoup in an amount equal to the fund balance in excess of 15 percent. The area program may request permission from the Division Director to restrict fund balance in excess of the 15 percent limitation for specific purposes.

(b) The amount of reduction of financial support by the division to area programs as referenced in Subparagraph (a)(5) of this Rule may be decreased or delayed or both if, in the opinion of the Division Director, the following circumstances warrant relaxation of this policy:

- (1) past history of fund usage by the area program;
- (2) adequacy of area program funds to meet the needs of the catchment area;
- (3) utilization of funds throughout the fiscal year by the area program;

- (4) unusual or unexpected fiscal events affecting the area program; or
  - (5) purpose for which the area program would retain funds.
- (c) Any action taken in regard to Paragraph (b) of this Rule shall be documented in writing.

*History Note:* Authority G.S. 122C-112(a)(6); 122C-144; 122C-146; 122C-147; 143B-10; 159-8;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0112 DISPOSITION OF EQUIPMENT - NON UNIT COST REIMBURSEMENT**

(a) Equipment costing five thousand dollars (\$5,000) or more purchased with non-unit cost reimbursement (UCR) Division funds by an area program or contract provider shall be used for Division funded client services. Except for Willie M and Thomas S. funded purchases, equipment purchased with Division funds may be transferred to other Division funded services if no longer needed by the original service. Willie M and Thomas S. purchased equipment shall be used only for Willie M or Thomas S. clients or disposed of in accordance with Rule .1136 or .1148 of this Subchapter.

(b) Except as stated in Paragraph (c) of this Rule, should transfer of equipment to Division funded services not be possible, the Division shall be contacted by the area program or through the area program for a contract provider for disposition instructions. The Division shall recover the Division's share of the fair market value. The Division's share will be established by the following methods in order of preference.

- (1) Through inventory records which establish the percent of funding for the equipment.
- (2) The Division's percent of participation for the area program for the year of purchase.
- (3) The Division's percent of participation for the area program for the current year.

(c) Equipment which is fully depreciated and no longer has any useful value may be disposed of in accordance with area program policy.

(d) The area program shall have a written procedure stating the equipment disposition policy for contract providers and include or reference this provision in all contracts between the area program and the contract provider.

*History Note:* Authority G.S. 122C-147;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0113 START UP FUNDING**

(a) The Division may provide funding outside of unit cost reimbursement (UCR) for initial purchases of equipment, supplies and operational expenditures for the establishment of a program, service or facility.

(b) Requests for start up shall be made by the area program, or through the area program in the case of a contract provider, in whose catchment area the new program, service or facility is being established. Requests shall be made in writing to the Division Director or designee and shall include a line item budget and justification. Requests may include expenses for normal operation such as staff, utilities and rent but such request may not exceed 60 days without specific written authorization from the Division Director or designee. Approvals shall be granted based on availability of funds and merit of request.

*History Note:* Authority G.S. 122C-147;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0114 AREA AUTHORITY FINANCIAL FAILURE DEFINED**

*History Note:* Authority G.S. 122C-125;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016;  
Repealed Eff. October 3, 2023 pursuant to G.S. 150B-21.7.

### **SECTION .0200 - STATE AND FEDERAL FUNDS ADMINISTERED**

#### **10A NCAC 27A .0201 METHOD OF PAYMENT**

Payment shall be based on earnings, monthly advancement or other basis as authorized by the Division and stated in the Memorandum of Agreement.

*History Note:* Authority G.S. 143B-10;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1990; June 7, 1978; November 1, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0202 REQUEST FOR FUNDS**

A monthly request for funds administered by the Division and paid on a basis other than unit cost earnings shall be on a standard format available from the fiscal services section of the Division. Request shall be submitted to the Fiscal Office as directed by the Division Director.

*History Note:* Authority G.S. 143B-10;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; November 1, 1977;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0203 EARLY INTERVENTION - STATE AND FEDERAL FUNDS**

*History Note:* Authority G.S. 122C-112(a)(6); 122C-131; 122C-150; U.S.C. 1471 Part HIDEA;  
Eff. February 1, 1976;  
Amended Eff. February 1, 1996; April 1, 1988; February 1, 1986; July 1, 1985;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.

#### **10A NCAC 27A .0204 DIVISION FUNDS FOR CAPITAL PROJECTS**

(a) When capital funds are specifically appropriated by the General Assembly, the Division shall allocate funds for area program capital projects. Such allocations shall be in accordance with the language and intent of the appropriation. Instructions for capital applications and payment of funds shall be issued by the division subsequent to any such specific appropriation.

(b) An area program may request to use state non-unit cost reimbursement (UCR) funds, Willie M. or Thomas S. funds, or to transfer state operating funds outside the regular, Willie M. and Thomas S. unit cost reimbursement systems for capital costs for itself, its non-profit contract agency, or another governmental entity. The following procedures shall be followed:

- (1) Approval for purchase, alteration, improvement or rehabilitation of real estate held in the name of the area program or purchase, alteration, improvement, or rehabilitation of real estate or lump sum down payment or periodic payments on a real property mortgage in the name of a private, non-profit corporation or another governmental entity under contract to the area program, which cost under five thousand dollars (\$5,000) is delegated to the area director.
- (2) Approval for purchase, alteration, improvement or rehabilitation of real estate held in the name of the area program or purchase, alteration, improvement, or rehabilitation of real estate or lump sum down payment or periodic payments on a real property mortgage in the name of a private, non-profit corporation or another governmental entity under contract to the area program which costs five thousand dollars (\$5,000) or over shall be based upon submission of an application by the area program to the Division Director or designee. Such application shall be in a format prescribed by the Division and may include the following:
  - (A) name of applicant;
  - (B) address of applicant;
  - (C) the name and type of proposed or existing facility and its location;
  - (D) the purpose of request, whether new construction, purchase of an existing structure, alteration, improvement or rehabilitation of an existing facility;
  - (E) a statement of the need for the facility or alteration, improvement or rehabilitation;
  - (F) description of the programs conducted or to be conducted in the facility;
  - (G) target date for project completion;
  - (H) an estimated construction budget and projected revenue sources;

- (I) a statement indicating whether or not additional Division funds will be required for operating costs. If this question is answered yes, the application shall indicate the estimated additional operating funds required and the proposed funding source;
  - (J) the name and telephone number of the area program representative designated as contact for the application; and
  - (K) two property appraisals completed by licensed property appraisers for costs associated with the purchase of an existing building, lump sum down payments and period payments on the mortgage of real property.
- (3) Funds approved for capital projects under Paragraph (b) of this Rule shall be paid in the following manner:
- (A) Funds approved under Subparagraph (b)(1) of this Rule shall be requested by the area program using regular fund request procedures as funds are needed.
  - (B) Funds approved under Subparagraph (b)(2) of this Rule shall be requested in the following manner:
    - (i) if funds are to be utilized for the purchase of a facility, the necessary funds may be requested within 30 days from when they are needed via a written request from the Area Director to the Division Director or designee. The request shall specify the amount of funds needed and the projected closing date of the purchase.
    - (ii) if funds are to be utilized for the construction of a new facility or renovation, rehabilitation or alteration of an existing facility, funds will be disbursed based upon written requests from the Area Director to the Division Director or designee certifying project completion at the following intervals: 10%, 25%, 50%, 75% and 100%. Upon receipt of such billings, the Division shall issue payment consistent with the percentage completed.
- (4) All aspects of any capital project shall be completed in accordance with all applicable federal, State and local regulations. Such compliance shall include, but not be limited to, G.S. 159 requirements, Division of Health Service Regulation licensure regulations, and local building ordinances.
- (5) The area program shall maintain a perpetual inventory of all facilities purchased, constructed, altered, renovated or rehabilitated in accordance with this Rule. This inventory shall document the history cost of the facility plus subsequent improvements and the percentage of Division participation in the total cost.
- (6) Should the facility cease to be used for the purpose of serving clients of the Division, or, more specifically for the purpose of serving Willie M. or Thomas S. clients if the purchase, construction, rehabilitation, alteration or improvement was funded from those specific funding sources, the Division shall be contacted immediately for disposition instructions. If the Division so directs, the facility shall be sold at the current fair market value in accordance with G.S. 153A-176 and G.S. 160A-266. After the sale, the Division shall be reimbursed the Division's pro-rata share of the proceeds from the sale based on the percent of contribution made by the Division for the purchase, construction, alteration, improvement or rehabilitation of the sold facility. If an area program or its contract provider wishes to maintain ownership of a facility that was constructed, purchased, altered, improved or rehabilitated using Division funds, the area program or non-profit contract provider may, if authorized by the Division, pay to the Division the Division's pro-rata share of the current fair market value of the facility as determined by two independent appraisals acceptable to the Division.

*History Note: Authority G.S. 122C-112; 122C-113;  
 Eff. November 1, 1977;  
 Amended Eff. February 1, 1996; April 1, 1990; July 1, 1980; April 25, 1979;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0205 FUNDING ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS**

- (a) Pursuant to G.S. 20-179.2 the Department of Health and Human Services shall have the authority to approve programs, budgets and contracts with public and private governmental and non-governmental bodies for alcohol and drug education traffic schools operated by an area program or operated by a contractor through a contract with an area program.
- (b) Fees paid by persons enrolling in an alcohol and drug education traffic school established pursuant to G.S. 20-179.2 shall be used to support the schools except as indicated in (e) of this Rule. Other funds to support the schools may come from multiple sources such as, but not limited to, county general funds, state appropriations, federal appropriations, and receipts for

services (patient fees). This Rule is established to set accounting requirements for the fees received pursuant to G.S. 20-179.2.

(c) Fees received pursuant to G.S. 20-179.2 shall be limited to purchases of the following:

- (1) to rent or lease space to conduct alcohol and drug education traffic school classes if sufficient space is not available in area program facilities;
- (2) personnel and support costs necessary to assure a systematic and timely processing of referrals to alcohol and drug education traffic schools;
- (3) supplies and materials necessary for the efficient and timely operation, evaluation and administration of alcohol and drug education traffic schools and for developing and maintaining an efficient liaison process with the judicial system, interested community groups, the Division of Motor Vehicles and the Department of Health and Human Services;
- (4) non-administrative equipment necessary for the operation of alcohol and drug education traffic schools;
- (5) administrative equipment for alcohol and drug education traffic school personnel employed full-time and a pro-rated amount for personnel assigned less than one hundred percent of the time to traffic schools;
- (6) renovations that do not result in the acquisition of real property by the area program;
- (7) travel;
- (8) area program administrative costs that can be documented as chargeable to the schools; and
- (9) other necessary operating expenses as approved by the Division.

(d) Fees received pursuant to G.S. 20-179.2 shall not be used for acquisition of real property by the area program.

(e) Fees received pursuant to G.S. 20-179.2 shall be used to support the operation, evaluation and administration of the alcohol and drug education traffic schools. Any excess fees received pursuant to G.S. 20-179.2 shall be used to continue or to expand alcohol and drug services.

(f) Fees received pursuant to G.S. 20-179.2 shall not be used in any manner to match state or division funds or to be included in any computation for state or division formula funded allocations.

(g) Fees received pursuant to G.S. 20-179.2 shall be consistently identified as such. All such fees remaining at the end of the area program's fiscal year shall retain their identity and the fund balance of the area program shall be so restricted as to assure continued use of the fees for the alcohol and drug education traffic schools or to continue or to expand other alcohol and drug abuse services.

(h) Area programs shall maintain records which indicate which individuals have paid for the traffic schools.

(i) Pursuant to G.S. 20-179.2, area programs shall receive fees from either the person convicted or from the judiciary. The individual enrolled in the school shall pay the fee to the area program providing the school, except that if the clerk of court in the county in which the person is convicted agrees to collect the fees, the clerk shall collect all fees for persons convicted in that county. The clerk shall pay the fees collected to the area program serving the catchment area in which the clerk is located regardless of where the defendant attends the school.

(j) Area programs receiving fees from the judiciary for individuals who will be enrolled in schools operated by other area programs shall transfer 80 percent of the fees received from the judiciary for those individuals to the area programs enrolling the individuals upon receipt of an invoice. The 80 percent shall be transferred to the area program providing the school regardless of whether the individual attends the school.

(k) Area programs receiving fees directly from an individual who has been convicted in a county outside the area program's catchment area shall transfer 15 percent of the fees collected to the area program which serves the county where the individual was convicted upon receipt of an invoice from the area program serving the county where the conviction occurred. Any area program not desiring to collect the 15 percent from another area program is not required to invoice that program. A decision not to collect the 15 percent shall be approved by the area board and documented in the board minutes. An area program that does not desire to invoice another area program shall honor invoices presented to it from other area programs that desire to collect the 15 percent.

(l) Five percent of all fees received by the area program pursuant to G.S. 20-179.2 shall be forwarded to the Department of Health and Human Services on a monthly basis. The area program that initially receives the fees from the persons paying the fees or from the judiciary system shall be responsible for transferring the 5 percent to the Department. Checks shall be made payable to and sent to: Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3001 Mail Service Center, Raleigh, North Carolina 27699-3001.

(m) The amount of fees transferred to another area program or to the Division as indicated in (j) through (l) of this Rule shall be recorded in the accounting records to TRANSFER OF DUI FEES. Under no circumstances shall the transfer of fees be recorded as an operating expense in which the Division would participate.

*History Note: Authority G.S. 20-179.2; 122C-143; 143B-10;*



*Eff. April 21, 1980;*

*Amended Eff. February 1, 1996; December 1, 1981; July 1, 1981;*

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

#### **10A NCAC 27A .0206 FUNDS FOR MULTIDISCIPLINARY EVALUATIONS: GUARDIANSHIP**

*History Note: Authority G.S. 122C-147.1; 143B-10;*

*Eff. July 1, 1981;*

*Amended Eff. February 1, 1996; April 1, 1990;*

*Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.*

#### **10A NCAC 27A .0207 FUNDS FOR FORENSIC SCREENING: CAPACITY TO PROCEED TO TRIAL**

(a) To the extent state funds are available, the division shall provide reimbursement for court-ordered screening and evaluation of persons to determine their capacity to proceed to trial.

(b) The screening or evaluation shall be performed by a qualified mental health professional or a qualified substance abuse professional who is registered with the Division as a forensic evaluator or a person deemed a medical expert by the court.

(c) Only area programs are eligible for reimbursement.

(d) To obtain reimbursement the area program shall submit to the Division Fiscal Office the following:

- (1) two copies of an itemized invoice which reflects the following:
  - (A) name of respondent screened or evaluated;
  - (B) name of certified forensic evaluator for each respondent;
  - (C) amount of time in hours or portion thereof required for each screening examination or evaluation;
  - (D) rate per hour for each examination or evaluation; and
  - (E) dollar amount for each examination or evaluation.
- (2) one copy of the individual court order. The court order shall be attached to the invoice.

(e) The rate per hour for each forensic evaluator required on the invoice under (d)(1)(D) of this Rule shall be the usual and customary charges of the area program before adjustment to the sliding fee scale. The amount invoiced to the division shall not exceed the rate approved by the Division.

(f) The procedures of this Rule apply only to reimbursement for screening examinations or evaluations to determine the capacity of an individual to proceed to trial and do not apply to reimbursement for any treatment determined to be necessary as a result of the evaluation.

*History Note: Authority G.S. 122C-147.1; 143B-10;*

*Eff. July 1, 1981;*

*Amended Eff. February 1, 1996; October 1, 1990; April 1, 1990;*

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

#### **10A NCAC 27A .0208 FUNDING DRUG EDUCATION SCHOOLS**

(a) Pursuant to G.S. 90-96.01 the Department of Health and Human Services shall have the authority to approve programs, budgets and contracts with public and private governmental and nongovernmental bodies for drug education schools operated by an area program or operated by a contractor through a contract with an area program.

(b) Fees paid by persons enrolling in a drug education school established pursuant to G.S. 90-96.01 shall be used to support the schools except as indicated in Paragraph (e) of this Rule. Other funds to support the schools may come from multiple sources such as, but not limited to, county general funds, state appropriations, federal appropriations, and receipts for services (patient fees). This Rule is established to set accounting requirements for the fees received pursuant to G.S. 90-96.01.

(c) Fees received pursuant to G.S. 90-96.01 shall be limited to purchases of the following:

- (1) to rent or lease space to conduct drug education school classes if sufficient space is not available in area program facilities;
- (2) personnel and support costs necessary to assure a systematic and timely processing of referrals to drug education schools;
- (3) supplies and materials necessary for the efficient and timely operation, evaluation and administration of drug education schools and for developing and maintaining an efficient liaison process with the judicial system, interested community groups, and the Department of Human Resources;
- (4) non-administrative equipment necessary for the operation of drug education schools;

- (5) administrative equipment for drug education school personnel employed full-time and a pro-rated amount for personnel assigned less than 100 percent of the time to drug education schools;
  - (6) renovations that do not result in the acquisition of real property by the area program;
  - (7) travel required for the effective operation of the drug education schools;
  - (8) area program administrative costs that can be documented as chargeable to the schools; and
  - (9) other necessary operating expenses as approved by the Division.
- (d) Fees received pursuant to G.S. 90-96.01 shall not be used for acquisition of real property by the area program.
- (e) Fees received pursuant to G.S. 90-96.01 shall be used to support the operation, evaluation and administration of the drug education schools. Any excess fees received pursuant to G.S. 90-96.01 shall be used to continue or to expand alcohol and drug services.
- (f) Fees received pursuant to G.S. 90-96.01 shall not be used in any manner to match state or division funds or to be included in any computation for state or division formula funded allocations.
- (g) Fees received pursuant to G.S. 90-96.01 shall be consistently identified as such. All such fees remaining at the end of the area program's fiscal year shall retain their identity and the fund balance of the area program shall be so restricted as to assure continued use of the fees for the drug education schools or to continue or to expand other alcohol and drug abuse services.
- (h) Area programs shall maintain records which indicate which individuals have paid for the drug education schools.
- (i) Pursuant to G.S. 90-96.01, area programs shall receive fees from either the person enrolled in the class or from the judiciary. The individual enrolled in the school shall pay the fee to the area program providing the school, except that if the clerk of court in the county in which the person is sentenced agrees to collect the fees, the clerk shall collect all fees for persons sentenced in that county. The clerk shall pay the fees collected to the area program serving the catchment area in which the clerk is located regardless of where the person attends the school.
- (j) Area programs receiving fees from the judiciary for individuals who will be enrolled in schools operated by other area programs shall transfer 80 percent of the fees received from the judiciary for those individuals to the area programs enrolling the individuals upon receipt of an invoice. The 80 percent shall be transferred to the area program providing the school regardless of whether the individual attends the school.
- (k) Area programs receiving fees directly from an individual who has been sentenced in a county outside the area program's catchment area shall transfer 15 percent of the fees collected to the area program which serves the county where the individual was sentenced upon receipt of an invoice from the area program serving the county where the sentencing occurred. Any area program not desiring to collect the 15 percent from another area program is not required to invoice that program. A decision not to collect the 15 percent shall be approved by the area board and documented in the board minutes. An area program that does not desire to invoice another area program shall honor invoices presented to it from other area programs that desire to collect the 15 percent.
- (l) Five percent of all fees received by the area program pursuant to G.S. 90-96.01 shall be forwarded to the Division of MH/DD/SAS on a monthly basis. The check for 5 percent of the fees received shall be accompanied by a transmittal indicating from whom the fees were received. The area program that initially receives the fees from the persons paying the fees or from the judiciary system shall be responsible for transferring the 5 percent to the Division. Checks shall be made payable to and sent to: Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3001 Mail Service Center, Raleigh, North Carolina 27699-3001.
- (m) The amount of fees transferred to another area program or to the division as indicated in (j) through (l) of this Rule shall be recorded in the accounting records as transfer of DES Fees. Under no circumstances shall the transfer of fees be recorded as an operating expense in which the Division would participate.
- (n) In order to secure approval of the program and budget supported by fees received pursuant to G.S. 90-96.01, the area program shall include the programmatic and budgetary data in the annual plan of work submitted to the Division each fiscal year.

*History Note: Authority G.S. 90-96.01; 122C-132; 122C-143;  
 Eff. July 1, 1982;  
 Amended Eff. February 1, 1996; October 1, 1982;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0209 COMMUNITY MENTAL HEALTH SERVICES BLOCK GRANT**

- (a) The Division shall administer a grant program for the federal Community Mental Health Services Block Grant which is made available to the Division under the authority of Public Law 102-321.
- (b) The appropriate portion of funds which are made available to the Division for Community mental health services shall be made available to eligible programs. The purpose of these funds is to provide comprehensive community mental health

services to adults with a serious mental illness and to children with a serious emotional disturbance who meet the unit cost reimbursement (UCR) criteria for Level 1 or Level 2.

(c) The mental health services shall be provided within the limits of the capacity of the area program, to any individual residing or employed in the service area of the center, regardless of ability to pay for such services, in a manner which preserves human dignity and assures continuity and high quality care.

(d) Funds shall not be expended for any of the following uses:

- (1) to provide inpatient services,
- (2) to make cash payments to clients,
- (3) to purchase or improve land; purchase, construct or permanently improve any building or other facility; or purchase major medical equipment,
- (4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds,
- (5) to provide assistance to any entity other than a public or nonprofit private entity, or
- (6) to support any individual salary in excess of one hundred twenty five thousand dollars (\$125,000).

(e) The Division Director shall allocate annually funds to the area programs.

(f) Block grant funds allocated shall be used to supplement and increase the level of state, local, and other non-federal funds and shall, in no event, supplant such state, local, and other non-federal funds. The Division shall monitor compliance by comparing total budgeted revenues for the current fiscal year with those budgeted for the prior fiscal year for each area program exclusive of block grant funds. If block grant funds are reduced, the area program may reduce its participation in a proportionate manner.

*History Note: Authority G.S. 12C-141; 122C-143.1; 122C-143.2; 122C-144.1; 122C-147; 122C-147.1; 122C-147.2; P.L. 102-321; Eff. October 1, 1982; Amended Eff. February 1, 1996; April 1, 1990; July 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0210 PATH-HOMELESS GRANT**

(a) The Division shall administer a program of grants for children and adults to area programs called Path-Homeless Grant.

(b) These funds shall be used to provide comprehensive services for homeless individuals who have chronic mental illness. Path-Homeless Grant funds shall be used to develop community mental health and related services to provide treatment and support to homeless mentally ill adults and children consistent with the provisions of Public Law 100-77, Title VI, Subtitle B, Part C and within the following guidelines:

- (1) Homelessness is defined as individuals who lack a fixed, regular and adequate residence;
- (2) An individual who has a primary residence that is:
  - (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations; or
  - (B) a facility that provides a temporary residence for individuals who would otherwise be institutionalized; or
  - (C) a public or private place not designated for, or ordinarily used as a regular sleeping accommodation for human beings;

(3) Homelessness does not include any individual imprisoned or otherwise detained under federal or state law.

(c) Eligible adults are individuals who are 18 years of age or older and who have long term, severe disabling mental illness. Long term severe mental illness is defined as a serious and persistent mental or emotional disorder, e.g., schizophrenia, severe depression, manic-depressive disorder, etc. that disrupts functional capacities for relationships and work or school. Persons with long term mental illness complicated by alcohol and or drug abuse problems and individuals who are both mentally ill and mentally retarded are also eligible recipients.

(d) Eligible children are individuals under the age of 18 who either:

- (1) have an emotional disturbance of such severity as to significantly interfere with functioning within the family, school or community environment and to require intensive intervention by mental health or other related agencies; or
- (2) are at high risk of severe emotional disturbance because of severe mental illness or substance abuse in the immediate family or excessive disruption of normal educational and developmental process; or
- (3) are in addition to mental illness, also suffering from an added disability, such as neurological impairment, chemical dependency and or mental retardation.

*History Note:* Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-47; 122C-147.1; 122C-147.2;  
Public Law 100-77, Title IV, Subtitle B, Part C;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

**10A NCAC 27A .0211 GOVERNOR'S SUBSTANCE ABUSE PREVENTION PROGRAM**  
**10A NCAC 27A .0212 CLOZAPINE**

*History Note:* Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2;  
General Education Provision Act, Education Department; General Administrative Regulations in 34 Code  
of CFR, Part 74, Part 76 and Part 77; and the Drug Free Schools and Community Act of 1986 and its  
amendments;  
Eff. February 1, 1996;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.

**10A NCAC 27A .0213 COMMUNICABLE DISEASE RISK/SERVICES TO INTRAVENOUS (IV) DRUG USERS**

- (a) The Division shall administer a program for substance abuse services to adolescents or adults who inject controlled substances; or have sexual contact with partners who inject controlled substances, including methadone; or have tested positive for Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS), Hepatitis B, Hepatitis C, sexually transmitted diseases or tuberculosis; or who have engaged in high risk behaviors with identified substance abusers.
- (b) Funds shall be used for the provision of services in accordance with the special conditions in the Memorandum of Agreement or Summary of Significant Federal Requirements.
- (c) Funds shall be awarded, paid and settled in accordance with the Annual Memorandum of Agreement.

*History Note:* Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

**10A NCAC 27A .0214 TREATMENT ALTERNATIVES FOR WOMEN**

- (a) The Division shall administer a program to provide comprehensive services to substance abusing pregnant women or substance abusing women with dependent children.
- (b) Services may include primary medical, prenatal and pediatric care immunization, child care, transportation, gender specific substance abuse treatment and therapeutic intervention for children that address their developmental needs.
- (c) Funds shall be used for the provision of services in accordance with the special conditions in the Memorandum of Agreement or Summary of Significant Federal Requirements.
- (d) Funds shall be awarded, paid and settled in accordance with the Annual Memorandum of Agreement.

*History Note:* Authority G.S. 122C-141; 122C-143.1; 12C-143.2; 122C-147; 122C-147.1; 122C-147.2;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

**10A NCAC 27A .0215 UNIT COST REIMBURSEMENT (UCR) CHILD AND ADULT**

- (a) The Division shall administer a system of reimbursement of state, federal and other funds to area programs for eligible children and adult clients based on the provision of eligible mental health, developmental disabilities and substance abuse services. These payments exclude those services paid for under either the Willie M. or Thomas S. unit cost reimbursement systems.
- (b) This system of funding shall be based on a consistently applied methodology which includes the following:
  - (1) the identification of service expense centers,
  - (2) the allocation of allowable costs,
  - (3) the determination of expected units of service,
  - (4) the calculation of a unit cost reimbursement rate,
  - (5) the identification and assignment of revenue
  - (6) the reporting of units of service and revenue,
  - (7) the reimbursement of funds, and

- (8) settlement procedures.
- (c) Funds shall be used for the provision of services in accordance with the Annual Memorandum of Agreement.

*History Note: Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2; 122C-151.1; Eff. February 1, 1996;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0216 SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT**

- (a) The Division shall administer a grant program for the federal Substance Abuse Prevention and Treatment Block Grant which is made available to the Division under the authority of Public Law 102-321 Subpart II.
  - (b) The appropriate portion of funds in the block grant which are made available to the Division for substance abuse treatment and prevention services shall be used to make grants to eligible programs for the provision of comprehensive services.
  - (c) To be eligible to receive block grant funds, an area program shall provide the following services:
    - (1) outpatient services, including outpatient services for children and adults who have substance abuse disorders or who are at risk for substance abuse and residents of its service area;
    - (2) 24 hour-a-day emergency care services;
    - (3) day treatment or other partial hospitalization services;
    - (4) screening for patients being considered for admission to state facilities to determine the appropriateness of such admission;
    - (5) consultation, education, and primary prevention services;
    - (6) TB screening and referral in accordance with federal requirements; and
    - (7) substance abuse services for pregnant and parenting women and adolescents.
  - (d) On a statewide basis, block grant funds for alcohol and drug services shall be expended in accordance with the following:
    - (1) At least 35 percent of the funds for alcohol and drug services shall be expended for programs and activities related to alcoholism and alcohol abuse;
    - (2) At least 35 percent of the funds for alcohol and drug services shall be expended for programs and activities relating to drug abuse;
    - (3) At least 20 percent of the amount used for alcohol and drug abuse services shall be expended for primary prevention and early intervention programs designed to discourage the abuse of alcohol, tobacco and other drugs. In order to ensure compliance with this requirement, each area program must expend no less than 20 percent of its allocation of SAPT-BG funds on primary prevention activities as outlined in the Memorandum of Agreement and Summary of Significant Federal Requirements;
    - (4) The state must spend at least five percent of the annual SAPT-BG amount to provide outreach intervention services for IV Drug Users using one of the following three models developed by the National Institute Drug Abuse Narcotic Addiction Treatment, incorporated by reference to include any subsequent amendments and deletions, and available from the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20857 at no cost:
      - (A) Standard Intervention Model for Injecting Drug Users (NIDA);
      - (B) Health Education Model;
      - (C) Indigenous Leader Outreach Model;(Section 1924 - Requirements Regarding Tuberculosis and Human Immunodeficiency Virus)
    - (5) Treatment services designed for pregnant women and women with dependent children shall be increased at a rate not less than five percent for FY 1993. The base for FY 1993 shall be the FY 1992 alcohol and drug services block grant expenditures and State expenditures for pregnant women and women with dependent children and to this base shall be added the five percent of the FY 1993 grant amount for alcohol and drug treatment services. For FY 1994, the State shall spend five percent more than the FY 1993 total expenditure for pregnant women and women with dependent children. For grants beyond FY 1994, the State shall expend no less than the amount equal to the amount expended by the State for FY 1994. States shall report their methods to calculate their base for FY 1992 expenditures on treatment for pregnant women and women with children;(Section 1922 Set Aside for Women With Dependent Children)
- The Division shall review expenditures and if the percentage requirements for services and prevention specified in Subparagraphs (d)(1), (2), (3) and (4) of this Rule are not met, the Division shall require changes in area program expenditure patterns to meet these federally mandated requirements.

- (e) Non-Eligible Expenditures Funds shall not be expended for any of the following purposes:
- (1) to provide inpatient hospital services, unless a physician has certified that the clients primary diagnosis is substance abuse, the individual cannot be safely treated in a non-hospital setting, the daily rate charged does not exceed the rate charged by a comparable non-hospital service, and the service is medically necessary;
  - (2) to make cash payments to clients;
  - (3) to purchase or improve land; purchase, construct or permanently improve any building or other facility; or purchase major medical equipment;
  - (4) to satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds;
  - (5) to provide assistance to any entity other than a public or non-profit private entity;
  - (6) to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs; or
  - (7) to support any individual salary in excess of one hundred twenty five thousand dollars (\$125,000).
- (f) The Division Director shall allocate annually funds to the area programs. The funds shall be included in the Annual Service Plan and Memorandum of Agreement.
- (g) Block grant funds allocated shall be used to supplement and increase the level of state, local, and other non-federal funds and shall, in no event, supplant such state, local, and other non-federal funds. The Division shall monitor compliance by comparing total budgeted revenues for the current fiscal year with those budgeted for the prior fiscal year for each area program exclusive of block grant funds. If block grant funds are reduced, the area program may reduce its participation in a proportionate manner.

*History Note:* Authority G.S. 122C-150; P.L. 102-321, Subpart II;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0217 NON-UNIT COST REIMBURSEMENT**

- (a) The Division may provide specific purpose funding with state, federal or other sources for activities authorized by the division and the granting agency and disburse these funds on a basis other than unit cost reimbursement.
- (b) Funds shall be expended in accordance with the special conditions set forth in the Memorandum of Agreement between the area program and Division.
- (c) Funds shall be settled on an expenditure basis in accordance with Rule .0110 of this Subchapter.
- (d) Non Unit Cost Reimbursement shall be available for child, adult and other services.
- (1) Unless more narrowly defined in the allocation letter, funds for children shall be for individuals under the age of 18 years.
  - (2) Unless otherwise defined in the allocation letter, funds for adults shall be for individuals 18 years of age and older.
  - (3) Funds which cannot be identified for services to children or adults shall be considered "other".

*History Note:* Authority G.S. 122C-147;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0218 TRAUMATIC BRAIN INJURY**

- (a) The Division shall administer a program to provide periodic, day/night and 24 hour community based services to children and adults with traumatic brain injury.
- (b) Eligible recipients are individuals who have a traumatic brain injury resulting from a sudden insult to the brain caused by external physical force and who have substantial functional limitations according to the DD Adult Eligibility Screening Inventory.
- (c) Funds shall be used for the provision of services in accordance with the allocation letter and any special conditions in the Memorandum of Agreement or Summary of Significant Federal Requirements.
- (d) Funds shall be awarded and paid in accordance with the Annual Memorandum of Agreement.

*History Note:* Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2;  
Eff. February 1, 1996;

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

#### **10A NCAC 27A .0219 REVOLVING LOAN**

- (a) The Division may, upon authorization from the Office of State Budget and Management, make available funds for loans to provide for the implementation of new community based programs and services.
- (b) Authorization shall be based on written justification explaining the need for the loan; a list of expenditures to be incurred; a list of receipts to be received; and a repayment plan.
- (c) Funds shall be used only for expenditures listed in Paragraph (b) of this Rule.

*History Note: Authority G.S. 122C-141; 122C-143.1; 122C-143.2; 122C-147; 122C-147.1; 122C-147.2;  
Eff. February 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27A .0220 DOMICILIARY CARE**

*History Note: Authority G.S. 122C-112; 122C-143.1;  
Eff. February 1, 1996;  
Expired Eff. July 1, 2016 pursuant to G.S. 150B-21.3A.*

#### **10A NCAC 27A .0221 USE OF DIVISION FUNDS FOR INPATIENT SERVICES**

- (a) Inpatient funding for the purchase of services from local inpatient providers and medical doctors shall meet the following requirements:

- (1) Program Requirements
  - (A) Division funds may be used by area programs for the purchase of community inpatient care with local providers. All patients to be served under the plan shall be accepted as patients of the area program. Such a patient is one who is assigned an area program client record number, has a master client record card and services rendered are documented in a client record in accordance with area program standards requirements in 10A NCAC 27G .0206. Area authorities shall contract with a local inpatient provider accredited by the Joint Commission of Accreditation of Hospitals Organization or licensed by the Division of Health Service Regulation and designated by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.
  - (B) Non-residents of the State of North Carolina may receive inpatient care under the area program inpatient program only under emergency situations. An emergency situation would be where a person needs immediate hospitalization which cannot be delayed until he is transported to an appropriate inpatient facility within his resident state.
  - (C) An area authority may contract with private psychiatrists or other medical doctors to provide professional services in inpatient settings. Such contracts shall be in accordance with 10A NCAC 27A .0106.
  - (D) Part-time consultant medical doctors employed by the area program for non-inpatient care may also be contracted to provide inpatient care. The area director shall assure that there will not be a conflict, such as dual payment, between the part-time physician's employment for outpatient care and in the inpatient program.
  - (E) Use of Division funds for inpatient services shall be limited to services for alcohol or drug detoxification and for treatment of emotional disorders.
- (2) Fiscal Requirements:
  - (A) A written contract between the area authority and the provider or attending medical doctor shall be established in accordance with 10A NCAC 27A .0106. The contract shall contain, at a minimum, provisions which deal with such matters as payment for patient; responsibility for reimbursement; services to be provided; responsibility for patient admission; records; statistical information; posting of payments; and maintenance of patient care cost.
  - (B) Requirement for Inpatient Facilities Reimbursement:
    - (i) Reimbursement to the inpatient provider for alcohol and/or drug detoxification or emotional disorders shall not exceed the lesser of the following:

- (I) the difference between any first and/or third party payments or both collected and the approved all inclusive prospective medicaid reimbursement rate for the provider on an individual patient basis; or
    - (II) charges for inpatient services. The medicaid rate to be reimbursed shall be the effective rate at date of discharge. The inpatient provider shall follow usual collection procedures for each patient before billing the area program.
  - (ii) A request for reimbursement for inpatient cost shall be submitted by the provider to the area program which will be the basis for reimbursement.
- (C) Requirements for Attending Physician Reimbursement:
  - (i) Area authorities which elect to contract with medical doctors for the provision of inpatient services shall use one of the following two methods to reimburse the medical doctor for services:
    - (I) The area program shall pay the medical doctor at his medicaid provider rate or usual and customary charge until a medicaid provider rate is established for all services rendered. Under this method, the area program shall bill all first and third party payors for all services rendered and retain all receipts.
    - (II) The medical doctor shall bill all first and third party payors for rendered. The medical doctor shall request reimbursement from the area program for any unreimbursed care, up to his medicaid provider rate.
  - (ii) Full-time medical doctors employed by the area program may be eligible for payment from inpatient funds according to the area policy for reimbursement of physicians providing on-call, extended duty and emergency call-back services. The area policy shall be included in the "other pay" provisions submitted to the State Personnel Director. These provisions are in addition to the regular pay plan submitted and may be submitted separately.
- (b) The area program shall not be required to make a cost settlement with the local inpatient provider.

*History Note:* Authority G.S. 122C-112; 122C-147; 122C-148;  
 Eff. December 29, 1978;  
 Amended Eff. February 1, 1996; April 1, 1990; July 1, 1983; February 25, 1980;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

## **SECTION .0300 – CLEAN CLAIMS**

### **10A NCAC 27A .0301 SCOPE**

This Section governs the requirements that constitute a clean claim for purposes of billing. These Rules are applicable to local management entities (LMEs) and public and private providers who seek to provide services that are payable from funds administered by an LME.

*History Note:* Authority G.S. 122C-3(30b); 122C-112.1(a)(32); S.L. 2006-142;  
 Eff. May 1, 2008;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27A .0302 DEFINITIONS**

- (a) "Claim" means an itemized statement with standardized elements that is submitted for payment by a provider to the authorizing LME.
- (b) "Clean Claim" means an itemized statement with standardized elements, completed in its entirety in a format as set forth in Rule .0303 of this Section.

*History Note:* Authority G.S. 122C-112.1(a)(32); S.L. 2006-142;  
 Eff. May 1, 2008;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27A .0303 CLEAN CLAIM FORMAT REQUIREMENTS**



(a) A provider of a service that is payable from funds administered by an LME shall submit a claim for payment to the authorizing LME. The provider shall submit the claim in one of the formats listed as follows:

- (1) HIPAA compliant 837;
- (2) CMS-1500;
- (3) the standardized billing format provided by the DMH/DD/SAS; or
- (4) a single web based direct data entry system.

The provider shall complete each element contained in the selected format.

(b) The billing format provided by the DMH/DD/SAS shall contain standardized elements including:

- (1) date of claim;
- (2) provider information including:
  - (A) name; and
  - (B) number.
- (3) client information including:
  - (A) name;
  - (B) identification number;
  - (C) target population code; and
  - (D) ICD-9 diagnosis code.
- (4) service information including:
  - (A) name;
  - (B) date;
  - (C) units delivered;
  - (D) billing code; and
  - (E) authorization number.

*History Note:* Authority G.S. 122C-112.1(a)(32); S.L. 2006-142;  
Eff. May 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0304 CLAIMS REVIEW PROCEDURES**

(a) The LME shall review the claim to determine if it is clean. The determination shall be based on whether the claim is submitted as follows:

- (1) the claim is submitted in one of the formats as set forth in Rule .0303 of this Section; and
- (2) the information requested in each element of the selected format is complete.

(b) When a claim meets the requirements as set forth in Paragraph (a) of this Rule, it shall be considered a clean claim. (c) The LME shall deny a claim that does not meet the requirements as set forth in Paragraph (a) of this Rule. The LME shall notify the provider of the denied claim. The notification shall specify the reason for denial and include the steps to be followed for resubmission.

*History Note:* Authority G.S. 122C-112.1(a)(32); S.L. 2006-142;  
Eff. May 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **SECTION .0400 - PAYMENT, REPORTING AND SETTLEMENT FOR LOCAL MANAGEMENT ENTITIES SYSTEMS MANAGEMENT**

#### **10A NCAC 27A .0401 SCOPE**

The purpose of this Section is to set forth procedures for the payment, reporting and settlement of Local Management Entities System Management (LME SM) funding provided by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services to Local Management Entities.

*History Note:* Authority G.S. 122C-112.1(a)(12);  
Eff. July 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27A .0402 DEFINITIONS**

(a) "Systems Management Funding" when used in this Section means funding provided, pursuant to the LME SM Cost Model, to Local Management Entities (LMEs) to enable LMEs to carry out system management responsibilities set forth in G.S. 122C-115.4.

(b) "LME SM Cost Model" when used in this Section means the cost model produced under contract, with all subsequent adjustments, as a tool to predict the cost of LMEs performing system management responsibilities set forth in G.S. 122C-115.4.

(c) "State funding from state appropriations" when used in this Section means the amount of state appropriation required to fund the LME SM cost as projected via the LME SM Cost Model as determined for each LME.

*History Note: Authority G.S. 122C-112.1(a)(12);*

*Eff. July 1, 2009;*

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

#### **10A NCAC 27A .0403 MONTHLY PAYMENTS AND MONTHLY REPORTING**

(a) Prior to the Division making any LME SM payments to an LME, the LME and Department shall sign a memorandum of agreement (MOA), as required in G.S. 122C-115.2(d), and the MOA shall be in place for the period of time for which an LME SM payment is to be made.

(b) Subject to Paragraphs (a), (c), (d), (e) and (f) of this Rule, the Division shall pay LMEs their LME SM funds in monthly installments based on their annual LME SM allocation from the Division.

(c) Subject to the availability of sufficient allotment approved by the Office of State Budget and Management, each LME SM monthly payment shall be made following receipt of a correctly submitted and signed "Monthly LME Report of Expenditures" to the Division for the month of expenditures being reported.

(d) The LME shall submit "Monthly LME Report of Expenditures" on a form issued jointly by the Division and DHHS Office of the Controller. The LME Monthly Expenditure Reporting Form and instructions can be accessed at no cost at <http://www.dhhs.state.nc.us/mhddsas>.

(e) The Division shall not participate in the portion of salary for personnel, other than Doctors of Medicine and Doctors of Osteopathic Medicine, in excess of the current Level I of the Executive Schedule as published by the United States Office of Personnel Management, and subsequent amendments, which can be obtained free of charge at <http://www.opm.gov/oca/>. In order for Doctors of Medicine and Doctors of Osteopathic Medicine to be exempt from this cap on funding participation, the individuals must be primarily performing duties which require the utilization of their medical training and licensure; otherwise, they are also subject to the limitation set forth in this Rule.

(f) The portion of a salary which exceeds the limitation set forth in Paragraph (e) of this Rule, and the related fringe benefits, are disallowable for reporting purposes on "Monthly LME Report of Expenditures" and shall not be reported by the LME as an allowable cost.

*History Note: Authority G.S. 122C-112.1(a)(12); 122C-115.2;*

*Eff. July 1, 2009;*

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

#### **10A NCAC 27A .0404 SETTLEMENT OF LME SYSTEMS MANAGEMENT PAYMENTS**

(a) LME SM payments shall be settled annually for each LME individually taking into consideration actual LME SM expenditures, the earning of Medicaid administrative funds and the retention of up to the lesser of 15 percent of the full annual LME SM payment made to the LME by the Division or 15 percent of the actual allowable LME SM reported expenditures for fund balance. The settlement process set forth in this Rule is based on the Division having paid the LME the LME's full Division allocated LME SM funding prior to the time of settlement.

(b) The settlement process shall not result in any LME receiving:

- (1) LME SM payments greater than the amount of its total annual LME SM allocation from the Division; or
- (2) State funding from state appropriations in an amount greater than the amount projected in the cost model.

(c) To determine the settlement of LME SM payments for an LME, the Division shall utilize the following format:

Line 1: Lesser of Full Annual LME SM Payment Made  
to the LME by the Division or Actual Allowable LME  
SM Reported Expenditures.

\$\_\_\_\_\_

Line 2: Actual Medicaid Earnings Based on Actual

Allowable LME SM Expenditures Reported. If total LME SM expenditures exceeded the LME SM allocation, the amount of Medicaid earnings listed on Line 2 will be the prorated share of Medicaid earnings based on LME SM allocation compared to total LME SM expenditures.

\$ \_\_\_\_\_

Line 3: Difference of Line 1 Minus Line 2.

\$ \_\_\_\_\_

Line 4: State funding from state appropriations as defined in Rule .0402(c) of this Section.

\$ \_\_\_\_\_

Line 5: If Line 3 is equal to or greater than Line 4, settlement is finalized at this point and no refund is due to the Division by the LME. If Line 3 is less than Line 4, continue with settlement computations by entering the difference of Line 4 minus Line 3.

\$ \_\_\_\_\_

Line 6: Enter 15% of the amount from Line 1 above.

\$ \_\_\_\_\_

Line 7: If Line 5 is equal to or less than Line 6, settlement is finalized at this point and no refund is due to the Division by the LME. If Line 5 is greater than Line 6, continue with settlement computations by entering the difference between Line 5 minus Line 6; this is the amount of refund owed by the LME to the Division.

\$ \_\_\_\_\_

*History note:* Authority G.S. 122C-112.1(a)(12);

Eff. July 1, 2009;

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

## **SUBCHAPTER 27B - RULES GOVERNING AREA PROGRAMS AND CONTRACTED PROGRAMS UTILIZING SOCIAL SERVICES BLOCK GRANT (TITLE XX) FUNDS**

### **SECTION .0100 - GENERAL REQUIREMENTS**

#### **10A NCAC 27B .0101 SCOPE**

The purpose of the rules in Sections .0100 through .1200 of this Subchapter is to specify special requirements for area programs and contracted programs utilizing Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] funds through the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.

*History Note:* Authority G.S. 143B-147;

Eff. July 1, 1983;

Amended Eff. March 1, 1990; July 1, 1984;

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

#### **10A NCAC 27B .0102 OTHER SOCIAL SERVICES BLOCK GRANT REQUIREMENTS**

Additional rules of a general nature applying to all programs receiving Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] funds are codified in 10 NCAC 43L Sections .0100, .0200, .0300 and .0400.

*History Note:* Authority G.S. 143B-147;

Eff. July 1, 1983;

Amended Eff. March 1, 1990;

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

#### **10A NCAC 27B .0103 METHODS OF SERVICE PROVISION**

For purposes of Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] reimbursement, services in Sections .0200 through .1200 of this Subchapter may only be provided by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, including its area authorities and contract service providers.

*History Note:* Authority G.S. 143B-147;  
Eff. July 1, 1984;  
Amended Eff. March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

## **SECTION .0200 - ADULT DEVELOPMENTAL VOCATIONAL PROGRAMS (ADVP) FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES**

### **10A NCAC 27B .0201 DEFINITION AND GOALS**

(a) Definition.

- (1) Primary Service. An adult developmental vocational program (ADVP) is a day program which provides organized developmental activities for adults with developmental disabilities to prepare the individual to live as independently as possible. An ADVP provides opportunities for the client's enjoyment of leisure activities and the development of community living skills, vocational adjustment, work activity training, and personal skill development. Support services to families, and consultation with other involved agencies, is important to the client's continuing adjustment and his ability to move to other programs oriented towards higher levels of functioning.
- (2) Components. None;
- (3) Resource Items. None;
- (4) Target Population:
  - (A) individuals who are substantially mentally retarded;
  - (B) individuals who are severely physically disabled.
  - (C) Individuals who have been in an ADVP continuously from a date prior to January 1, 1975 and are currently receiving ADVP grant-in-aid.

(b) This service may be directed toward the goals of:

- (1) personal self-sufficiency;
- (2) preventing or remedying abuse, neglect, or exploitation of children or adults unable to protect their own interests;
- (3) preventing or reducing inappropriate institutional care.

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43D .0241 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27B .0202 ELIGIBILITY REQUIREMENTS**

Individuals must be determined eligible in accordance with the same criteria as for adult developmental vocational program state grant-in-aid funds.

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I .1002 Eff. July 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27B .0203 CRITERIA**

Programs providing this service shall meet standards for Adult Developmental and Vocational Programs (ADVP) for Individuals with Developmental Disabilities as codified in 10A NCAC 27G .2300.

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;

*Transferred from T10.43I .1003 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

## **SECTION .0300 - RESIDENTIAL TREATMENT/REHABILITATION PROGRAMS FOR INDIVIDUALS WHO ARE ALCOHOL OR OTHER DRUG ABUSERS**

### **10A NCAC 27B .0301 DEFINITION AND GOALS**

#### **(a) Definition.**

- (1) Primary Service. A residential treatment/rehabilitation program provides active treatment for alcoholics or other drug abusers in a structured living environment. Services are designed to enable the client to return to an independent living situation within a specified time frame as designated in the client's individual treatment plan. Included in residential treatment/rehabilitation services are room and board costs for up to six consecutive months for any one placement;
- (2) Components. None;
- (3) Resource Items. None;
- (4) Target Population.
  - (A) Individuals who are alcohol dependent.
  - (B) Individuals who are drug dependent.

(b) This service may be directed toward any one of the five Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] goals.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. July 1, 1979;  
Amended Eff. March 1, 1983;  
Transferred from T10.43D .0239 Eff. July 1, 1983;  
Amended Eff. March 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **10A NCAC 27B .0302 ELIGIBILITY REQUIREMENTS**

Individuals must be determined eligible based on a documented need for residential treatment/rehabilitation services and be diagnosed as alcohol or drug dependent.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. July 23, 1979;  
Amended Eff. March 1, 1983;  
Transferred from T10.43I .0302 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **10A NCAC 27B .0303 CRITERIA**

Programs providing this service shall meet standards for Residential Treatment/Rehabilitation Programs for Individuals with Substance Abuse Disorders as codified in 10A NCAC 27G Section .3400.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. July 23, 1979;  
Amended Eff. March 1, 1983;  
Transferred from T10.43I .0304 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

## **SECTION .0400 - DAY TREATMENT PROGRAMS FOR CHILDREN AND ADOLESCENTS WHO ARE EMOTIONALLY DISTURBED**

### **10A NCAC 27B .0401 DEFINITION AND GOALS**

(a) Definition.

- (1) **Primary Service.** Day treatment programs are designed for children and adolescents who are too emotionally disturbed to function in normal groups or educational settings. Because of the severity of their problems, some children and adolescents can best be served in day treatment programs as an intervention to prevent hospitalization. Day treatment programs include partial hospitalization for children and adolescents and early intervention programs. Services include recreation, social skills development, group counseling, language communication skills, fine and gross motor skills for children and adolescents, and pre-vocational services and vocational training for adolescents, as well as services to parents;
- (2) **Components.** None;
- (3) **Resource Items.** None;
- (4) **Target Population.** Children and adolescents under 18 years of age who are emotionally disturbed.

(b) This service may be directed toward any one of the five Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] goals.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. July 1, 1979;  
Amended Eff. March 1, 1983;  
Transferred from T10.43D .0235 Eff. July 1, 1983;  
Amended Eff. March 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27B .0402 ELIGIBILITY REQUIREMENTS**

Children and adolescents must be determined eligible based on a documented need for day treatment services and be diagnosed as emotionally disturbed.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. July 23, 1979;  
Amended Eff. March 1, 1983;  
Transferred from T10.43I .0502 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**10A NCAC 27B .0403 CRITERIA**

Programs providing this service shall meet standards for Day Treatment Programs for Children and Adolescents with Emotional or Behavioral Disturbances as codified in 10A NCAC 27G .2400.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. July 23, 1979;  
Amended Eff. March 1, 1983;  
Transferred from T10.43I .0504 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

**SECTION .0500 - DEVELOPMENTAL DAY SERVICES FOR CHILDREN WITH OR AT RISK FOR DEVELOPMENTAL DELAY, DEVELOPMENTAL DIABILITIES OR ATYPICAL DEVELOPMENT**

**10A NCAC 27B .0501 DEFINITION AND GOALS**

(a) Definition.

- (1) **Primary Service.** Developmental day centers are specialized child care centers providing habilitative programming for mentally retarded children on a regularly scheduled, but less than a 24 hour per day, basis. Services are designed to meet the developmental needs of preschool children such as self-help, fine and gross motor, language and communication, cognitive and social skills, in order to facilitate their functioning in a less restrictive environment and to meet child care needs of families;
- (2) **Components.** None;
- (3) **Resource Items.** None;

- (4) Target Population.
  - (A) Moderately, severely or profoundly retarded preschool children.
  - (B) Infants at high risk for mental retardation.
  - (C) Preschoolers who are mildly mentally retarded or who are otherwise developmentally disabled.
  - (D) Preschool children are those under the age of five or who turn five after October 15 of the funding year.
- (b) This service may be directed toward the goals of:
  - (1) personal self-sufficiency;
  - (2) preventing or remedying abuse, neglect, or exploitation of children or adults unable to protect their own interests;
  - (3) preventing or reducing inappropriate institutional care.

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43D .0242 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27B .0502 ELIGIBILITY REQUIREMENTS**

- (a) Except as cited in (b) of this Rule, individuals must be determined eligible in accordance with the same criteria as for developmental day state grant-in-aid funds.
- (b) Subject to prior approval by the regional director or his designee, preschool children who are mildly retarded or who are otherwise developmentally disabled may be determined eligible provided all other grant-in-aid eligibility criteria are met.

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I .1102 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27B .0503 CRITERIA**

Programs providing this service shall meet standards for Developmental Day Centers for Preschool Children with Developmental Delays, Developmental Disabilities or Atypical Development as codified in 10A NCAC 27G .2400.

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I .1103 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **SECTION .0600 - EARLY CHILDHOOD INTERVENTION SERVICES (ECIS) FOR CHILDREN WITH OR AT RISK FOR DEVELOPMENTAL DELAYS, DEVELOPMENTAL DISABILITIES OR ATYPICAL DEVELOPMENT AND THEIR FAMILIES**

#### **10A NCAC 27B .0601 DEFINITION AND GOALS**

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. July 1, 1979;  
Amended Eff. March 1, 1983;  
Transferred from T10.43D .0236 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Repealed Eff. November 1, 2011.

#### **10A NCAC 27B .0602 ELIGIBILITY REQUIREMENTS**

#### **10A NCAC 27B .0603 CRITERIA**

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. July 23, 1979;  
Amended Eff. March 1, 1983;  
Transferred from T10.431.0102 Eff. July 1, 1983 (.0602);  
Transferred from T10.431.0104 Eff. July 1, 1983 (.0603);  
Amended Eff. July 1, 1984;  
Repealed Eff. November 1, 2011.

## **SECTION .0700 - RESIDENTIAL TREATMENT PROGRAMS FOR CHILDREN AND ADOLESCENTS WHO ARE EMOTIONALLY DISTURBED OR WHO HAVE A MENTAL ILLNESS**

### **10A NCAC 27B .0701 DEFINITION AND GOALS**

(a) Definition.

- (1) Primary Service. Residential treatment programs provide a structured living environment for children and adolescents with moderate to severe emotional problems who may also be the multiply handicapped. The children and adolescents in this program are those for whom removal from home is essential to facilitate treatment. Some children and adolescents may be able to receive services in a day treatment program, have a job placement, or attend public schools; for others, special education service may need to be offered within the residential setting. A residential treatment program provides healthy adult role models; group, individual and family resources; and social, emotional and cognitive training. Included in residential treatment are room and board costs for up to six consecutive months for any one placement;
- (2) Components. None;
- (3) Resource Items. None;
- (4) Target Population. Children and adolescents under 18 years of age who are seriously emotionally disturbed.

(b) This service may be directed toward the goals of:

- (1) economic self-support;
- (2) personal self-sufficiency;
- (3) preventing or remedying abuse, neglect, or exploitation of children or adults unable to protect their own interests;
- (4) preventing or reducing inappropriate institutional care.

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43D.0243 Eff. July 1, 1983;  
Amended Eff. March 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27B .0702 ELIGIBILITY REQUIREMENTS**

Children and adolescents under 18 years of age must be determined eligible based on a documented need for residential treatment services and be diagnosed as emotionally disturbed. If an adolescent has his eighteenth birthday while receiving treatment in a residential program, he may continue as eligible for six months or until the end of the state fiscal year, whichever is longer.

*History Note:* Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I.1202 Eff. July 1, 1983;  
Amended Eff. March 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **10A NCAC 27B .0703 CRITERIA**

Programs providing this service shall meet standards for Residential Treatment Programs for Children and Adolescents Who are Emotionally Disturbed or Who have a Mental Illness as codified in 10A NCAC 27G .1300.



*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I .1203 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

## **SECTION .0800 - OUTPATIENT SERVICES FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

### **10A NCAC 27B .0801 DEFINITION AND GOALS**

(a) Definition.

- (1) Primary Service. Outpatient services are periodic services which encompass the clinical activities provided for all disability groups which may occur at a designated center and through other sites in the catchment area. Services are provided to individuals or groups on a non-residential basis through recurrent short visits and include, for example, individual, group and family counseling; educational counseling; vocational counseling; psychotherapy; testing, evaluation and medication therapy;
- (2) Components. None;
- (3) Resource Items. None;
- (4) Target Population. Individuals who need assistance in coping with problems associated with emotional disturbance, mental retardation or substance abuse.

(b) This service may be directed toward any one of the five Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] goals.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43D .0244 Eff. July 1, 1983;  
Amended Eff. March 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **10A NCAC 27B .0802 ELIGIBILITY REQUIREMENTS**

Individuals must be determined eligible based on their need for outpatient services for problems associated with emotional disturbance, mental retardation or substance abuse.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I .1302 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **10A NCAC 27B .0803 CRITERIA**

Programs providing this service shall meet standards for Outpatient Services for Individuals of All Disability Groups as codified in 10A NCAC 27G .6200.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I .1303 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

## **SECTION .0900 - PARTIAL HOSPITALIZATION SERVICES FOR ADULT AND ELDERLY INDIVIDUALS WHO ARE ACUTELY MENTALLY ILL OR ARE SUBSTANCE ABUSERS**

### **10A NCAC 27B .0901 DEFINITION AND GOALS**

(a) Definition.

- (1) Primary Service. Partial hospitalization programs for adult and elderly individuals who are acutely mentally ill or are substance abusers are day programs which provide an alternative treatment to inpatient

services. Partial hospitalization serves as a mini-community in which the patient can experiment with ways of relating to and working with others, with the help of professional staff. Patients share decision-making responsibility and activities. Partial hospitalization programs also provide a broad range of intensive treatment approaches which include group therapy and may include individual therapy, movement, occupational, activity and recreational therapies; training in community living and specific coping skills. Treatment is provided in a therapeutic milieu setting which includes the services of a physician;

- (2) Components. None;
- (3) Resource Items. None;
- (4) Target Population.
  - (A) Adult and elderly individuals who are mentally ill within the following priorities:
    - (i) primary population of the acutely mentally ill;
    - (ii) secondary population of the chronically mentally ill;
  - (B) Individuals who are alcohol or drug dependent.

(b) This service may be directed toward any one of the five Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] goals.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43D .0245 Eff. July 1, 1983;  
Amended Eff. March 1, 1990; July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27B .0902 ELIGIBILITY REQUIREMENTS**

Individuals must be determined eligible based on a documented need for partial hospitalization services and be diagnosed as acutely mentally ill, chronically mentally ill, alcohol dependent or drug dependent.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I .1402 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27B .0903 CRITERIA**

Programs providing this service shall meet standards for Partial Hospitalization Services for Adult and Elderly Individuals Who Are Acutely Mentally Ill as codified in 10A NCAC 27G .1100.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. March 1, 1983;  
Transferred from T10.43I .1403 Eff. July 1, 1983;  
Amended Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **SECTION .1000 - BEFORE/AFTER SCHOOL AND SUMMER DEVELOPMENTAL DAY FOR CHILDREN WITH OR AT RISK FOR DEVELOPMENTAL DELAYS, DEVELOPMENTAL DISABILITIES OR ATYPICAL DEVELOPMENT**

#### **10A NCAC 27B .1001 DEFINITION AND GOALS**

(a) Definition.

- (1) Primary Service. Before/after school and summer developmental day centers are day programs which provide habilitative programming for school aged mentally retarded children. Services are provided during times that the children are not participating in public education activities and are designed to meet the developmental needs of children such as self help, fine and gross motor, language and communication, cognitive and social skills, in order to facilitate their functioning in a less restrictive environment and to meet child care needs of families. Before/after school services or summer services may be provided as a

- component of a developmental day center which serves preschool children, or may be provided as a separate component;
- (2) Components. None;
- (3) Resource Items. None;
- (4) Target Population.
  - (A) Moderately, severely or profoundly retarded school aged children.
  - (B) School aged children who are mildly retarded or who are otherwise developmentally disabled.
  - (C) School aged children are those 5 through 17 years of age, provided a child turns 5 on or before October 15 of the funding year.
- (b) This service may be directed toward the goals of:
  - (1) personal self-sufficiency;
  - (2) preventing or remedying abuse, neglect, or exploitation of children or adults unable to protect their own interests;
  - (3) preventing or reducing inappropriate institutional care.

*History Note: Authority G.S. 143B-10; 143B-147;  
 Eff. July 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27B .1002 ELIGIBILITY REQUIREMENTS**

- (a) Except as cited in (b) of this Rule, individuals must be determined eligible in accordance with the same criteria as for developmental day state grant-in-aid funds.
- (b) Subject to prior approval by the regional director or his designee, school aged children who are mildly retarded or who are otherwise developmentally disable may be determined eligible provided all other grant-in-aid eligibility criteria are met.

*History Note: Authority G.S. 143B-10; 143B-147;  
 Eff. July 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27B .1003 CRITERIA**

Programs providing this service shall meet standards for Before/After School and Summer Developmental Day Services for Children with or at Risk for Developmental Delays, Developmental Disabilities or Atypical Development as codified in 10A NCAC 27G .2200.

*History Note: Authority G.S. 143B-10; 143B-147;  
 Eff. July 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **SECTION .1100 - TRANSITIONAL RESIDENCE PROGRAMS FOR ADULT AND ELDERLY INDIVIDUALS WHO ARE MENTALLY ILL**

#### **10A NCAC 27B .1101 DEFINITION AND GOALS**

- (a) Definition.
  - (1) Primary Service. Transitional residence programs (group homes) are residential programs which provide a group living environment for adult and elderly individuals who are mentally ill and who need limited to moderate supervision. The program is designed to improve the residents' social behavior, vocational functioning and independent living. Included in residential treatment are room and board costs for up to six consecutive months for any one placement;
  - (2) Components. None;
  - (3) Resource Items. None;
  - (4) Target Population. Adults and elderly individuals who are mentally ill and are capable of self-medication.
- (b) This service may be directed toward the goals of:
  - (1) economic self-support;
  - (2) personal self-sufficiency;

- (3) preventing or remedying abuse, neglect, or exploitation of children or adults unable to protect their own interests;
- (4) preventing or reducing inappropriate institutional care.

*History Note:* Authority G.S. 143B-10; 143B-147;  
 Eff. July 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27B .1102 ELIGIBILITY REQUIREMENTS**

Adult and elderly individuals must be determined eligible based on a documented need for transitional residential services, be diagnosed as mentally ill and be capable of self-medication.

*History Note:* Authority G.S. 143B-10; 143B-147;  
 Eff. July 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27B .1103 CRITERIA**

Programs providing this service shall meet standards for Supervised Living for Individuals of All Disability Groups as codified in 10A NCAC 27G Section .5600.

*History Note:* Authority G.S. 143B-10; 143B-147;  
 Eff. July 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

### **SECTION .1200 - SOCIAL SETTING AND NONHOSPITAL MEDICAL SUBSTANCE ABUSERS**

#### **10A NCAC 27B .1201 DEFINITION AND GOALS**

##### **(a) Definition.**

- (1) Primary Service. Detoxification is a basic service of the alcoholism treatment system. The purpose of the service is to withdraw the client from alcohol and to prepare him to enter a more extensive treatment and rehabilitation program. While the physical condition of the client during this period is of primary concern, care of the client is also directed towards the alleviation of emotional distress which many clients experience while being detoxified. For the purpose of Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] reimbursement, detoxification may be provided in the following models:
  - (A) Social Setting. Social setting detoxification is a residential service which involves the provision of social support and other non-medical services to clients who are experiencing physical withdrawal from alcohol in a residential setting; or
  - (B) Nonhospital Medical. Nonhospital medical detoxification is a residential service which involves the provision of medical treatment as well as the provision of supportive services under the supervision of a physician for clients who are experiencing physical withdrawal from alcohol in a residential setting. Included in social setting and nonhospital medical detoxification are room and board costs for up to six consecutive months for any one placement.
- (2) Components. None;
- (3) Resource Items. None;
- (4) Target Population. Individuals who are alcohol dependent.

(b) This service may be directed toward any one of the five Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] goals.

*History Note:* Authority G.S. 143B-10; 143B-147;  
 Eff. July 1, 1984;  
 Amended Eff. March 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.

#### **10A NCAC 27B .1202 ELIGIBILITY REQUIREMENTS**

Individuals must be determined eligible based on a documented need for social setting or nonhospital medical detoxification services and be diagnosed as alcohol dependent.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. July 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27B .1203 CRITERIA**

(a) For purposes of Social Services Block Grant [Title XX of the Social Security Act, 20 USC 1397-1397(f)] reimbursement, this service may only be provided in conjunction with Residential Treatment/Rehabilitation Programs for Individuals Who Are Alcohol or Other Drug Abusers.

(b) Programs providing this service shall meet standards for Social Setting, Nonhospital Medical and Outpatient Detoxification Services for Individuals Who Are Substance Abusers as codified in 10A NCAC 27G .3100 through .3200.

*History Note: Authority G.S. 143B-10; 143B-147;  
Eff. July 1, 1984;  
Amended Eff. March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **SUBCHAPTER 27C – PROCEDURES AND GENERAL INFORMATION**

#### **SECTION .0100 – GENERAL POLICIES AND PROCEDURES**

##### **10A NCAC 27C .0101 SCOPE**

(a) These Rules, 10A NCAC 27C, 27D, 27E and 27F, set forth procedures governing the protection of client rights in each public or private facility that provides mental health, developmental disabilities and substance abuse services, with the exception of a state-operated facility. In addition to these Rules, the governing body shall comply with the provisions of G.S. 122C, Article 3, regarding client rights.

(b) A facility that is certified by the Centers for Medicare and Medicaid Services (CMS) as an Intermediate Care Facility for the Mentally Retarded (ICF/MR), or a Medicare/Medicaid Hospital or a Psychiatric Residential Treatment Facility (PRTF) is deemed to be in compliance with the rules in Subchapters 27C, 27D, 27E and 27F, with the exception of Rules 27C .0102; 27D .0101; .0303; 27E .0104; .0105; .0108 and .0109.

(c) A facility that is certified as specified in Paragraph (b) of this Rule shall comply with the following:

- (1) use of the definition of physical restraint as specified in Rule .0102 Subparagraph (b)(19) of this Section;
- (2) documentation requirements as specified in 10A NCAC 27D .0303 and 10A NCAC 27E .0104; .0105; .0108 and .0109;
- (3) debriefing requirements as specified in 10A NCAC 27D .0101 and 10A NCAC 27E .0104; and
- (4) training requirements as specified in 10A NCAC 27E .0108 and .0109.

*History Note: Authority G.S. 122C-51; 131E-67; 143B-17; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Temporary Amendment Eff. January 1, 2001;  
Temporary Amendment Expired October 13, 2001;  
Amended Eff. April 1, 2003.  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

##### **10A NCAC 27C .0102 DEFINITIONS**

(a) The definitions contained in this Rule, and the terms defined in G.S. 122C-3, G.S. 122C-4 and G.S. 122C-53(f) also apply to all rules in Subchapters 27C, 27D, 27E and 27F.

(b) As used in these Rules, the following terms have the meanings specified:

- (1) "Abuse" means the infliction of mental or physical pain or injury by other than accidental means, or unreasonable confinement, or the deprivation by an employee of services which are necessary to the mental

or physical health of the client. Temporary discomfort that is part of an approved and documented treatment plan or use of a documented emergency procedure shall not be considered abuse.

- (2) "Anti-psychotic medication" means the category of psychotropic drugs which is used to treat schizophrenia and related disorders. Examples of neuroleptic medications are Chlorpromazine, Thioridazine and Haloperidol.
- (3) "Basic necessity" means an essential item or substance needed to support life and health which includes, but is not limited to, a nutritionally sound balanced diet consisting of three meals per day, access to water and bathroom facilities at frequent intervals, seasonable clothing, medications prescribed by a physician, time for sleeping and frequent access to social contacts.
- (4) "Client advocate" means the term as defined in G.S. 122C-3. For the purpose of these Rules, a client advocate may be a facility employee who is not directly involved in the treatment/habilitation of a specific client, but who is assigned, in addition to other duties, to act as an advocate for that client.
- (5) "Consent" means acceptance or agreement by a client or legally responsible person following receipt of information from the qualified professional who will administer the proposed treatment or procedure. Consent implies that the client or legally responsible person was provided with sufficient information, in a manner that the client or legally responsible person can understand, concerning proposed treatment, including both benefits and risks, in order to make a decision with regard to such treatment.
- (6) "Day/night facility" means a facility wherein a service is provided on a regular basis, in a structured environment, and is offered to the same individual for a period of three or more hours within a 24-hour period.
- (7) "Director of Clinical Services" means Medical Director, Director of Medical Services, or other qualified professional designated by the governing body as the Director of Clinical Services.
- (8) "Emergency" means a situation 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.
- (9) "Exploitation" means the use of a client's person or property for another's profit or advantage or breach of a fiduciary relationship through improper use of a client's person or property including situations where an individual obtains money, property or services from a client from undue influence, harassment, deception or fraud.
- (10) "Facility" means the term as defined in G.S. 122C-3. For the purpose of these Rules, when more than one type of service is provided by the facility, each service shall be specifically addressed by required policy and procedures when applicable.
- (11) "Governing body" means, in the case of a corporation, the board of directors; in the case of an area authority, the area board; and in all other cases, the owner of the facility.
- (12) "Governor's Advocacy Council for Persons with Disabilities (GACPD)" means the council legislatively mandated to provide protection and advocacy systems and promote employment for all persons with disabilities in North Carolina.
- (13) "Intervention Advisory Committee" means a group established by the governing body in a facility that utilizes restrictive interventions as specified in Rule .0104 of Subchapter 27E.
- (14) "Involuntary client" means an individual who is admitted to a facility in accordance with G.S. 122C, Article 5, Parts 6 through 12.
- (15) "Isolation time-out" means the removal of a client for a period of 30 minutes or more to a separate room from which exit is barred by staff, but not locked, and where there is continuous supervision by staff, for the purpose of modifying behavior.
- (16) "Minor client" means a person under 18 years of age who has neither been married nor been emancipated by a decree issued by a court of competent jurisdiction.
- (17) "Neglect" means the failure to provide care or services necessary to maintain the mental or physical health and well-being of the client.
- (18) "Normalization" means the utilization of culturally valued resources to establish or maintain personal behaviors, experiences and characteristics that are culturally normative or valued.
- (19) "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 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, posey mittens, and helmets. Excluded from this definition of physical restraint are physical guidance, gentle physical prompting techniques, 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.

- (20) "Protective device" means an intervention that provides support for a medically fragile client or enhances the safety of a self-injurious client. Such devices may include geri-chairs or table top chairs to provide support and safety for a client with a physical handicap; devices such as seizure helmets or helmets and mittens for self-injurious behaviors; prosthetic devices or assistive technology which are designed to increase client adaptive skills; or soft ties used to prevent a medically ill client from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes, or similar medical devices. As provided in Rule .0105(b) of Subchapter 27E, the use of a protective device for behavioral control shall comply with the requirements specified in Rule .0104 in Subchapter 14R.
- (21) "Privileged" means authorization through governing body procedures for a facility employee to provide specific treatment or habilitation services to clients, based on the employee's education, training, experience, competence and judgment.
- (22) "Responsible professional" means the term as defined in G.S. 122C-3 except the "responsible professional" shall also be a qualified professional as defined in Rule .0104 of Subchapter 27G.
- (23) "Restrictive intervention" means an intervention procedure which presents a risk of mental or physical harm to the client and, therefore, requires additional safeguards. Such interventions include the emergency or planned use of seclusion, physical restraint (including the use of protective devices for the purpose or with the intent of controlling unacceptable behavior), isolation time-out, and any combination thereof.
- (24) "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior.
- (25) "Treatment" means the process of providing for the physical, emotional, psychological and social needs of a client through services.
- (26) "Treatment/habilitation plan" means the term as defined in 10A NCAC 27G .0103.
- (27) "Treatment or habilitation team" means an interdisciplinary group of qualified professionals sufficient in number and variety by discipline to assess and address the identified needs of a client and which is responsible for the formulation, implementation and periodic review of the client's treatment/habilitation plan.
- (28) "24-Hour Facility" means a facility wherein service is provided to the same client on a 24-hour continuous basis, and includes residential and hospital facilities.
- (29) "Voluntary client" means an individual who is admitted to a facility upon his own application or that of the legally responsible person, in accordance with G.S. 122C, Article 5, Parts 2 through 5.

*History Note:* Authority G.S. 122C-3; 122C-4; 122C-51; 122C-53(f); 122C-60; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Temporary Amendment Eff. January 1, 2001;  
Amended Eff. August 1, 2002;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

## **SUBCHAPTER 27D – GENERAL RIGHTS**

### **SECTION .0100 – GENERAL POLICIES AND PROCEDURES**

#### **10A NCAC 27D .0101 POLICY ON RIGHTS RESTRICTIONS AND INTERVENTIONS**

- (a) The governing body shall develop policy that assures the implementation of G.S. 122C-59, G.S. 122C-65, and G.S. 122C-66.

- (b) The governing body shall develop and implement policy to assure that:
  - (1) all instances of alleged or suspected abuse, neglect or exploitation of clients are reported to the County Department of Social Services as specified in G.S. 108A, Article 6 or G.S. 7A, Article 44; and
  - (2) procedures and safeguards are instituted in accordance with sound medical practice when a medication that is known to present serious risk to the client is prescribed. Particular attention shall be given to the use of neuroleptic medications.
- (c) In addition to those procedures prohibited in 10A NCAC 27E .0102(1), the governing body of each facility shall develop and implement policy that identifies:
  - (1) any restrictive intervention that is prohibited from use within the facility; and
  - (2) in a 24-hour facility, the circumstances under which staff are prohibited from restricting the rights of a client.
- (d) If the governing body allows the use of restrictive interventions or if, in a 24-hour facility, the restrictions of client rights specified in G.S. 122C-62(b) and (d) are allowed, the policy shall identify:
  - (1) the permitted restrictive interventions or allowed restrictions;
  - (2) the individual responsible for informing the client; and
  - (3) the due process procedures for an involuntary client who refuses the use of restrictive interventions.
- (e) If restrictive interventions are allowed for use within the facility, the governing body shall develop and implement policy that assures compliance with Subchapter 27E, Section .0100, which includes:
  - (1) the designation of an individual, who has been trained and who has demonstrated competence to use restrictive interventions, to provide written authorization for the use of restrictive interventions when the original order is renewed for up to a total of 24 hours in accordance with the time limits specified in 10A NCAC 27E .0104(e)(10)(E);
  - (2) the designation of an individual to be responsible for reviews of the use of restrictive interventions; and
  - (3) the establishment of a process for appeal for the resolution of any disagreement over the planned use of a restrictive intervention.
- (f) If restrictive interventions are allowed for use within the facility, the governing body shall develop and implement policies which require that:
  - (1) positive alternatives and less restrictive interventions are considered and are used whenever possible prior to the use of more restrictive interventions; and
  - (2) consideration is given to the client's physical and psychological well-being before, during and after utilization of a restrictive intervention, including:
    - (A) review of the client's health history or the comprehensive health assessment conducted upon admission to a facility. The health history or comprehensive health assessment shall include the identification of pre-existing medical conditions or any disabilities and limitations that would place the client at greater risk during the use of restrictive interventions;
    - (B) continuous assessment and monitoring of the physical and psychological well-being of the client and the safe use of physical restraint throughout the duration of the restrictive intervention by staff who are physically present and trained in the use of emergency safety interventions;
    - (C) continuous monitoring by an individual trained in the use of cardiopulmonary resuscitation of the client's physical and psychological well-being during the use of manual restraint; and
    - (D) continued monitoring by an individual trained in the use of cardiopulmonary resuscitation of the client's physical and psychological well-being for a minimum of 30 minutes subsequent to the termination of a restrictive intervention; and
  - (3) following the utilization of a restrictive intervention, staff shall conduct debriefing and planning with the client and the legally responsible person, if applicable, as specified in 10A NCAC 27E .0104, to eliminate or reduce the probability of the future use of restrictive interventions. Debriefing and planning shall be conducted, as appropriate, to the level of cognitive functioning of the client.

*History Note:* Authority G.S. 122C-51; 143B-147;  
 Eff. February 1, 1991;  
 Amended Eff. January 1, 1992;  
 Temporary Amendment Eff. January 1, 2001;  
 Temporary Amendment Expired October 13, 2001;  
 Amended Eff. April 1, 2003;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.



#### **10A NCAC 27D .0102   SUSPENSION AND EXPULSION POLICY**

- (a) Each client shall be free from threat or fear of unwarranted suspension or expulsion from the facility.
- (b) The governing body shall develop and implement policy for suspension or expelling a client from a service. The policy shall address the criteria to be used for an suspension, expulsion or other discharge not mutually agreed upon and shall establish documentation requirements that include:
  - (1) the specific time and conditions for resuming services following suspension;
  - (2) efforts by staff of the facility to identify an alternative service to meet the client's needs and designation of such service; and
  - (3) the discharge plan, if any.

*History Note: Authority G.S. 122C-51; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27D .0103   SEARCH AND SEIZURE POLICY**

- (a) Each client shall be free from unwarranted invasion of privacy.
- (b) The governing body shall develop and implement policy that specifies the conditions under which searches of the client or his living area may occur, and if permitted, the procedures for seizure of the client's belongings, or property in the possession of the client.
- (c) Every search or seizure shall be documented. Documentation shall include:
  - (1) scope of search;
  - (2) reason for search;
  - (3) procedures followed in the search;
  - (4) a description of any property seized; and
  - (5) an account of the disposition of seized property.

*History Note: Authority G.S. 122C-51; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27D .0104   PERIODIC INTERNAL REVIEW**

- (a) The governing body shall assure the conduct, no less than every three years, of a compliance review in each of its facilities regarding the implementation of Client Rights Rules as specified in 10A NCAC 27C, 27D, 27E and 27F.
- (b) The review shall assure that:
  - (1) there is compliance with applicable provisions of the federal law governing advocacy services to the mentally ill, as specified in the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319) and amended by Public Law 100-509 (1988); and
  - (2) there is compliance with applicable provisions of the federal laws governing advocacy services to the developmentally disabled, the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000 et. seq.
- (c) The governing body shall maintain the three most recent written reports of the findings of such reviews.

*History Note: Authority G.S. 122C-51; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **SECTION .0200 -INFORMING CLIENTS AND STAFF OF RIGHTS**

#### **10A NCAC 27D .0201   INFORMING CLIENTS**

- (a) A written summary of client rights as specified in G.S. 122C, Article 3 shall be made available to each client and legally responsible person.

(b) Each client shall be informed of his right to contact the Governor's Advocacy Council for Persons with Disabilities (GACPD), the statewide agency designated under federal and State law to protect and advocate the rights of persons with disabilities.

(c) Each client shall be informed regarding the issues specified in Paragraph (d) and, if applicable in Paragraph (e), of this Rule, upon admission or entry into a service, or

- (1) in a facility where a day/night or periodic service is provided, within three visits; or
- (2) in a 24-hour facility, within 72 hours. Explanation shall be in a manner consistent with the client's or legally responsible person's level of comprehension.

(d) In each facility, the information provided to the client or legally responsible person shall include;

- (1) the rules that the client is expected to follow and possible penalties for violations of the rules;
- (2) the client's protections regarding disclosure of confidential information, as delineated in G.S. 122C-52 through G.S. 122C-56;
- (3) the procedure for obtaining a copy of the client's treatment/habilitation plan; and
- (4) governing body policy regarding:
  - (A) fee assessment and collection practices for treatment/habilitation services;
  - (B) grievance procedures including the individual to contact and a description of the assistance the client will be provided;
  - (C) suspension and expulsion from service; and
  - (D) search and seizure.

(e) In addition, for the client whose treatment/habilitation is likely to include the use of restrictive interventions, or for the client in a 24-hour facility whose rights as specified in G.S. 122C-62 (b) or (d) may be restricted, the client or legally responsible person shall also be informed:

- (1) of the purposes, goals and reinforcement structure of any behavior management system that is allowed;
- (2) of potential restrictions or the potential use of restrictive interventions;
- (3) of notification provisions regarding emergency use of restrictive intervention procedures;
- (4) that the legally responsible person of a minor or incompetent adult client may request notification after any occurrence of the use of restrictive intervention;
- (5) that the competent adult client may designate an individual to receive notification, in accordance with G.S. 122C-53(a), after any occurrence of the use of restrictive intervention; and
- (6) of notification provisions regarding the restriction of client rights as specified in G.S. 122C-62(e).

(f) There shall be documentation in the client record that client rights have been explained.

*History Note: Authority G.S. 122C-51; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27D .0202 INFORMING STAFF**

The governing body shall develop and implement policy to assure that all staff are kept informed of the rights of clients as specified in 122C, Article 3, all applicable rules, and policies of the governing body. Documentation of receipt of information shall be signed by each staff member and maintained by the facility.

*History Note: Authority G.S. 122C-51; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **SECTION .0300 - GENERAL CIVIL, LEGAL AND HUMAN RIGHTS**

#### **10A NCAC 27D .0301 SOCIAL INTEGRATION**

Each client in a day/night or 24-hour facility shall be encouraged to participate in appropriate and generally acceptable social interactions and activities with other clients and non-client members of the community. A client shall not be prohibited from such social interactions unless restricted in writing in the client record in accordance with G.S. 122C-62(e).

*History Note: Authority G.S. 122C-51; 122C-62; 143B-147;*

*Eff. February 1, 1991;*  
*Amended Eff. January 1, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27D .0302 CLIENT SELF-GOVERNANCE**

In a day/night or 24-hour facility, the governing body shall develop and implement policy which allows client input into facility governance and the development of client self-governance groups.

*History Note: Authority G.S. 122C-51; 122C-58; 143B-147;*  
*Eff. February 1, 1991;*  
*Amended Eff. January 1, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27D .0303 INFORMED CONSENT**

(a) Each client, or legally responsible person, shall be informed, in a manner that the client or legally responsible person can understand, about:

- (1) the alleged benefits, potential risks, and possible alternative methods of treatment/habilitation; and
- (2) the length of time for which the consent is valid and the procedures that are to be followed if he chooses to withdraw consent. The length of time for a consent for the planned use of a restrictive intervention shall not exceed six months.

(b) A consent required in accordance with G.S. 122C-57(f) or for planned interventions specified by the rules in Subchapter 27E, Section .0100, shall be obtained in writing. Other procedures requiring written consent shall include, but are not limited to, the prescription or administration of the following drugs:

- (1) Antabuse; and
- (2) Depo-Provera when used for non-FDA approved uses.

(c) Each voluntary client or legally responsible person has the right to consent or refuse treatment/habilitation in accordance with G.S. 122C-57(d). A voluntary client's refusal of consent shall not be used as the sole grounds for termination or threat of termination of service unless the procedure is the only viable treatment/habilitation option available at the facility.

(d) Documentation of informed consent shall be placed in the client's record.

*History Note: Authority G.S. 122C-51; 122C-57; 143B-147;*  
*Eff. February 1, 1991;*  
*Amended Eff. January 4, 1993; January 1, 1992;*  
*Temporary Amendment Eff. January 1, 2001;*  
*Amended Eff. August 1, 2002;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

#### **10A NCAC 27D .0304 PROTECTION FROM HARM, ABUSE, NEGLECT OR EXPLOITATION**

(a) Employees shall protect clients from harm, abuse, neglect and exploitation in accordance with G.S. 122C-66.

(b) Employees shall not subject a client to any sort of abuse or neglect, as defined in 10A NCAC 27C .0102 of this Chapter.

(c) Goods or services shall not be sold to or purchased from a client except through established governing body policy.

(d) Employees shall use only that degree of force necessary to repel or secure a violent and aggressive client and which is permitted by governing body policy. 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. Use of intervention procedures shall be compliance with Subchapter 10A NCAC 27E of this Chapter.

(e) Any violation by an employee of Paragraphs (a) through (d) of this Rule shall be grounds for dismissal of the employee.

*History Note: Authority G.S. 122C-59; 122C-65; 122C-66; 143B-147;*  
*Eff. February 1, 1991;*  
*Amended Eff. April 1, 1994; January 1, 1992;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 25, 2016.*

### **SUBCHAPTER 27E – TREATMENT OR HABILITATION RIGHTS**

## **SECTION .0100 – PROTECTIONS REGARDING INTERVENTIONS PROCEDURES**

### **10A NCAC 27E .0101 LEAST RESTRICTIVE ALTERNATIVE**

- (a) Each facility shall provide services/supports that promote a safe and respectful environment. These include:
- (1) using the least restrictive and most appropriate settings and methods;
  - (2) promoting coping and engagement skills that are alternatives to injurious behavior to self or others;
  - (3) providing choices of activities meaningful to the clients served/supported; and
  - (4) sharing of control over decisions with the client/legally responsible person and staff.
- (b) The use of a restrictive intervention procedure designed to reduce a behavior shall always be accompanied by actions designed to insure dignity and respect during and after the intervention. These include:
- (1) using the intervention as a last resort; and
  - (2) employing the intervention by people trained in its use.

*History Note: Authority G.S. 122C-51; 122C-53; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Temporary Amendment Eff. January 1, 2001;  
Amended Eff. August 1, 2002;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

### **10A NCAC 27E .0102 PROHIBITED PROCEDURES**

In each facility the following types of procedures shall be prohibited:

- (1) those interventions which have been prohibited by statute or rule which shall include:
  - (a) any intervention which would be considered corporal punishment under G.S. 122C-59;
  - (b) the contingent use of painful body contact;
  - (c) substances administered to induce painful bodily reactions, exclusive of Antabuse;
  - (d) electric shock (excluding medically administered electroconvulsive therapy);
  - (e) insulin shock;
  - (f) unpleasant tasting foodstuffs;
  - (g) contingent application of any noxious substances which include but are not limited to noise, bad smells or splashing with water; and
  - (h) any potentially physically painful procedure, excluding prescribed injections, or stimulus which is administered to the client for the purpose of reducing the frequency or intensity of a behavior.
- (2) those interventions determined by the governing body to be unacceptable for or prohibited from use in the facility.

*History Note: Authority G.S. 122C-51; 122C-57; 122C-59; 131E-67; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

### **10A NCAC 27E .0103 GENERAL POLICIES REGARDING INTERVENTION PROCEDURES**

- (a) The following procedures shall only be employed when clinically or medically indicated as a method of therapeutic treatment:
- (1) planned non-attention to specific undesirable behaviors when those behaviors are health threatening;
  - (2) contingent deprivation of any basic necessity; or
  - (3) other professionally acceptable behavior modification procedures that are not prohibited by Rule .0102 of this Section or covered by Rule .0104 of this Section.
- (b) The determination that a procedure is clinically or medically indicated, and the authorization for the use of such treatment for a specific client, shall only be made by either a physician or a licensed practicing psychologist who has been formally trained and privileged in the use of the procedure.

*History Note: Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 131E-67; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

**10A NCAC 27E .0104 SECLUSION, PHYSICAL RESTRAINT AND ISOLATION TIME-OUT AND PROTECTIVE DEVICES USED FOR BEHAVIORAL CONTROL**

(a) This Rule governs the use of restrictive interventions which shall include:

- (1) seclusion;
- (2) physical restraint;
- (3) isolation time-out
- (4) any combination thereof; and
- (5) protective devices used for behavioral control.

(b) The use of restrictive interventions shall be limited to:

- (1) emergency situations, in order to terminate a behavior or action in which a client is in imminent danger of abuse or injury to self or other persons or when property damage is occurring that poses imminent risk of danger of injury or harm to self or others; or
- (2) as a planned measure of therapeutic treatment as specified in Paragraph (f) of this Rule.

(c) Restrictive interventions shall not be employed as a means of coercion, punishment or retaliation by staff or for the convenience of staff or due to inadequacy of staffing. Restrictive interventions shall not be used in a manner that causes harm or abuse.

(d) In accordance with Rule .0101 of Subchapter 27D, the governing body shall have policy that delineates the permissible use of restrictive interventions within a facility.

(e) Within a facility where restrictive interventions may be used, the policy and procedures shall be in accordance with the following provisions:

- (1) the requirement that positive and less restrictive alternatives are considered and attempted whenever possible prior to the use of more restrictive interventions;
- (2) consideration is given to the client's physical and psychological well-being before, during and after utilization of a restrictive intervention, including:
  - (A) review of the client's health history or the client's comprehensive health assessment conducted upon admission to a facility. The health history or comprehensive health assessment shall include the identification of pre-existing medical conditions or any disabilities and limitations that would place the client at greater risk during the use of restrictive interventions;
  - (B) continuous assessment and monitoring of the physical and psychological well-being of the client and the safe use of restraint throughout the duration of the restrictive intervention by staff who are physically present and trained in the use of emergency safety interventions;
  - (C) continuous monitoring by an individual trained in the use of cardiopulmonary resuscitation of the client's physical and psychological well-being during the use of manual restraint; and
  - (D) continued monitoring by an individual trained in the use of cardiopulmonary resuscitation of the client's physical and psychological well-being for a minimum of 30 minutes subsequent to the termination of a restrictive intervention;
- (3) the process for identifying, training, assessing competence of facility employees who may authorize and implement restrictive interventions;
- (4) the duties and responsibilities of responsible professionals regarding the use of restrictive interventions;
- (5) the person responsible for documentation when restrictive interventions are used;
- (6) the person responsible for the notification of others when restrictive interventions are used; and
- (7) the person responsible for checking the client's physical and psychological well-being and assessing the possible consequences of the use of a restrictive intervention and, in such cases there shall be procedures regarding:
  - (A) documentation if a client has a physical disability or has had surgery that would make affected nerves and bones sensitive to injury; and
  - (B) the identification and documentation of alternative emergency procedures, if needed;
- (8) any room used for seclusion or isolation time-out shall meet the following criteria:
  - (A) the room shall be designed and constructed to ensure the health, safety and well-being of the client;
  - (B) the floor space shall not be less than 50 square feet, with a ceiling height of not less than eight feet;

- (C) the floor and wall coverings, as well as any contents of the room, shall have a one-hour fire rating and shall not produce toxic fumes if burned;
  - (D) the walls shall be kept completely free of objects;
  - (E) a lighting fixture, equipped with a minimum of a 75 watt bulb, shall be mounted in the ceiling and be screened to prevent tampering by the client;
  - (F) one door of the room shall be equipped with a window mounted in a manner which allows inspection of the entire room;
  - (G) glass in any windows shall be impact resistant and shatterproof;
  - (H) the room temperature and ventilation shall be comparable and compatible with the rest of the facility; and
  - (I) in a lockable room the lock shall be interlocked with the fire alarm system so that the door automatically unlocks when the fire alarm is activated if the room is to be used for seclusion.
- (9) Whenever a restrictive intervention is utilized, documentation shall be made in the client record to include, at a minimum:
- (A) notation of the client's physical and psychological well-being;
  - (B) notation of the frequency, intensity and duration of the behavior which led to the intervention, and any precipitating circumstance contributing to the onset of the behavior;
  - (C) the rationale for the use of the intervention, the positive or less restrictive interventions considered and used and the inadequacy of less restrictive intervention techniques that were used;
  - (D) a description of the intervention and the date, time and duration of its use;
  - (E) a description of accompanying positive methods of intervention;
  - (F) a description of the debriefing and planning with the client and the legally responsible person, if applicable, for the emergency use of seclusion, physical restraint or isolation time-out to eliminate or reduce the probability of the future use of restrictive interventions;
  - (G) a description of the debriefing and planning with the client and the legally responsible person, if applicable, for the planned use of seclusion, physical restraint or isolation time-out, if determined to be clinically necessary; and
  - (H) signature and title of the facility employee who initiated, and of the employee who further authorized, the use of the intervention.
- (10) The emergency use of restrictive interventions shall be limited, as follows:
- (A) a facility employee approved to administer emergency interventions may employ such procedures for up to 15 minutes without further authorization;
  - (B) the continued use of such interventions shall be authorized only by the responsible professional or another qualified professional who is approved to use and to authorize the use of the restrictive intervention based on experience and training;
  - (C) the responsible professional shall meet with and conduct an assessment that includes the physical and psychological well-being of the client and write a continuation authorization as soon as possible after the time of initial employment of the intervention. If the responsible professional or a qualified professional is not immediately available to conduct an assessment of the client, but concurs that the intervention is justified after discussion with the facility employee, continuation of the intervention may be verbally authorized until an on-site assessment of the client can be made;
  - (D) a verbal authorization shall not exceed three hours after the time of initial employment of the intervention; and
  - (E) each written order for seclusion, physical restraint or isolation time-out is limited to four hours for adult clients; two hours for children and adolescent clients ages nine to 17; or one hour for clients under the age of nine. The original order shall only be renewed in accordance with these limits or up to a total of 24 hours.
- (11) The following precautions and actions shall be employed whenever a client is in:
- (A) seclusion or physical restraint, including a protective device when used for the purpose or with the intent of controlling unacceptable behavior: periodic observation of the client shall occur at least every 15 minutes, or more often as necessary, to assure the safety of the client, attention shall be paid to the provision of regular meals, bathing and the use of the toilet; and such observation and attention shall be documented in the client record;

- (B) isolation time-out: there shall be a facility employee in attendance with no other immediate responsibility than to monitor the client who is placed in isolation time-out; there shall be continuous observation and verbal interaction with the client when appropriate; and such observation shall be documented in the client record; and
- (C) physical restraint and may be subject to injury: a facility employee shall remain present with the client continuously.
- (12) The use of a restrictive intervention shall be discontinued immediately at any indication of risk to the client's health or safety or immediately after the client gains behavioral control. If the client is unable to gain behavioral control within the time frame specified in the authorization of the intervention, a new authorization must be obtained.
- (13) The written approval of the designee of the governing body shall be required when the original order for a restrictive intervention is renewed for up to a total of 24 hours in accordance with the limits specified in Item (E) of Subparagraph (e)(10) of this Rule.
- (14) Standing orders or PRN orders shall not be used to authorize the use of seclusion, physical restraint or isolation timeout.
- (15) The use of a restrictive intervention shall be considered a restriction of the client's rights as specified in G.S. 122C-62(b) or (d). The documentation requirements in this Rule shall satisfy the requirements specified in G.S. 122C-62(e) for rights restrictions.
- (16) When any restrictive intervention is utilized for a client, notification of others shall occur as follows:
  - (A) those to be notified as soon as possible but within 24 hours of the next working day, to include:
    - (i) the treatment or habilitation team, or its designee, after each use of the intervention; and
    - (ii) a designee of the governing body; and
  - (B) the legally responsible person of a minor client or an incompetent adult client shall be notified immediately unless she/he has requested not to be notified.
- (17) The facility shall conduct reviews and reports on any and all use of restrictive interventions, including:
  - (A) a regular review by a designee of the governing body, and review by the Client Rights Committee, in compliance with confidentiality rules as specified in 10A NCAC 28A;
  - (B) an investigation of any unusual or possibly unwarranted patterns of utilization; and
  - (C) documentation of the following shall be maintained on a log:
    - (i) name of the client;
    - (ii) name of the responsible professional;
    - (iii) date of each intervention;
    - (iv) time of each intervention;
    - (v) type of intervention;
    - (vi) duration of each intervention;
    - (vii) reason for use of the intervention;
    - (viii) positive and less restrictive alternatives that were used or that were considered but not used and why those alternatives were not used;
    - (ix) debriefing and planning conducted with the client, legally responsible person, if applicable, and staff, as specified in Parts (e)(9)(F) and (G) of this Rule, to eliminate or reduce the probability of the future use of restrictive interventions; and
    - (x) negative effects of the restrictive intervention, if any, on the physical and psychological well-being of the client.
- (18) The facility shall collect and analyze data on the use of seclusion and physical restraint. The data collected and analyzed shall reflect for each incident:
  - (A) the type of procedure used and the length of time employed;
  - (B) alternatives considered or employed; and
  - (C) the effectiveness of the procedure or alternative employed.

The facility shall analyze the data on at least a quarterly basis to monitor effectiveness, determine trends and take corrective action where necessary. The facility shall make the data available to the Secretary upon request.

- (19) Nothing in this Rule shall be interpreted to prohibit the use of voluntary restrictive interventions at the client's request; however, the procedures in this Rule shall apply with the exception of Subparagraph (f)(3) of this Rule.
- (f) The restrictive intervention shall be considered a planned intervention and shall be included in the client's treatment/habilitation plan whenever it is used:

- (1) more than four times, or for more than 40 hours, in a calendar month;
  - (2) in a single episode in which the original order is renewed for up to a total of 24 hours in accordance with the limit specified in Item (E) of Subparagraph (e)(10) of this Rule; or
  - (3) as a measure of therapeutic treatment designed to reduce dangerous, aggressive, self-injurious or undesirable behaviors to a level which will allow the use of less restrictive treatment or habilitation procedures.
- (g) When a restrictive intervention is used as a planned intervention, facility policy shall specify:
- (1) the requirement that a consent or approval shall be considered valid for no more than six months and that the decision to continue the specific intervention shall be based on clear and recent behavioral evidence that the intervention is having a positive impact and continues to be needed;
  - (2) prior to the initiation or continued use of any planned intervention, the following written notifications, consents and approvals shall be obtained and documented in the client record:
    - (A) approval of the plan by the responsible professional and the treatment and habilitation team, if applicable, shall be based on an assessment of the client and a review of the documentation required by Subparagraph (e)(9) and (e)(14) of this Rule if applicable;
    - (B) consent of the client or legally responsible person, after participation in treatment planning and after the specific intervention and the reason for it have been explained in accordance with 10A NCAC 27D .0201;
    - (C) notification of an advocate/client rights representative that the specific intervention has been planned for the client and the rationale for utilization of the intervention; and
    - (D) physician approval, after an initial medical examination, when the plan includes a specific intervention with reasonably foreseeable physical consequences. In such cases, periodic planned monitoring by a physician shall be incorporated into the plan.
  - (3) within 30 days of initiation of the use of a planned intervention, the Intervention Advisory Committee established in accordance with Rule .0106 of this Section, by majority vote, may recommend approval or disapproval of the plan or may abstain from making a recommendation;
  - (4) within any time during the use of a planned intervention, if requested, the Intervention Advisory Committee shall be given the opportunity to review the treatment/habilitation plan;
  - (5) if any of the persons or committees specified in Subparagraphs (h)(2) or (h)(3) of this Rule do not approve the initial use or continued use of a planned intervention, the intervention shall not be initiated or continued. Appeals regarding the resolution of any disagreement over the use of the planned intervention shall be handled in accordance with governing body policy; and
  - (6) documentation in the client record regarding the use of a planned intervention shall indicate:
    - (A) description and frequency of debriefing with the client, legally responsible person, if applicable, and staff if determined to be clinically necessary. Debriefing shall be conducted as to the level of cognitive functioning of the client;
    - (B) bi-monthly evaluation of the planned by the responsible professional who approved the planned intervention; and
    - (C) review, at least monthly, by the treatment/habilitation team that approved the planned intervention.

*History Note:* Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 131E-67; 143B-147;  
 Eff. February 1, 1991;  
 Amended Eff. January 4, 1993; January 1, 1992;  
 Temporary Amendment Eff. January 1, 2001;  
 Temporary Amendment Expired October 13, 2001;  
 Amended Eff. April 1, 2003;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.

#### **10A NCAC 27E .0105 PROTECTIVE DEVICES**

(a) Whenever a protective device is utilized for a client, the governing body shall develop and implement policy to ensure that:

- (1) the necessity for the protective device has been assessed and the device is applied by a facility employee who has been trained and has demonstrated competence in the utilization of protective devices;



- (2) the use of positive and less restrictive alternatives have been reviewed and documented and the protective device selected is the appropriate measure;
- (3) the client is frequently observed and provided opportunities for toileting, exercise, etc. as needed. When a protective device limits the client's freedom of movement, the client shall be observed at least every hour. Whenever the client is restrained and subject to injury by another client, a facility employee shall remain present with the client continuously. Observations and interventions shall be documented in the client record;
- (4) protective devices are cleaned at regular intervals; and
- (5) for facilities operated by or under contract with an area program, the utilization of protective devices in the treatment/habilitation plan shall be subject to review by the Client Rights Committee, as required in 10A NCAC 27G .0504. Copies of this Rule and other pertinent rules are published as Division publication RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES, APSM 30-1, and may be purchased at a cost of five dollars and seventy-five cents (\$5.75) per copy.

(b) The use of any protective device for the purpose or with the intent of controlling unacceptable behavior shall comply with the requirements of Rule .0104 of this Section.

*History Note: Authority G.S. 122C-51; 122C-53; 122C-60; 143B-147; Eff. February 1, 1991; Amended Eff. January 4, 1993; January 1, 1992; Temporary Amendment Eff. January 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27E .0106 INTERVENTION ADVISORY COMMITTEES**

- (a) An Intervention Advisory Committee shall be established to provide additional safeguards in a facility that utilizes restrictive interventions as planned interventions as specified in Rule .0104(g) of this Section.
- (b) The membership of the Intervention Advisory Committee shall include at least one person who is or has been a consumer of direct services provided by the governing body or who is a close relative of a consumer and:
  - (1) for a facility operated by an area program, the Intervention Advisory Committee shall be the Client Rights Committee or a subcommittee of it, which may include other members;
  - (2) for a facility that is not operated by an area program, but for which a voluntary client rights or human rights committee has been appointed by the governing body, the Intervention Advisory Committee shall be that committee or a subcommittee of it, which may include other members; or
  - (3) for a facility that does not meet the conditions of Subparagraph (b)(1) or (2), the committee shall include at least three citizens who are not employees of, or members of the governing body.
- (c) The Intervention Advisory Committee specified in Subparagraphs (b)(2) or (3) shall have a member or a regular independent consultant who is a professional with training and expertise in the use of the type of interventions being utilized, and who is not directly involved in the treatment or habilitation of the client.
- (d) The Intervention Advisory Committee shall:
  - (1) have policy that governs its operation and requirements that:
    - (A) access to client information shall be given only when necessary for committee members to perform their duties;
    - (B) committee members shall have access to client records on a need to know basis only upon the written consent of the client or his legally responsible person as specified in G.S. 122C-53(a); and
    - (C) information in the client record shall be treated as confidential information in accordance with G.S. 122C-52 through 122C-56;
  - (2) receive specific training and orientation as to the charge of the committee;
  - (3) be provided with copies of appropriate statutes and rules governing client rights and related issues;
  - (4) be provided, when available, with copies of literature about the use of a proposed intervention and any alternatives;
  - (5) maintain minutes of each meeting; and
  - (6) make an annual written report to the governing body on the activities of the committee.

*History Note: Authority G.S. 122C-51 through 122C-56; 143B-147;*

*Eff. February 1, 1991;*

*Amended Eff. January 1, 1992;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

**10A NCAC 27E .0107 TRAINING ON ALTERNATIVES TO RESTRICTIVE INTERVENTIONS**

- (a) Facilities shall implement policies and practices that emphasize the use of alternatives to restrictive interventions.
- (b) Prior to providing services to people with disabilities, staff including service providers, employees, students or volunteers, shall demonstrate competence by successfully completing training in communication skills and other strategies for creating an environment in which the likelihood of imminent danger of abuse or injury to a person with disabilities or others or property damage is prevented.
- (c) Provider agencies shall establish training based on state competencies, monitor for internal compliance and demonstrate they acted on data gathered.
- (d) The training shall be competency-based, include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course.
- (e) Formal refresher training must be completed by each service provider periodically (minimum annually).
- (f) Content of the training that the service provider wishes to employ must be approved by the Division of MH/DD/SAS pursuant to Paragraph (g) of this Rule.
- (g) Staff shall demonstrate competence in the following core areas:
  - (1) knowledge and understanding of the people being served;
  - (2) recognizing and interpreting human behavior;
  - (3) recognizing the effect of internal and external stressors that may affect people with disabilities;
  - (4) strategies for building positive relationships with persons with disabilities;
  - (5) recognizing cultural, environmental and organizational factors that may affect people with disabilities;
  - (6) recognizing the importance of and assisting in the person's involvement in making decisions about their life;
  - (7) skills in assessing individual risk for escalating behavior;
  - (8) communication strategies for defusing and de-escalating potentially dangerous behavior; and
  - (9) positive behavioral supports (providing means for people with disabilities to choose activities which directly oppose or replace behaviors which are unsafe).
- (h) Service providers shall maintain documentation of initial and refresher training for at least three years.
  - (1) Documentation shall include:
    - (A) who participated in the training and the outcomes (pass/fail);
    - (B) when and where they attended; and
    - (C) instructor's name;
  - (2) The Division of MH/DD/SAS may review/request this documentation at any time.
- (i) Instructor Qualifications and Training Requirements:
  - (1) Trainers shall demonstrate competence by scoring 100% on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions.
  - (2) Trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program.
  - (3) The training shall be competency-based, include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course.
  - (4) The content of the instructor training the service provider plans to employ shall be approved by the Division of MH/DD/SAS pursuant to Subparagraph (i)(5) of this Rule.
  - (5) Acceptable instructor training programs shall include but are not limited to presentation of:
    - (A) understanding the adult learner;
    - (B) methods for teaching content of the course;
    - (C) methods for evaluating trainee performance; and
    - (D) documentation procedures.
  - (6) Trainers shall have coached experience teaching a training program aimed at preventing, reducing and eliminating the need for restrictive interventions at least one time, with positive review by the coach.
  - (7) Trainers shall teach a training program aimed at preventing, reducing and eliminating the need for restrictive interventions at least once annually.
  - (8) Trainers shall complete a refresher instructor training at least every two years.

- (j) Service providers shall maintain documentation of initial and refresher instructor training for at least three years.
  - (1) Documentation shall include:
    - (A) who participated in the training and the outcomes (pass/fail);
    - (B) when and where attended; and
    - (C) instructor's name.
  - (2) The Division of MH/DD/SAS may request and review this documentation any time.
- (k) Qualifications of Coaches:
  - (1) Coaches shall meet all preparation requirements as a trainer.
  - (2) Coaches shall teach at least three times the course which is being coached.
  - (3) Coaches shall demonstrate competence by completion of coaching or train-the-trainer instruction.
- (l) Documentation shall be the same preparation as for trainers.

*History Note: Authority G.S. 143B-147;  
 Temporary Adoption Eff. February 1, 2001;  
 Temporary Adoption Expired October 13, 2001;  
 Eff. April 1, 2003;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

**10A NCAC 27E .0108 TRAINING IN SECLUSION, PHYSICAL RESTRAINT AND ISOLATION TIME-OUT**

- (a) Seclusion, physical restraint and isolation time-out may be employed only by staff who have been trained and have demonstrated competence in the proper use of and alternatives to these procedures. Facilities shall ensure that staff authorized to employ and terminate these procedures are retrained and have demonstrated competence at least annually.
- (b) Prior to providing direct care to people with disabilities whose treatment/habilitation plan includes restrictive interventions, staff including service providers, employees, students or volunteers shall complete training in the use of seclusion, physical restraint and isolation time-out and shall not use these interventions until the training is completed and competence is demonstrated.
- (c) A pre-requisite for taking this training is demonstrating competence by completion of training in preventing, reducing and eliminating the need for restrictive interventions.
- (d) The training shall be competency-based, include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course.
- (e) Formal refresher training must be completed by each service provider periodically (minimum annually).
- (f) Content of the training that the service provider plans to employ must be approved by the Division of MH/DD/SAS pursuant to Paragraph (g) of this Rule.
- (g) Acceptable training programs shall include, but are not limited to, presentation of:
  - (1) refresher information on alternatives to the use of restrictive interventions;
  - (2) guidelines on when to intervene (understanding imminent danger to self and others);
  - (3) emphasis on safety and respect for the rights and dignity of all persons involved (using concepts of least restrictive interventions and incremental steps in an intervention);
  - (4) strategies for the safe implementation of restrictive interventions;
  - (5) the use of emergency safety interventions which include continuous assessment and monitoring of the physical and psychological well-being of the client and the safe use of restraint throughout the duration of the restrictive intervention;
  - (6) prohibited procedures;
  - (7) debriefing strategies, including their importance and purpose; and
  - (8) documentation methods/procedures.
- (h) Service providers shall maintain documentation of initial and refresher training for at least three years.
  - (1) Documentation shall include:
    - (A) who participated in the training and the outcomes (pass/fail);
    - (B) when and where they attended; and
    - (C) instructor's name.
  - (2) The Division of MH/DD/SAS may review/request this documentation at any time.
- (i) Instructor Qualification and Training Requirements:
  - (1) Trainers shall demonstrate competence by scoring 100% on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions.

- (2) Trainers shall demonstrate competence by scoring 100% on testing in a training program teaching the use of seclusion, physical restraint and isolation time-out.
- (3) Trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program.
- (4) The training shall be competency-based, include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course.
- (5) The content of the instructor training the service provider plans to employ shall be approved by the Division of MH/DD/SAS pursuant to Subparagraph (j)(6) of this Rule.
- (6) Acceptable instructor training programs shall include, but not be limited to, presentation of:
  - (A) understanding the adult learner;
  - (B) methods for teaching content of the course;
  - (C) evaluation of trainee performance; and
  - (D) documentation procedures.
- (7) Trainers shall be retrained at least annually and demonstrate competence in the use of seclusion, physical restraint and isolation time-out, as specified in Paragraph (a) of this Rule.
- (8) Trainers shall be currently trained in CPR.
- (9) Trainers shall have coached experience in teaching the use of restrictive interventions at least two times with a positive review by the coach.
- (10) Trainers shall teach a program on the use of restrictive interventions at least once annually.
- (11) Trainers shall complete a refresher instructor training at least every two years.
- (k) Service providers shall maintain documentation of initial and refresher instructor training for at least three years.
  - (1) Documentation shall include:
    - (A) who participated in the training and the outcome (pass/fail);
    - (B) when and where they attended; and
    - (C) instructor's name.
- (2) The Division of MH/DD/SAS may review/request this documentation at any time.
- (l) Qualifications of Coaches:
  - (1) Coaches shall meet all preparation requirements as a trainer.
  - (2) Coaches shall teach at least three times, the course which is being coached.
  - (3) Coaches shall demonstrate competence by completion of coaching or train-the-trainer instruction.
- (m) Documentation shall be the same preparation as for trainers.

*History Note: Authority G.S. 143B-147;  
 Temporary Adoption Eff. February 1, 2001;  
 Temporary Adoption Expired October 13, 2001;  
 Eff. April 1, 2003;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

## **SECTION .0200 - PROTECTIONS REGARDING MEDICATIONS**

### **10A NCAC 27E .0201 SAFEGUARDS REGARDING MEDICATIONS**

- (a) The use of experimental drugs or medication shall be considered research and shall be governed by G.S. 122C-57(f), applicable federal law, licensure requirements codified in 10A NCAC 27G .0209, or any other applicable licensure requirements not inconsistent with state or federal law.
- (b) The use of other drugs or medications as a treatment measure shall be governed by G.S. 122C-57, and G.S. 90, Articles 1, 4A and 9A.

*History Note: Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;  
 Eff. February 1, 1991;  
 Amended Eff. January 1, 1992;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

## **SUBCHAPTER 27F - 24-HOUR FACILITIES**

### **SECTION .0100 - SPECIFIC RULES FOR 24-HOUR FACILITIES**

#### **10A NCAC 27F .0101 SCOPE**

Article 3, Chapter 122C of the General Statutes provides specific rights for each client who receives a mental health, developmental disability, or substance abuse service. This Subchapter delineates the rules regarding those rights that apply in a 24-hour facility.

*History Note: Authority G.S. 122C-51; 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27F .0102 LIVING ENVIRONMENT**

(a) Each client shall be provided:

- (1) an atmosphere conducive to uninterrupted sleep during scheduled sleeping hours, consistent with the types of services being provided and the type of clients being served; and
- (2) accessible areas for personal privacy, for at least limited periods of time, unless determined inappropriate by the treatment or habilitation team.

(b) Each client shall be free to suitably decorate his room, or his portion of a multi-resident room, with respect to choice, normalization principles, and with respect for the physical structure. Any restrictions on this freedom shall be carried out in accordance with governing body policy.

*History Note: Authority G.S. 122C-51; 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27F .0103 HEALTH, HYGIENE AND GROOMING**

(a) Each client shall be assured the right to dignity, privacy and humane care in the provision of personal health, hygiene and grooming care. Such rights shall include, but need not be limited to the:

- (1) opportunity for a shower or tub bath daily, or more often as needed;
- (2) opportunity to shave at least daily;
- (3) opportunity to obtain the services of a barber or a beautician; and
- (4) provision of linens and towels, toilet paper and soap for each client and other individual personal hygiene articles for each indigent client. 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.

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

*History Note: Authority G.S. 122C-51; 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27F .0104 STORAGE AND PROTECTION OF CLOTHING AND POSSESSIONS**

Facility employees shall make every effort to protect each client's personal clothing and possessions from theft, damage, destruction, loss, and misplacement. This includes, but is not limited to, assisting the client in developing and maintaining an inventory of clothing and personal possessions if the client or legally responsible person desires.

*History Note: Authority G.S. 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27F .0105 CLIENT'S PERSONAL FUNDS**

(a) This Rule applies to any 24-hour facility which typically provides residential services to individual clients for more than 30 days.

(b) Each competent adult client and each minor above the age of 16 shall be assisted and encouraged to maintain or invest his money in a personal fund account other than at the facility. This shall include, but need not be limited to, investment of funds in interest-bearing accounts.

(c) If funds are managed for a client by a facility employee, management of the funds shall occur in accordance with policy and procedures that:

- (1) assure to the client the right to deposit and withdraw money;
- (2) regulate the receipt and distribution of funds in a personal fund account;
- (3) provide for the receipt of deposits made by friends, relatives or others;
- (4) provide for the keeping of adequate financial records on all transactions affecting funds on deposit in personal fund account;
- (5) assure that a client's personal funds will be kept separate from any operating funds of the facility;
- (6) provide for the deduction from a personal fund account payment for treatment or habilitation services when authorized by the client or legally responsible person upon or subsequent to admission of the client;
- (7) provide for the issuance of receipts to persons depositing or withdrawing funds; and
- (8) provide the client with a quarterly accounting of his personal fund account.

(d) Authorization by the client or legally responsible person is required before a deduction can be made from a personal fund account for any amount owed or alleged to be owed for damages done or alleged to have been done by the client:

- (1) to the facility;
- (2) an employee of the facility;
- (3) to a visitor of the facility; or
- (4) to another client of the facility.

*History Note: Authority G.S. 122C-51; 122C-58; 122C-62; 143B-147;  
Eff. February 1, 1991;  
Amended Eff. January 1, 1992;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

### **SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES**

#### **SECTION .0100 - GENERAL INFORMATION**

#### **10A NCAC 27G .0101 SCOPE**

(a) This Subchapter sets forth rules for mental health, developmental disabilities and substance abuse services, the facilities and agencies providing such services, and the area programs administering such services within the scope of G.S. 122C.

(b) These Rules and the applicable statutes govern licensing of facilities and accreditation of programs and services.

- (1) Facilities are licensed by the Division of Health Service Regulation (DHSR) in accordance with G.S. 122 and these Rules. Licensable facilities as defined in G.S. 122C-3 shall comply with these Rules to receive and maintain the licenses required by the statute.
- (2) Area programs are accredited by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS) to provide services in accordance with these Rules. Area programs shall comply with the rules to maintain accreditation of their programs and services.

(c) Unless otherwise provided in these Rules, when a facility or area program contracts with a person to provide services within the scope of these Rules, the facility or area program shall require that the contract services be provided in accordance with these Rules, and that the service provider be licensed if it is a licensable facility.

(d) These Rules are organized in the following manner:

- (1) General rules governing mental health, developmental disabilities and substance abuse services are contained in Sections .0100 through .0900. These Rules are "core" rules that, unless otherwise specified, apply to all programs and facilities.

- (2) Service-specific rules are contained in Sections .1000 through .6900. Generally, rules related to service-specific facilities and services are grouped:
  - (A) .1000 - .1900: Mental Health
  - (B) .2000 - .2900: Developmental Disabilities
  - (C) .3000 - .4900: Substance Abuse
  - (D) .5000 - .6900: Services and Facilities for More Than One Disability.
- (3) Service-specific rules may modify or expand the requirements of core rules.
- (e) Failure to comply with these Rules shall be grounds for DHSR to deny or revoke a license or for DMH/DD/SAS to deny or revoke area program service accreditation.

*History Note: Authority G.S. 122C-23; 122C-24; 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0102 COPIES OF RULES**

Copies of these Rules are available from DMH/DD/SAS at a price to cover printing, handling and postage.

*History Note: Authority G.S. 122C-23; 122C-24; 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0103 GENERAL DEFINITIONS**

- (a) This Rule contains definitions that apply to all of the rules in this Subchapter.
- (b) Unless otherwise indicated, the following terms shall have the meanings specified:
  - (1) "Accreditation" means the authorization granted to an area program by DMH/DD/SAS, as a result of demonstrated compliance with the standards established in these Rules, to provide specified services.
  - (2) "Administering medication" means direct application of a drug to the body of a client by injection, inhalation, ingestion, or any other means.
  - (3) "Adolescent" means a minor from 13 through 17 years of age.
  - (4) "Adult" means a person 18 years of age or older or a person under 18 years of age who has been married or who has been emancipated by a court of competent jurisdiction or is a member of the armed forces.
  - (5) "Alcohol abuse" means psychoactive substance abuse which is a residual category for noting maladaptive patterns of psychoactive substance use that have never met the criteria for dependence for that particular class of substance and which continues despite adverse consequences. The criteria for alcohol abuse delineated in the DSM IV is incorporated by reference.
  - (6) "Alcohol dependence" means psychoactive substance dependence which is a cluster of cognitive behavioral, and physiologic symptoms that indicate that a person has impaired control of psychoactive substance use and continues use of the substance despite adverse consequences. The criteria for alcohol dependence delineated in the DSM IV is incorporated by reference.
  - (7) "Area program" means a legally constituted public agency providing mental health, developmental disabilities and substance abuse services for a catchment area designated by the Commission. For purposes of these Rules, the term "area program" means the same as "area authority" as defined in G.S. 122C-3.
  - (8) "Assessment" means a procedure for determining the nature and extent of the need for which the individual is seeking service.
  - (9) "Child" means a minor from birth through 12 years of age.
  - (10) "Children and adolescents with emotional disturbance" means minors from birth through 17 years of age who have behavioral, mental, or emotional problems which are severe enough to significantly impair their ability to function at home, in school, or in community settings.
  - (11) "Client" means the same as defined in G.S. 122C-3. Unless otherwise specified, when used in the context of consent, consultation, or other function for a minor or for an adult who lacks the capacity to perform the required function, the term "client" shall include the legally responsible person.
  - (12) "Client record" means a documented account of all services provided to a client.
  - (13) "Commission" means the same as defined in G.S. 122C-3.
  - (14) "Contract agency" means a legally constituted entity with which the area program contracts for a service exclusive of intermittent purchase of service for an individually identified client.

- (15) "Day/night service" means a service provided on a regular basis, in a structured environment that is offered to the same individual for a period of three or more hours within a 24-hour period.
- (16) "Detoxification" means the physiological withdrawal of an individual from alcohol or other drugs in order that the individual can participate in rehabilitation activities.
- (17) "DHSR" means the Division of Health Service Regulation, 701 Barbour Drive, Raleigh, N.C. 27603.
- (18) "Direct care staff" means an individual who provides active direct care, treatment, rehabilitation or habilitation services to clients.
- (19) "Division Director" means the Director of DMH/DD/SAS.
- (20) "DMH/DD/SAS" means the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3001 Mail Service Center, Raleigh, NC 27699-3001.
- (21) "Documentation" means provision of written or electronic, dated and authenticated evidence of the delivery of client services or compliance with statutes or rules, e.g., entries in the client record, policies and procedures, minutes of meetings, memoranda, reports, schedules, notices and announcements.
- (22) "Drug abuse" means psychoactive substance abuse which is a residual category for noting maladaptive patterns of psychoactive substance use that have never met the criteria for dependence for that particular class of substance which continues despite adverse consequences. The criteria for drug abuse delineated in the DSM IV is incorporated by reference.
- (23) "Drug dependence" means psychoactive substance dependence which is a cluster of cognitive behavioral, and physiologic symptoms that indicate that a person has impaired control of psychoactive substance use and continues use of the substance despite adverse consequences. The criteria for drug dependence delineated in the DSM IV is incorporated by reference.
- (24) "DSM IV" means the publication of that title published by the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005 at a cost of thirty nine dollars and ninety-five cents (\$39.95) for the soft cover edition and fifty four dollars and ninety-five cents (\$54.95) for the hard cover edition. Where used in these definitions, incorporation by reference of DSM IV includes subsequent amendments and editions of the referenced material.
- (25) "DWI" means driving while impaired, as defined in G.S. 20-138.1.
- (26) "Evaluation" means an assessment service that provides for an appraisal of a client in order to determine the nature of the client's problem and his need for services. The services may include an assessment of the nature and extent of the client's problem through a systematic appraisal of any combination of mental, psychological, physical, behavioral, functional, social, economic, and intellectual resources, for the purposes of diagnosis and determination of the disability of the client, the client's level of eligibility, and the most appropriate plan, if any, for services.
- (27) "Facility" means the same as defined in G.S. 122C-3.
- (28) "Foster parent" means an individual who provides substitute care for a planned period for a child when his own family or legal guardian cannot care for him; and who is licensed by the N.C. Department of Health and Human Services and supervised by the County Department of Social Services, or by a private program licensed or approved to engage in child care or child placing activities.
- (29) "Governing body" means, in the case of a corporation, the board of directors; in the case of an area authority, the area board; and in all other cases, the owner of the facility.
- (30) "Habilitation" means the same as defined in G.S. 122C-3.
- (31) "Hearing" means, unless otherwise specified, a contested case hearing under G.S. 150B, Article 3.
- (32) "Incident" means any happening which is not consistent with the routine operation of a facility or service or the routine care of a client and that is likely to lead to adverse effects upon a client.
- (33) "Infant" means an individual from birth to one year of age.
- (34) "Individualized education program" means a written statement for a child with special needs that is developed and implemented pursuant to 16 NCAC 2E .1500 (Rules Governing Programs and Services for Children with Special Needs) available from the Department of Public Instruction.
- (35) "Inpatient service" means a service provided in a hospital setting on a 24-hour basis under the direction of a physician. The service provides continuous, close supervision for individuals with moderate to severe mental or substance abuse problems.
- (36) "Legend drug" means a drug that cannot be dispensed without a prescription.
- (37) "License" means a permit to operate a facility which is issued by DHSR under G.S. 122C, Article 2.
- (38) "Medication" means a substance recognized in the official "United States Pharmacopoeia" or "National Formulary" intended for use in the diagnosis, mitigation, treatment or prevention of disease.



- (39) "Minor" means a person under 18 years of age who has not been married or who has not been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed forces.
- (40) "Operator" means the designated agent of the governing body who is responsible for the management of a licensable facility.
- (41) "Outpatient service" means the same as periodic service.
- (42) "Parent" means the legally responsible person unless otherwise clear from the context.
- (43) "Periodic service" means a service provided on an episodic basis, either regularly or intermittently, through short, recurring visits for persons with mental illness, developmental disability or who are substance abusers.
- (44) "Preschool age child" means a child from three to five years old.
- (45) "Prevailing wage" means the wage rate paid to an experienced worker who is not disabled for the work to be performed.
- (46) "Private facility" means a facility not operated by or under contract with an area program.
- (47) "Provider" means an individual, agency or organization that provides mental health, developmental disabilities or substance abuse services.
- (48) "Rehabilitation" means training, care and specialized therapies undertaken to assist a client to reacquire or maximize any or all lost skills or functional abilities.
- (49) "Residential service," unless otherwise provided in these Rules, means a service provided in a 24-hour living environment in a non-hospital setting where room, board, and supervision are an integral part of the care, treatment, habilitation or rehabilitation provided to the individual.
- (50) "School aged youth" means individuals from six through twenty-one years of age.
- (51) "Screening" means an assessment service that provides for an appraisal of an individual who is not a client in order to determine the nature of the individual's problem and his need for services. The service may include an assessment of the nature and extent of the individual's problem through a systematic appraisal of any combination of mental, psychological, physical, behavioral, functional, social, economic, and intellectual resources, for the purposes of diagnosis and determination of the disability of the individual, level of eligibility, if the individual will become a client, and the most appropriate plan, if any, for services.
- (52) "Secretary" means the Secretary of the Department of Health and Human Services or designee.
- (53) "Service" means an activity or interaction intended to benefit another, with, or on behalf of, an individual who is in need of assistance, care, habilitation, intervention, rehabilitation or treatment.
- (54) "Service plan" means the same as treatment/habilitation plan defined in this Section.
- (55) "Staff member" means any individual who is employed by the facility.
- (56) "State facility" means the term as defined in G.S. 122C.
- (57) "Support services" means services provided to enhance an individual's progress in his primary treatment/habilitation program.
- (58) "System of care" means a spectrum of community based mental health and other necessary services which are organized into a coordinated network to meet the multiple and changing needs of emotionally disturbed children and adolescents.
- (59) "Toddler" means an individual from one through two years of age.
- (60) "Treatment" means the process of providing for the physical, emotional, psychological and social needs of clients through services.
- (61) "Treatment/habilitation plan" means a plan in which one or more professionals, privileged in accordance with the governing body's policy, working with the client and family members or other service providers, document which services will be provided and the goals, objectives and strategies that will be implemented to achieve the identified outcomes. A treatment plan may also be called a service plan.
- (62) "Twenty-four hour service" means a service which is provided to a client on a 24-hour continuous basis.

*History Note:* Authority G.S. 122C-3; 122C-26; 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .0104 STAFF DEFINITIONS**

The following credentials and qualifications apply to staff described in this Subchapter:

- (1) "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. Supervision shall be provided by a qualified professional with the population served until the individual meets one year of experience. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually;
  - (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. Supervision shall be provided by a qualified professional with the population served until the individual meets two years of experience. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually;
  - (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. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually; 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. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually.
- (2) "Certified clinical supervisor (CCS)" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Board.
  - (3) "Certified criminal justice addictions professional (CCJP)" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Board.
  - (4) "Certified alcohol and drug counselor" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Board.
  - (5) "Certified substance abuse prevention specialist" means an individual who is certified as such by the North Carolina Addictions Specialist Professional Practice Board.
  - (6) "Clinical" means having to do with the treatment or habilitation of a client.
  - (7) "Clinical staff member" means a qualified professional or associate professional who provides treatment or habilitation to a client.
  - (8) "Clinical or professional supervision" means regularly scheduled assistance by a qualified professional or associate professional to a staff member who is providing direct, therapeutic intervention to a client or clients. The purpose of clinical supervision is to ensure that each client receives treatment or habilitation that is consistent with accepted standards of practice and the needs of the client.
  - (9) "Clinical social worker" means a social worker who is licensed as such by the N.C. Social Work Certification and Licensure Board.
  - (10) "Direct Support Professional" means an individual who has a GED or high school diploma hired to provide intellectual disability, developmental disability, or traumatic brain injury services. Supervision shall be provided by a qualified professional with experience with the population served. The supervisor and the employee shall develop an individualized supervision plan upon hiring and shall review it annually thereafter.
  - (11) "Director" means the individual who is responsible for the operation of the facility.
  - (12) "Family Partner" means an individual hired to provide direct engagement, support, and advocacy to the family of each child and adolescent served in a Psychiatric Residential Treatment Facility. A Family Partner shall meet the criteria for a Paraprofessional as defined in this Rule, have lived experience as a primary caregiver for a child or adolescent with a mental health disorder, a substance use disorder,

intellectual disorder, or developmental disability. A Family Partner shall achieve certification as a Family Peer Specialist by the National Federation of Families for Children with Mental Illness within 18 months of hire and shall maintain active certification while in this role.

- (13) "Licensed Clinical Addictions Specialist (LCAS)" means an individual who is licensed as such by the North Carolina Addictions Specialist Professional Practice Board.
- (14) "Licensed clinician" means an individual with clinical licensure awarded by the State of North Carolina, as a physician, licensed psychologist, licensed psychological associate, licensed clinical social worker, licensed professional counselor, licensed marriage and family therapist, or licensed clinical addictions specialist. "Licensed clinician" also includes an individual with clinical licensure and certification as a certified clinical nurse specialist in psychiatric mental health advanced practice, or a certified nurse practitioner in psychiatric mental health advanced practice.
- (15) "Licensed Clinical Mental Health counselor (LCMHC)" means a counselor who is licensed as such by the North Carolina Board of Licensed Clinical Mental Health Counselors.
- (16) "Nurse" means a person licensed to practice in the State of North Carolina either as a registered nurse or as a licensed practical nurse.
- (17) "Paraprofessional" within the mh/dd/sas 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; those employed prior to November 1, 2001 to provide a mh/dd/sa service are not required to have a GED or high school diploma. Supervision shall be provided by a qualified professional or associate professional with the population served. The supervisor and the employee shall develop an individualized supervision plan upon hiring. The parties shall review the plan annually.
- (18) "Psychiatrist" means an individual who is licensed to practice medicine in the State of North Carolina and who has completed a training program in psychiatry accredited by the Accreditation Council for Graduate Medical Education.
- (19) "Psychologist" means an individual who is licensed to practice psychology in the State of North Carolina as either a licensed psychologist or a licensed psychological associate.
- (20) "Qualified client record manager" means an individual who is a graduate of a curriculum accredited by the Council on Medical Education and Registration of the American Health Information Management Association and who is currently registered or accredited by the American Health Information Management Association.
- (21) "Qualified professional" means, within the mh/dd/sas system of care 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 supervised 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.
- (22) "Qualified substance abuse prevention professional (QSAPP)" within the mh/dd/sas system of care, means either:
  - (a) a graduate of a college or university with a masters degree in a human service field and has one year of full-time, post-graduate degree accumulated supervised experience in substance abuse prevention;

- (b) a graduate of a college or university with a bachelor's degree in a human service field and has two years of full-time, post-bachelor's degree accumulated supervised experience in substance abuse prevention;
- (c) 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, post bachelor's degree accumulated supervised experience in substance abuse prevention; or
- (d) a substance abuse prevention professional who is certified as a Certified Prevention Specialist by the North Carolina Addictions Specialist Professional Practice Board.

*History Note: Authority G.S. 122C-3; 122C-25; 122C-26; 143B-147; S.L. 2017-32; Eff. May 11, 1996; Temporary Amendment Eff. January 1, 2001; Temporary Amendment Expired October 13, 2001; Temporary Amendment Eff. November 1, 2001; Amended Eff. February 1, 2009; October 1, 2004; April 1, 2003; Temporary Amendment Eff. March 1, 2019; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019; Temporary Amendment Expired Eff. December 10, 2019; Amended Eff. January 1, 2024.*

## **SECTION .0200 - OPERATION AND MANAGEMENT RULES**

### **10A NCAC 27G .0201 GOVERNING BODY POLICIES**

(a) The governing body responsible for each facility or service shall develop and implement written policies for the following:

- (1) delegation of management authority for the operation of the facility and services;
- (2) criteria for admission;
- (3) criteria for discharge;
- (4) admission assessments, including:
  - (A) who will perform the assessment; and
  - (B) time frames for completing assessment.
- (5) client record management, including:
  - (A) persons authorized to document;
  - (B) transporting records;
  - (C) safeguard of records against loss, tampering, defacement or use by unauthorized persons;
  - (D) assurance of record accessibility to authorized users at all times; and
  - (E) assurance of confidentiality of records.
- (6) screenings, which shall include:
  - (A) an assessment of the individual's presenting problem or need;
  - (B) an assessment of whether or not the facility can provide services to address the individual's needs; and
  - (C) the disposition, including referrals and recommendations;
- (7) quality assurance and quality improvement activities, including:
  - (A) composition and activities of a quality assurance and quality improvement committee;
  - (B) written quality assurance and quality improvement plan;
  - (C) methods for monitoring and evaluating the quality and appropriateness of client care, including delineation of client outcomes and utilization of services;
  - (D) professional or clinical supervision, including a requirement that staff who are not qualified professionals and provide direct client services shall be supervised by a qualified professional in that area of service;
  - (E) strategies for improving client care;
  - (F) review of staff qualifications and a determination made to grant treatment/habilitation privileges;
  - (G) review of all fatalities of active clients who were being served in area-operated or contracted residential programs at the time of death;

- (H) adoption of standards that assure operational and programmatic performance meeting applicable standards of practice. For this purpose, "applicable standards of practice" means a level of competence established with reference to the prevailing and accepted methods, and the degree of knowledge, skill and care exercised by other practitioners in the field;
  - (8) use of medications by clients in accordance with the rules in this Section;
  - (9) reporting of any incident, unusual occurrence or medication error;
  - (10) voluntary non-compensated work performed by a client;
  - (11) client fee assessment and collection practices;
  - (12) medical preparedness plan to be utilized in a medical emergency;
  - (13) authorization for and follow up of lab tests;
  - (14) transportation, including the accessibility of emergency information for a client;
  - (15) services of volunteers, including supervision and requirements for maintaining client confidentiality;
  - (16) areas in which staff, including nonprofessional staff, receive training and continuing education;
  - (17) safety precautions and requirements for facility areas including special client activity areas; and
  - (18) client grievance policy, including procedures for review and disposition of client grievances.
- (b) Minutes of the governing body shall be permanently maintained.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0202 PERSONNEL REQUIREMENTS**

- (a) All facilities shall have a written job description for the director and each staff position which:
- (1) specifies the minimum level of education, competency, work experience and other qualifications for the position;
  - (2) specifies the duties and responsibilities of the position;
  - (3) is signed by the staff member and the supervisor; and
  - (4) is retained in the staff member's file.
- (b) All facilities shall ensure that the director, each staff member or any other person who provides care or services to clients on behalf of the facility:
- (1) is at least 18 years of age;
  - (2) is able to read, write, understand and follow directions;
  - (3) meets the minimum level of education, competency, work experience, skills and other qualifications for the position; and
  - (4) has no substantiated findings of abuse or neglect listed on the North Carolina Health Care Personnel Registry.
- (c) All facilities or services shall require that all applicants for employment disclose any criminal conviction. The impact of this information on a decision regarding employment shall be based upon the offense in relationship to the job for which the applicant is applying.
- (d) Staff of a facility or a service shall be currently licensed, registered or certified in accordance with applicable state laws for the services provided.
- (e) A file shall be maintained for each individual employee indicating the training, experience and other qualifications for the position, including verification of licensure, registration or certification.
- (f) Continuing education shall be documented.
- (g) Employee training programs shall be provided and, at a minimum, shall consist of the following:
- (1) general organizational orientation;
  - (2) training on client rights and confidentiality as delineated in 10A NCAC 27C, 27D, 27E, 27F and 10A NCAC 26B;
  - (3) training to meet the mh/dd/sa needs of the client as specified in the treatment/habilitation plan; and
  - (4) training in infectious diseases and bloodborne pathogens.
- (h) Except as permitted under 10a NCAC 27G .5602(b) of this Subchapter, at least one staff member shall be available in the facility at all times when a client is present. That staff member shall be trained in basic first aid including seizure management, currently trained to provide cardiopulmonary resuscitation and trained in the Heimlich maneuver or other first aid techniques such as those provided by Red Cross, the American Heart Association or their equivalence for relieving airway obstruction.

- (i) The governing body shall develop and implement policies and procedures for identifying, reporting, investigating and controlling infectious and communicable diseases of personnel and clients.

*History Note:* Authority G.S. 122C-26;  
Eff. May 1, 1996;  
Temporary Amendment Eff. January 3, 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. July 20, 2019.

#### **10A NCAC 27G .0203 COMPETENCIES OF QUALIFIED PROFESSIONALS AND ASSOCIATE PROFESSIONALS**

- (a) There shall be no privileging requirements for qualified professionals or associate professionals.
- (b) Qualified professionals and associate professionals shall demonstrate knowledge, skills and abilities required by the population served.
- (c) At such time as a competency-based employment system is established by rulemaking, then qualified professionals and associate professionals shall demonstrate competence.
- (d) Competence shall be demonstrated by exhibiting core skills including:
- (1) technical knowledge;
  - (2) cultural awareness;
  - (3) analytical skills;
  - (4) decision-making;
  - (5) interpersonal skills;
  - (6) communication skills; and
  - (7) clinical skills.
- (e) Qualified professionals as specified in 10A NCAC 27G .0104 (18)(a) are deemed to have met the requirements of the competency-based employment system in the State Plan for MH/DD/SAS.
- (f) The governing body for each facility shall develop and implement policies and procedures for the initiation of an individualized supervision plan upon hiring each associate professional.
- (g) The associate professional shall be supervised by a qualified professional with the population served for the period of time as specified in Rule .0104 of this Subchapter.

*History Note:* Authority G.S. 122C-26;  
Temporary Adoption Eff. January 1, 2001;  
Temporary Adoption Expired October 13, 2001;  
Temporary Adoption Eff. November 1, 2001;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .0204 COMPETENCIES AND SUPERVISION OF PARAPROFESSIONALS**

- (a) There shall be no privileging requirements for paraprofessionals.
- (b) Paraprofessionals shall be supervised by an associate professional or by a qualified professional as specified in Rule .0104 of this Subchapter.
- (c) Paraprofessionals shall demonstrate knowledge, skills and abilities required by the population served.
- (d) At such time as a competency-based employment system is established by rulemaking, then qualified professionals and associate professionals shall demonstrate competence.
- (e) Competence shall be demonstrated by exhibiting core skills including:
- (1) technical knowledge;
  - (2) cultural awareness;
  - (3) analytical skills;
  - (4) decision-making;
  - (5) interpersonal skills;
  - (6) communication skills; and
  - (7) clinical skills.

(f) The governing body for each facility shall develop and implement policies and procedures for the initiation of the individualized supervision plan upon hiring each paraprofessional.

*History Note: Authority G.S. 122C-26;  
Temporary Adoption Eff. January 1, 2001;  
Temporary Adoption Expired October 13, 2001;  
Temporary Adoption Eff. November 1, 2001;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0205 ASSESSMENT AND TREATMENT/HABILITATION OR SERVICE PLAN**

(a) An assessment shall be completed for a client, according to governing body policy, prior to the delivery of services, and shall include, but not be limited to:

- (1) the client's presenting problem;
- (2) the client's needs and strengths;
- (3) a provisional or admitting diagnosis with an established diagnosis determined within 30 days of admission, except that a client admitted to a detoxification or other 24-hour medical program shall have an established diagnosis upon admission;
- (4) a pertinent social, family, and medical history; and
- (5) evaluations or assessments, such as psychiatric, substance abuse, medical, and vocational, as appropriate to the client's needs.

(b) When services are provided prior to the establishment and implementation of the treatment/habilitation or service plan, hereafter referred to as the "plan," strategies to address the client's presenting problem shall be documented.

(c) The plan shall be developed based on the assessment, and in partnership with the client or legally responsible person or both, within 30 days of admission for clients who are expected to receive services beyond 30 days.

(d) The plan shall include:

- (1) client outcome(s) that are anticipated to be achieved by provision of the service and a projected date of achievement;
- (2) strategies;
- (3) staff responsible;
- (4) a schedule for review of the plan at least annually in consultation with the client or legally responsible person or both;
- (5) basis for evaluation or assessment of outcome achievement; and
- (6) written consent or agreement by the client or responsible party, or a written statement by the provider stating why such consent could not be obtained.

*History Note: Authority G.S. 122C-26; 130A-144; 130A-152; 143B-147;  
Eff. May 1, 1996;  
Recodified from 10 NCAC 14V .0203 to 10 NCAC 14V .0205 Eff. January 3, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0206 CLIENT RECORDS**

(a) A client record shall be maintained for each individual admitted to the facility, which shall contain, but need not be limited to:

- (1) an identification face sheet which includes:
  - (A) name (last, first, middle, maiden);
  - (B) client record number;
  - (C) date of birth;
  - (D) race, gender and marital status;
  - (E) admission date;
  - (F) discharge date;
- (2) documentation of mental illness, developmental disabilities or substance abuse diagnosis coded according to DSM IV;
- (3) documentation of the screening and assessment;
- (4) treatment/habilitation or service plan;

- (5) emergency information for each client which shall include the name, address and telephone number of the person to be contacted in case of sudden illness or accident and the name, address and telephone number of the client's preferred physician;
  - (6) a signed statement from the client or legally responsible person granting permission to seek emergency care from a hospital or physician;
  - (7) documentation of services provided;
  - (8) documentation of progress toward outcomes;
  - (9) if applicable:
    - (A) documentation of physical disorders diagnosis according to International Classification of Diseases (ICD-9-CM);
    - (B) medication orders;
    - (C) orders and copies of lab tests; and
    - (D) documentation of medication and administration errors and adverse drug reactions.
- (b) Each facility shall ensure that information relative to AIDS or related conditions is disclosed only in accordance with the communicable disease laws as specified in G.S. 130A-143.

*History Note:* Authority G.S. 122C-26; 143B-147;  
 Eff. May 1, 1996;  
 Recodified from 10 NCAC 14V .0204 to 10 NCAC 14V .0206 Eff. January 3, 2001;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .0207 EMERGENCY PLANS AND SUPPLIES**

- (a) Each facility shall develop a written fire plan and a disaster plan and shall make a copy of these plans available to the county emergency services agencies upon request. The plans shall include evacuation procedures and routes.
- (b) The plans shall be made available to all staff and evacuation procedures and routes shall be posted in the facility.
- (c) Fire and disaster drills in a 24-hour facility shall be held at least quarterly and shall be repeated for each shift. Drills shall be conducted under conditions that simulate the facility's response to fire emergencies.
- (d) Each facility shall have a first aid kit accessible for use.

*History Note:* Authority G.S. 122C-26; 143B-147;  
 Eff. May 1, 1996;  
 Recodified from 10 NCAC 14V .0205 to 10 NCAC 14V .0207 Eff. January 3, 2001;  
 Readopted Eff. November 1, 2022.

#### **10A NCAC 27G .0208 CLIENT SERVICES**

- (a) Facilities that provide activities for clients shall assure that:
  - (1) space and supervision is provided to ensure the safety and welfare of the clients;
  - (2) activities are suitable for the ages, interests, and treatment/habilitation needs of the clients served; and
  - (3) clients participate in planning or determining activities.
- (b) Facilities or programs designated or described in these Rules as "24-hour" shall make services available 24 hours a day, every day in the year, unless otherwise specified in the rule.
- (c) Facilities that serve or prepare meals for clients shall ensure that the meals are nutritious.
- (d) When clients who have a physical handicap are transported, the vehicle shall be equipped with secure adaptive equipment.
- (e) When two or more preschool children who require special assistance with boarding or riding in a vehicle are transported in the same vehicle, there shall be one adult, other than the driver, to assist in supervision of the children.

*History Note:* Authority G.S. 122C-26; 122C-112; 122C-146; 130A-361; 143B-147;  
 Eff. May 1, 1996;  
 Recodified from 10 NCAC 14V .0206 to 10 NCAC 14V .0208 Eff. January 3, 2001;  
 Temporary Amendment Eff. January 3, 2001;  
 Amended Eff. August 1, 2002;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .0209 MEDICATION REQUIREMENTS**

- (a) Medication dispensing:



- (1) Medications shall be dispensed only on the written order of a physician or other practitioner licensed to prescribe.
  - (2) Dispensing shall be restricted to registered pharmacists, physicians, or other health care practitioners authorized by law and registered with the North Carolina Board of Pharmacy. If a permit to operate a pharmacy is not required, a nurse or other designated person may assist a physician or other health care practitioner with dispensing so long as the final label, container, and its contents are physically checked and approved by the authorized person prior to dispensing.
  - (3) Methadone for take-home purposes may be supplied to a client of a methadone treatment service in a properly labeled container by a registered nurse employed by the service, pursuant to the requirements of 10A NCAC 26E .0306 SUPPLYING OF METHADONE IN TREATMENT PROGRAMS BY RN. Supplying of methadone is not considered dispensing.
  - (4) Other than for emergency use, facilities shall not possess a stock of prescription legend drugs for the purpose of dispensing without hiring a pharmacist and obtaining a permit from the NC Board of Pharmacy. Physicians may keep a small locked supply of prescription drug samples. Samples shall be dispensed, packaged, and labeled in accordance with state law and this Rule.
- (b) Medication packaging and labeling:
- (1) Non-prescription drug containers not dispensed by a pharmacist shall retain the manufacturer's label with expiration dates clearly visible;
  - (2) Prescription medications, whether purchased or obtained as samples, shall be dispensed in tamper-resistant packaging that will minimize the risk of accidental ingestion by children. Such packaging includes plastic or glass bottles/vials with tamper-resistant caps, or in the case of unit-of-use packaged drugs, a zip-lock plastic bag may be adequate;
  - (3) The packaging label of each prescription drug dispensed must include the following:
    - (A) the client's name;
    - (B) the prescriber's name;
    - (C) the current dispensing date;
    - (D) clear directions for self-administration;
    - (E) the name, strength, quantity, and expiration date of the prescribed drug; and
    - (F) the name, address, and phone number of the pharmacy or dispensing location (e.g., mh/dd/sa center), and the name of the dispensing practitioner.
- (c) Medication administration:
- (1) Prescription or non-prescription drugs shall only be administered to a client on the written order of a person authorized by law to prescribe drugs.
  - (2) Medications shall be self-administered by clients only when authorized in writing by the client's physician.
  - (3) Medications, including injections, shall be administered only by licensed persons, or by unlicensed persons trained by a registered nurse, pharmacist or other legally qualified person and privileged to prepare and administer medications.
  - (4) A Medication Administration Record (MAR) of all drugs administered to each client must be kept current. Medications administered shall be recorded immediately after administration. The MAR is to include the following:
    - (A) client's name;
    - (B) name, strength, and quantity of the drug;
    - (C) instructions for administering the drug;
    - (D) date and time the drug is administered; and
    - (E) name or initials of person administering the drug.
  - (5) Client requests for medication changes or checks shall be recorded and kept with the MAR file followed up by appointment or consultation with a physician.
- (d) Medication disposal:
- (1) All prescription and non-prescription medication shall be disposed of in a manner that guards against diversion or accidental ingestion.
  - (2) Non-controlled substances shall be disposed of by incineration, flushing into septic or sewer system, or by transfer to a local pharmacy for destruction. A record of the medication disposal shall be maintained by the program. Documentation shall specify the client's name, medication name, strength, quantity, disposal date and method, the signature of the person disposing of medication, and the person witnessing destruction.

- (3) Controlled substances shall be disposed of in accordance with the North Carolina Controlled Substances Act, G.S. 90, Article 5, including any subsequent amendments.
  - (4) Upon discharge of a patient or resident, the remainder of his or her drug supply shall be disposed of promptly unless it is reasonably expected that the patient or resident shall return to the facility and in such case, the remaining drug supply shall not be held for more than 30 calendar days after the date of discharge.
- (e) Medication Storage:
- (1) All medication shall be stored:
    - (A) in a securely locked cabinet in a clean, well-lighted, ventilated room between 59° and 86° F.;
    - (B) in a refrigerator, if required, between 36° and 46° F. If the refrigerator is used for food items, medications shall be kept in a separate, locked compartment or container;
    - (C) separately for each client;
    - (D) separately for external and internal use;
    - (E) in a secure manner if approved by a physician for a client to self-medicate.
  - (2) Each facility that maintains stocks of controlled substances shall be currently registered under the North Carolina Controlled Substances Act and shall be in compliance with the North Carolina Controlled Substances Act, G.S. 90, Article 5, including any subsequent amendments.
- (f) Medication review:
- (1) If the client receives psychotropic drugs, the governing body or operator shall be responsible for obtaining a review of each client's drug regimen at least every six months. The review shall be to be performed by a pharmacist or physician. The on-site manager shall assure that the client's physician is informed of the results of the review when medical intervention is indicated.
  - (2) The findings of the drug regimen review shall be recorded in the client record along with corrective action, if applicable.
- (g) Medication education:
- (1) Each client started or maintained on a medication by an area program physician shall receive either oral or written education regarding the prescribed medication by the physician or their designee. In instances where the ability of the client to understand the education is questionable, a responsible person shall be provided either oral or written instructions on behalf of the client.
  - (2) The medication education provided shall be sufficient to enable the client or other responsible person to make an informed consent, to safely administer the medication and to encourage compliance with the prescribed regimen.
  - (3) The area program physician or designee shall document in the client record that education for the prescribed psychotropic medication was offered and either provided or declined. If provided, it shall be documented in what manner it was provided (either orally or written or both) and to whom (client or responsible person).
- (h) Medication errors. Drug administration errors and significant adverse drug reactions shall be reported immediately to a physician or pharmacist. An entry of the drug administered and the drug reaction shall be properly recorded in the drug record. A client's refusal of a drug shall be charted.

*History Note: Authority G.S. 90-21.5; 90-171.20(7),(8); 90-171.44; 122C-26; 143B-147; Eff. May 1, 1996; Recodified from 10 NCAC 14V .0207 to 10 NCAC 14V .0209 Eff. January 3, 2001; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **10A NCAC 27G .0210 RESEARCH REVIEW BOARD**

- (a) For purposes of this Rule, "research" means inquiry involving a trial or special observation made under conditions determined by the investigator to confirm or disprove a hypothesis, or to explicate some principle or effect. The term "research" as used here means research which is not standard or conventional; involves a trial or special observation which would place the subject at risk for injury (physical, psychological or social injury), or increase the chance of disclosure of treatment; utilizes elements or steps not ordinarily employed by qualified professionals treating similar disorders of this population; or is a type of procedure that serves the purpose of the research only and does not include treatment designed primarily to benefit the individual.
- (b) Prior to the initiation of any research activity in a facility which involves clients or client records, it shall be reviewed and approved by a research review board recognized by the facility in which the proposed research is to be conducted.

- (c) The Board shall consist of at least three members, the majority of whom are not directly associated with the research proposal which is under consideration.
- (d) Each proposed research project shall be presented to the research review board as a written protocol including, at least, the following information:
- (1) name of the project and the principal investigator;
  - (2) statement of objectives (hypothesis) and rationale; and
  - (3) description of the methodology, including informed consent if necessary.
- (e) The board shall assure that informed, written consent is obtained from each client, or each legally responsible person if the client is a minor or incompetent adult, in each research project, to include:
- (1) documentation that the client has been informed of any potential dangers that may exist and that he understands the conditions of participation; and
  - (2) notice of the client's right to terminate participation at any time without prejudicing the treatment he is receiving.
- A copy of the dated, signed consent form shall be kept on file in the client record by the facility.
- (f) Each approved research project shall be reviewed by the research review board at least annually. Modifications in the research protocol shall be reviewed and approved in advance by the research review board.
- (g) Minutes of each research board meeting shall be maintained.

*History Note: Authority G.S. 122C-26; 122C-52; 143B-147;  
Eff. May 1, 1996;  
Recodified from 10 NCAC 14V .0208 to 10 NCAC 14V .0210 Eff. January 3, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0212 DISCLOSURE OF FINANCIAL INTEREST OF PROVIDERS OF MH/DD/SA SERVICES TO POTENTIAL CLIENTS**

- (a) When a provider refers a potential client to another provider in which the referring provider holds a financial interest, the referring provider shall disclose and document the disclosure of the financial interest to the potential client prior to or at the time of referral.
- (b) A referring provider shall be considered to have a financial interest when the referring provider is an owner, principal, employee, a potential employee of the provider who is in the hiring process, immediate family member of an owner, principal employee or an affiliate of the provider that the potential client is referred to.
- (c) For purposes of this Rule, a "referring provider entity" includes:
- (1) an agency;
  - (2) an organization;
  - (3) a local management entity (LME) as set forth in G.S. 122C-3(20b); or
  - (4) an individual employee or contractor of an agency, organization or LME.
- (d) For purposes of this Rule, "immediate family member of an employee" means husband or wife; birth or adoptive parent, child, or sibling; stepparent, stepchild, stepbrother, or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; or spouse of a grandparent or grandchild.
- (e) For the purposes of this Rule, "affiliate" means any person or organization that controls or did control a provider agency or any person or organization who is controlled by a person or organization who controls or did control a provider agency. Two or more providers who are under common control are affiliates.

*History Note: Authority G.S. 122C-3(20b); 122C-26(5)(e);  
Eff. July 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .0300 - PHYSICAL PLANT RULES**

#### **10A NCAC 27G .0301 COMPLIANCE WITH BUILDING CODES**

- (a) Each new facility shall be in compliance with all applicable portions of the North Carolina State Building Code in effect at the time of licensing.
- (b) Each facility operating under a current license issued by DHSR upon the effective date of this Rule shall be in compliance with all applicable portions of the North Carolina State Building Code in effect at the time the facility was constructed or last renovated.

- (c) Each facility shall maintain documented evidence of compliance with applicable fire, sanitation and building codes including an annual fire inspection.
- (d) As used in these Rules, the term "new facility" refers to a facility that has not been licensed previously and for which an initial license is sought. The term includes buildings converted from another use or containing facilities licensed for a different use than the facility for which an initial license is sought.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;  
Amended Eff. September 1, 2021.*

#### **10A NCAC 27G .0302 FACILITY CONSTRUCTION/ALTERATIONS/ADDITIONS**

- (a) When construction, use, alterations or additions are planned for a new or existing facility, work shall not begin until after consultation with the DHSR Construction Section and with the local building and fire officials having jurisdiction. Governing bodies are encouraged to consult with DHSR prior to purchasing property intended for use as a facility.
- (b) All required permits and approvals shall be obtained from the local authorities having jurisdiction.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;  
Amended Eff. September 1, 2021.*

#### **10A NCAC 27G .0303 LOCATION AND EXTERIOR REQUIREMENTS**

- (a) Each facility shall be located on a site where:
- (1) fire protection is available;
  - (2) water supply, sewage and solid waste disposal services have been approved by the local health department;
  - (3) occupants are not exposed to hazards and pollutants that may constitute a threat to their health, safety, and welfare; and
  - (4) local ordinances and zoning laws are met.
- (b) The site at which a 24-hour facility is located shall have sufficient outdoor area to permit clients to exercise their right to outdoor activity in accordance with the provisions of G.S. 122C-62.
- (c) Each facility and its grounds shall be maintained in a safe, clean, attractive and orderly manner and shall be kept free from offensive odor.
- (d) Buildings shall be kept free from insects and rodents.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0304 FACILITY DESIGN AND EQUIPMENT**

- (a) Privacy: Facilities shall be designed and constructed in a manner that will provide clients privacy while bathing, dressing or using toilet facilities.
- (b) Safety: Each facility shall be designed, constructed and equipped in a manner that ensures the physical safety of clients, staff and visitors.
- (1) All hallways, doorways, entrances, ramps, steps and corridors shall be kept clear and unobstructed at all times.
  - (2) All mattresses purchased for existing or new facilities shall be fire retardant.
  - (3) Electrical, mechanical and water systems shall be maintained in operating condition.
  - (4) In areas of the facility where clients are exposed to hot water, the temperature of the water shall be maintained between 100-116 degrees Fahrenheit.
  - (5) All indoor areas to which clients have routine access shall be well-lighted. Lighting shall be adequate to permit occupants to comfortably engage in normal and appropriate daily activities such as reading, writing, working, sewing and grooming.
- (c) Comfort Zone: Each 24-hour facility shall provide heating and air-cooling equipment to maintain a comfort range between 68 and 80 degrees Fahrenheit.

- (1) This requirement shall not apply to therapeutic (habilitative) camps and other 24-hour facilities for six or fewer clients.
  - (2) Facilities licensed prior to October 1, 1988 shall not be required to add or install cooling equipment if not already installed.
- (d) Indoor space requirements: Facilities licensed prior to October 1, 1988 shall satisfy the minimum square footage requirements in effect at that time. Unless otherwise provided in these Rules, residential facilities licensed after October 1, 1988 shall meet the following indoor space requirements:
- (1) Client bedrooms shall have at least 100 square feet for single occupancy and 160 square feet when two clients occupy the bedroom.
  - (2) Where bassinets and portable cribs for infants are used, a minimum of 40 square feet per bassinet or portable crib shall be provided.
  - (3) No more than two clients may share an individual bedroom regardless of bedroom size.
  - (4) In facilities with overnight accommodations for persons other than clients, such accommodations shall be separate from client bedrooms.
  - (5) No client shall be permitted to sleep in an unfinished basement or in an attic.
  - (6) In a residential facility licensed under residential building code standards and without elevators, bedrooms above or below the ground level shall be used only for individuals who are capable of moving up and down the steps independently.
  - (7) Minimum furnishings for client bedrooms shall include a separate bed, bedding, pillow, bedside table, and storage for personal belongings for each client.
  - (8) Only clients of the same sex may share a bedroom except for children age six or below, and married couples.
  - (9) Children and adolescents shall not share a bedroom with an adult.
  - (10) At least one full bathroom for each five or fewer persons including staff of the facility and their family shall be included in each facility.
  - (11) Each facility, except for a private home provider, shall have a reception area for clients and visitors and private space for interviews and conferences with clients.
  - (12) The area in which therapeutic and habilitative activities are routinely conducted shall be separate from sleeping areas.
- (e) Where strict conformance with current requirements would be impractical, or because of extraordinary circumstances, new programs, or unusual conditions, DHSR may approve alternate methods, procedures, design criteria and functional variations from the physical plant requirements when the facility can effectively demonstrate to DHSR's satisfaction that the:
- (1) intent of the physical plant requirements are met; and
  - (2) variation does not reduce the safety or operational effectiveness of the facility.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Temporary Amendment Eff. January 3, 2001;  
Amended Eff. August 1, 2002;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;  
Amended Eff. September 1, 2021.*

## **SECTION .0400 - LICENSING PROCEDURES**

### **10A NCAC 27G .0401 LICENSE REQUIRED**

- (a) No person shall establish, maintain or operate a licensable facility within the meaning of G.S. 122C-3 without first applying for and receiving a license from the DHSR.
- (b) Except for facilities excluded from licensure by G.S. 122C, DHSR will deem any facility licensable if its primary purpose is to provide services for the care, treatment, habilitation or rehabilitation of individuals with mental illness, developmental disabilities, or substance abuse disorders.
- (c) Living arrangements coordinated for adult clients in connection with case management or personal assistance services are not considered licensable facilities unless their primary purpose is to provide care, treatment, habilitation or rehabilitation, rather than simply to provide living accommodations.

*History Note: Authority G.S. 122C-3; 122C-23; 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;*

*Amended Eff. September 1, 2021.*

#### **10A NCAC 27G .0402 LICENSE ISSUANCE**

(a) Applications for licensure shall be requested and completed on the form provided by DHSR at least 30 days prior to the planned operation date of a new facility. Copies of reports, findings or recommendations issued by any accreditation agency and corrective action plans shall be submitted with the application for licensure.

(b) The content of license applications shall include:

- (1) Name of person (as defined in G.S. 122C-3) submitting the application;
- (2) Business name of facility, if applicable;
- (3) Street location of the facility (including multiple addresses if more than one building at one site);
- (4) Name and title of the operator of the facility;
- (5) Type of facility; services offered; ages served; and, when applicable, capacity and a floor plan showing bed locations and room numbers, any unlocked time-out rooms, and any locked interior or exterior doors which would prohibit free egress of clients; and
- (6) Indication of whether the facility is operated by an area program, is under contract with an area program, or is a private facility; and
- (7) All application for a new license shall disclose the names of individuals who are owners, partners or shareholders holding an ownership or controlling interest of 5% or more of the applicant entity.

(c) DHSR shall conduct an on-site inspection to determine compliance with all rules and statutes. If the facility is operated by or contracted with an area program, DHSR may, in lieu of conducting an on-site inspection, accept written verification from the area program or DMH/DD/SAS that the area program or DMH/DD/SAS has conducted an on-site review and the facility is in compliance with rules and statutes. The written verification shall be in such form as DHSR may require.

(d) DHSR shall issue a license after it determines a facility is in compliance with:

- (1) Certificate of Need law (G.S. 131E-183) and Certificate of Need rules as codified in 10A NCAC 14C .2400, .2500, or .2600, whichever is applicable;
- (2) Building Code and physical plant requirements in these Rules;
- (3) Annual fire and safety and sanitation requirements, with the exception of a day/night or periodic service that does not handle food for which a sanitation inspection report is not required; and
- (4) Applicable rules and statutes.

(e) Licenses shall be issued to the specific premise for types of services indicated on the application.

(f) A separate license shall be required for each facility which is maintained on a separate site, even though the sites may be under the same ownership or management.

*History Note: Authority G.S. 122C-3; 122C-23;*

*Eff. May 1, 1996;*

*Amended Eff. July 1, 2004;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;*

*Amended Eff. September 1, 2021.*

#### **10A NCAC 27G .0403 DEEMED STATUS**

(a) A facility may be awarded a deemed status and licensed if it is certified or accredited by a nationally recognized agency that the Commission has determined to maintain certification or accreditation standards that meet or exceed the standards established by these Rules and it provides verification of certification or accreditation to DHSR.

(b) Any facility licensed under this Rule shall continue to be subject to inspection by DHSR or by DMH/DD/SAS as provided in these Rules.

*History Note: Authority G.S. 122C-22; 122C-26; 131E-67; 143B-17; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;*

*Amended Eff. September 1, 2021.*

#### **10A NCAC 27G .0404 OPERATIONS DURING LICENSED PERIOD**

- (a) An initial license shall be valid for a period not to exceed 15 months from the date on which the license is issued. Each license shall be renewed annually thereafter and shall expire at the end of the calendar year.
- (b) For all facilities providing periodic and day/night services, the license shall be posted in a prominent location accessible to public view within the licensed premises.
- (c) For 24-hour facilities, the license shall be available for review upon request.
- (d) For residential facilities, the DHSR complaint hotline number shall be posted in a public place in each facility.
- (e) A facility shall accept no more clients than the number for which it is licensed.
- (f) DHSR shall conduct inspections of facilities without advance notice.
- (g) Licenses for facilities that have not served any clients during the previous 12 months shall not be renewed.
- (h) DHSR shall conduct inspections of all 24-hour facilities an average of once every 12 months, to occur no later than 15 months as of July 1, 2007.
- (i) Written requests shall be submitted to DHSR a minimum of 30 days prior to any of the following changes:
  - (1) Construction of a new facility or any renovation of an existing facility;
  - (2) Increase or decrease in capacity by program service type;
  - (3) Change in program service; or
  - (4) Change in location of facility.
- (j) Written notification must be submitted to DHSR a minimum of 30 days prior to any of the following changes:
  - (1) Change in ownership including any change in partnership; or
  - (2) Change in name of facility.
- (k) When a licensee plans to close a facility or discontinue a service, written notice at least 30 days in advance shall be provided to DHSR, to all affected clients, and when applicable, to the legally responsible persons of all affected clients. This notice shall address continuity of services to clients in the facility.
- (l) Licenses shall expire unless renewed by DHSR for an additional period. Prior to the expiration of a license, the licensee shall submit to DHSR the following information:
  - (1) Annual Fee;
  - (2) Description of any changes in the facility since the last written notification was submitted;
  - (3) Local current fire inspection report;
  - (4) Annual sanitation inspection report, with the exception of a day/night or periodic service that does not handle food for which a sanitation inspection report is not required; and
  - (5) The names of individuals who are owner, partners or shareholders holding an ownership or controlling interest of 5% or more of the applicant entity.

*History Note: Authority G.S. 122C-23; 122C-25; 122C-27;  
 Eff. May 1, 1996;  
 Amended Eff. February 1, 2009; July 1, 2004;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0405 LICENSE DENIAL, AMENDMENT OR REVOCATION**

- (a) Denial: DHSR may deny an application for license based on the determination that:
  - (1) the applicant is not in compliance with rules promulgated under G.S. 122C, for the facility which the applicant is seeking licensure;
  - (2) the applicant is not in compliance with applicable provisions of the Certificate of Need law under G.S. 131E, Article 9 and rules adopted under that law for the facility which the applicant is seeking licensure;
  - (3) the Department has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 which was previously held by the applicant and the applicant voluntarily relinquished the license;
  - (4) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7 which is owned by the applicant;
  - (5) the applicant has an individual as part of their governing body or management who previously held a license which was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A and G.S. 110, Article 7 and the rules adopted under these laws; or
  - (6) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256.
- (b) Notice: When an application for license of a new facility is denied:

- (1) pursuant to G.S. 150B-22, the applicant shall be given an informal opportunity to provide reasons why the license should be issued or the matter otherwise settled;
  - (2) DHSR shall give the applicant written notice of the denial, the reasons for the denial and advise the applicant of the right to request a contested case hearing pursuant to G.S. 150B; and
  - (3) the facility shall not operate until a decision is made to issue a license, despite an appeal action.
- (c) Amendment: DHSR may amend a license to indicate a provisional status whenever DHSR determines there are violations of rules, but the violations do not pose an immediate threat to the health, safety or welfare of the clients served. The following applies to provisional status:
- (1) Provisional status shall be approved for not less than 30 days and not more than six months.
  - (2) Provisional status shall be effective immediately upon notice to the licensee and must be posted in a prominent location, accessible to public view, within the licensed premises.
  - (3) The facility shall inform each client residing or receiving services from the facility or their legally responsible person concerning the facility's provisional status.
  - (4) A regular license shall be issued when a facility is determined by DHSR to be in compliance with applicable rules.
  - (5) If a facility fails to comply with the rules within the time frame for the provisional status, the license shall automatically terminate on the expiration date of the provisional status.
  - (6) If a licensee has a provisional status at the time that the licensee submits a renewal application, the license, if renewed, shall also be of a provisional status unless DHSR determines that the violations have been corrected.
  - (7) A decision to issue a provisional status shall be stayed during the period of an appeal and the licensee may continue to display its license during the appeal.
- (d) Revocation: DHSR shall revoke a license whenever it finds:
- (1) there has been failure to comply with G.S. 122C;
  - (2) there has been failure to comply with rules promulgated under G.S. 122C; and
  - (3) such failure to comply endangers the health, safety or welfare of the individuals in the facility.
- Except for summary suspensions which are governed by Paragraph (e) of this Rule, DHSR shall give the licensee written notice of intent to revoke and the reasons for the proposed action, and the right to request a contested case hearing pursuant to G.S. 150B. If the licensee petitions for a hearing, the revocation shall not take effect until completion of the contested case process, otherwise it shall be effective as specified by DHSR in its revocation order.
- (e) Summary Suspension:
- (1) Should DHSR find that public health, safety or welfare considerations require emergency action, DHSR shall issue an order of summary suspension and include the findings in its order.
  - (2) DHSR shall suspend only those services as necessary to protect the public interest. An order of summary suspension shall be effective on the date specified in the order or on the date of service of the order at the last known address of the licensee, whichever is later.
  - (3) The licensee may contest the order by requesting a contested case hearing pursuant to G.S. 150B. The order for summary suspension shall be in full force and effect during any contested case hearing.
  - (4) The order may set a date by which the licensee shall remove the cause for the emergency action. If the licensee fails to meet that deadline, DHSR may revoke or amend the facility's license.

*History Note:* Authority G.S. 122C-23; 122C-24; 122C-26; 122C-27; 122C-12.1; 143B-147; 150B-3; 150B-12(a); 150B-23(a)(f); 150B-45;  
 Eff. May 1, 1996;  
 Amended Eff. July 1, 2004;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;  
 Amended Eff. September 1, 2021.

#### **10A NCAC 27G .0406 LETTER OF SUPPORT REQUIRED FOR LICENSURE OF RESIDENTIAL FACILITIES**

- (a) An applicant for licensure of a residential facility shall submit with the application a letter of support obtained from the local management entity (LME) in the catchment area where the residential facility is located. For purposes of this Rule, residential facility shall mean the same as defined in G.S. 122C-3(14)e, that is not subject to Certificate of Need requirements under Article 9 of Chapter 131E.
- (b) An applicant shall submit a request for a letter of support in writing to the LME using a format provided by the Secretary. The request shall include the following information:



- (1) type of license requested;
- (2) the capacity of the facility;
- (3) the service(s) to be provided;
- (4) the location of the facility;
- (5) a description of the program;
- (6) the population to be served, indicating if this is a specialized or underserved population for the catchment area; and
- (7) a designated point of contact including:
  - (A) name;
  - (B) position title;
  - (C) phone number;
  - (D) email address; and
  - (E) fax number.

(c) The LME shall determine the need for additional intensive residential treatment, psychiatric residential treatment facility (PRTF) and supervised living beds licensed pursuant to 10A NCAC 27G .1800; .1900 and .5600 by identifying whether there is a local need. If no local need is identified, the LME shall consult with the DMH/DD/SAS to determine whether there is a regional or statewide need for additional beds. The decision to issue a letter of support shall be based on whether a local, regional or statewide need is identified.

(d) The LME shall determine the need for additional residential treatment beds licensed pursuant to 10A NCAC 27G .1300 and .1700 in its catchment area prior to making a decision regarding support for these facilities. The decision to issue a letter of support shall be made by using the process stated as follows:

- (1) the LME shall identify the current number of facilities in the catchment area licensed for the category requested, including the number of beds;
- (2) the LME shall identify the average number of clients from the catchment area served in the previous year for each licensure category, regardless of where the service was delivered and multiply by 110 percent,
- (3) the LME shall compare Subparagraphs (d)(1) and (d)(2) of this Rule. The difference shall be an indicator of additional beds needed or excess available in the catchment area; and
- (4) if the facility plans to serve a specialized or underserved population, the LME shall identify the local need for the service for that specialized or underserved population.

(e) The LME shall respond to the applicant's request within five business days. The response shall state whether there is a need for additional beds for the residential facility licensure category requested. The LME shall issue a letter of support to an applicant for licensure of a residential facility that meets the requirements as set forth in this Rule. The letter shall be issued by the LME using a format provided by the Secretary.

(f) The format shall contain information including the following:

- (1) identification information for the applicant and facility;
- (2) a statement of the statutory requirement as set forth in G.S. 122C-23.1 regarding issuance of a letter of support for residential facilities;
- (3) the number of existing beds in the catchment area for the category of licensure the applicant is requesting;
- (4) the number of additional beds needed in the catchment area for the licensure category the applicant is requesting; and
- (5) a statement of whether there is a need for additional beds for the licensure category the applicant is requesting.

(g) The request from the applicant and the letter issued by the LME, shall be forwarded to the DMH/DD/SAS and the DHSR.

*History Note: Authority G.S. 122C-23.1; 122C-26(5); 143B-147(a)(2);  
Eff. July 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .0500 - AREA PROGRAM REQUIREMENTS**

### **10A NCAC 27G .0501 REQUIRED SERVICES**

Each area program shall provide or contract for the provision of the following services:

- (1) Outpatient for Individuals of all Disability Groups;
- (2) Emergency for Individuals of all Disability Groups;
- (3) Consultation & Education for Individuals of all Disability Groups;

- (4) Case Management for Individuals of all Disability Groups;
- (5) Inpatient Hospital Treatment for Individuals Who Have Mental Illness or Substance Abuse Disorders;
- (6) Psychosocial Rehabilitation for Individuals with Severe and Persistent Mental Illness or Partial Hospitalization Services for Individuals Who are Acutely Mentally Ill;
- (7) Developmental Day Services for Preschool Children with or at Risk for Developmental Disabilities or Delays or Atypical Development;
- (8) Adult Developmental and Vocational Programs (ADVP) for Individuals with Developmental Disabilities;
- (9) Alcohol and Drug Education Traffic Schools (ADETS);
- (10) Drug Education Schools (DES);
- (11) Social Setting, Nonhospital Medical, or Outpatient Detoxification Services for Individuals With Substance Abuse Disorders;
- (12) Forensic Screening and Evaluation for Individuals of all Disability Groups; and
- (13) Early Childhood Intervention Services for Children with or at Risk for Developmental Delay, Disabilities, or Atypical Development and Their Families (ECIS).

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0502 AREA PROGRAM/HOSPITAL AGREEMENT**

(a) Each area program shall make provisions for inpatient services for individuals with mental illness or substance abuse disorders, including access for both voluntary and involuntary admissions. The area program may provide these services, develop written agreements, or have written referral procedures to a general hospital or private hospital, to ensure that both voluntary and involuntary clients shall have access to needed inpatient services.

(b) A written agreement between the area program and a general hospital or private hospital shall specify at least the following:

- (1) criteria for service availability for area program patients;
- (2) responsibilities of both parties related to admission, treatment, and discharge of patients;
- (3) parties responsible for the operation of the inpatient service;
- (4) responsibilities of each party regarding continuity of service for patients discharged from the inpatient service; and
- (5) provision for the exchange of information.

(c) When services are provided out of state, the written agreement shall be approved by DMH/DD/SAS. DMH/DD/SAS shall review the agreement to ensure compliance with Paragraph (b) of this Rule and to determine that comparable services suitable to meet the client's needs are not available in the state.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0503 STAFF REQUIREMENTS**

Each area program shall employ or contract for the services of a:

- (1) psychiatrist;
- (2) licensed psychologist;
- (3) psychiatric nurse;
- (4) psychiatric social worker;
- (5) certified alcoholism counselor and certified drug abuse counselor, or at least one certified substance abuse counselor;
- (6) qualified developmental disabilities professional; and
- (7) qualified client record manager.

*History Note: Authority G.S. 122C-121; 122C-154; 122C-155; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0504 CLIENT RIGHTS COMMITTEE**

(a) The area board shall bear ultimate responsibility for the assurance of client rights.

(b) Each area board shall establish at least one Client Rights Committee, and may require that the governing body of a contract agency also establish a Client Rights Committee. The area board shall also develop and implement policy which delineates:

- (1) composition, size, and method of appointment of committee membership;
- (2) training and orientation of committee members;
- (3) frequency of meetings, which shall be at least quarterly;
- (4) rules of conduct for meetings and voting procedures to be followed;
- (5) procedures for monitoring the effectiveness of existing and proposed methods and procedures for protecting client rights;
- (6) requirements for routine reports to the area board regarding seclusion, restraint and isolation time out; and
- (7) other operating procedures.

(c) The area-board-established Client Rights Committee shall oversee, for area-operated services and area-contracted services, implementation of the following client rights protections:

- (1) compliance with G.S. 122C, Article 3;
- (2) compliance with the provisions of 10A NCAC 27C, 27D, 27E, and 27F governing the protection of client rights, and 10A NCAC 26B governing confidentiality;
- (3) establishment of a review procedure for any of the following which may be brought by a client, client advocate, parent, legally responsible person, staff or others:
  - (A) client grievances;
  - (B) alleged violations of the rights of individuals or groups, including cases of alleged abuse, neglect or exploitation;
  - (C) concerns regarding the use of restrictive procedures; or
  - (D) failure to provide needed services that are available in the area program.

(d) Nothing herein stated shall be interpreted to preclude or usurp the authority of a county Department of Social Services to conduct an investigation of abuse, neglect, or exploitation or the authority of the Governor's Advocacy Council for Persons with Disabilities to conduct investigations regarding alleged violations of client rights.

(e) If the area board requires a contract agency to establish a Client Rights Committee, that Committee shall carry out the provisions of this Rule for the contract agency.

(f) Each Client Rights Committee shall be composed of a majority of non-area board members, with a reasonable effort made to have all applicable disabilities represented, with consumer and family member representation. Staff who serve on the committee shall not be voting members.

(g) The Client Rights Committee shall maintain minutes of its meetings and shall file at least an annual report of its activities with the area board. Clients shall not be identified by name in minutes or in written or oral reports.

(h) The area board Client Rights Committee shall review grievances regarding incidents which occur within a contract agency after the governing body of the agency has reviewed the incident and has had opportunity to take action. Incidents of actual or alleged Client Rights violations, the facts of the incident, and the action, if any, made by the contract agency shall be reported to the area director within 30 days of the initial report of the incident, and to the area board within 90 days of the initial report of the incident.

*History Note: Authority G.S. 122C-64; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0505 NOTIFICATION PROCEDURES FOR PROVISION OF SERVICES**

(a) If an area program plans to operate or contract for a service located within the catchment area of another area program, the Director of the area program that plans to operate or contract for the service shall notify the Director of the area program in which the service is to be located prior to the provision of the service.

(b) The notification shall be in writing and shall include the following:

- (1) name of the provider;
- (2) service to be provided; and
- (3) anticipated dates of service.

In the event of an emergency, notification prior to the provision of service may be by telephone with written notification occurring the next working day.

- (c) Should a dispute resolution concerning such service as described in Paragraph (a) of this Rule be necessary, the Division Director shall arbitrate a resolution between the respective area programs.
- (d) If the Division plans to operate or contract for a service in an area program, the Division Director shall notify the Director of the area program in which the service is to be located, prior to the provision of the service, according to the procedures set forth in Paragraph (b) of this Rule.

*History Note: Authority G.S. 122C-113; 122C-141(b); 122C-142(a); 122C-191(d);  
Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0506 COMMUNICATION PROCEDURES FOR OUT OF HOME COMMUNITY PLACEMENT**

(a) The purpose of this Rule is to address communication procedures concerning out of the home-community placements for children and adolescents. This includes children and adolescents served through the area authority or county program developmental disabilities, mental health and substance abuse services system and those children and adolescents residing in ICF-MR facilities in their catchment areas.

(b) Area authority or county program representative(s) shall meet with the parent(s) or legal guardian and other representatives involved in the care and treatment of the child or adolescent, including local Department of Social Services (DSS), Local Education Agency (LEA) and criminal justice agency, to make service planning decisions prior to the placement of the child and adolescent out of the home-community. The area authority or county program may use existing child and family teams for this purpose.

(c) The home-community area authority or county program shall be responsible for notification of placement. The notification of placement shall be made via e-mail, fax or hard copy within three business days after out of home-community placement occurs. In case of an emergency, notification may be by telephone with written notification occurring the next day. The following entities shall be notified:

- (1) legal guardian;
- (2) other representatives involved in the care and treatment of the child or adolescent;
- (3) host-community provider; and
- (4) host-community representatives (may include the court counselor, county DSS, regional Children's Developmental Services Agency (CDSA) or the LEA.

(d) Notification shall be completed on a form provided by the Secretary, to include the following information:

- (1) child or adolescent information: name, date of birth, grade, identification number, social security number, date of placement out of home-community;
- (2) parent/legal guardian information: name, address, telephone number;
- (3) home-DDS and host-DSS information: county; contact person name, address, telephone number;
- (4) home-area authority/county program and host-area authority/county program information: name of program; contact person name, address, telephone number;
- (5) home-school and host-school information: school name, address, telephone number, principal, special education program administrator; or
- (6) person completing notification form information: name, date form completed, agency, address and telephone number.

*History Note: Authority G.S. 122C-113; 143B-139.1; 150B-21.1;  
Temporary Adoption Eff. July 1, 2003;  
Eff. July 1, 2004;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0507 AREA BOARD ANNUAL EVALUATION OF AN AREA DIRECTOR**

(a) This Rule governs the annual evaluation of Area Directors.

(b) Area Boards shall evaluate, but not be limited to, the Area Director's performance in each of the following areas:

- (1) Relationship with the Board of Directors and CFAC;
- (2) Relationship with the community served and with local and State officials;
- (3) Encouraging consumer/family involvement in system management activities including, but not limited to:
  - (A) program development,
  - (B) quality management, and
  - (C) community development;

- (4) Recruiting, monitoring, and maintaining effective relationship with qualified providers of services;
- (5) Management of human resources;
- (6) Management of fiscal resources; and
- (7) Demonstration of leadership skills.

(c) Area Boards may use the Area Director evaluation as an opportunity to create an annual plan for the Area Director that includes both policy and programmatic considerations.

*History Note: Authority G.S. 122C-112.1;  
Eff. May 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .0600 – AREA AUTHORITY OR COUNTY PROGRAM MONITORING OF FACILITIES AND SERVICES**

### **10A NCAC 27G .0601 SCOPE**

(a) This Section governs Local Management Entity (LME) monitoring of the provision of public services in the LME's catchment area.

(b) The LME shall monitor the provision of public services in the LME's catchment area.

(c) The LME shall develop and implement written policies governing monitoring of the provision of public services that include:

- (1) receiving, reviewing and responding to level II and level III incident reports as set forth in Rules .0603, .0604, and .0605 of this Section;
- (2) receiving and responding to complaints concerning the provision of public services, as set forth in Rule .0606 of this Section;
- (3) conducting local monitoring of Category A and B providers of public services as set forth in Rule .0608 of this Section; and
- (4) analyzing and reporting trends in the information identified in Subparagraphs (c)(1) through (c)(3) of this Rule, as set forth in Rule .0608 of this Section.

(d) An LME or provider of public services shall exchange information, including confidential information, when necessary to coordinate and carry out the monitoring functions as set forth in this Section. Sharing of information shall conform to 42 CFR, Part 2 for persons receiving Substance Abuse Services. The exchange of information shall apply as follows:

- (1) an LME to another LME;
- (2) an LME to a provider of public services;
- (3) a provider of public services to an LME;
- (4) a provider of public services to another provider of public services;
- (5) a provider of public services to the Department;
- (6) an LME to the Department;
- (7) the Department to an LME; and
- (8) the Department to a provider of public services.

*History Note: Authority G.S. 122C-112.1; 143B-139.1;  
Temporary Adoption Eff. July 1, 2003;  
Eff. July 1, 2004;*

*Amended Eff. August 1, 2009;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .0602 DEFINITIONS**

In addition to the terms defined in G.S. 122C-3 and Rules .0103 and .0104 of this Subchapter, the following terms shall apply to the rules in this Section:

- (1) "Complaint investigation" means the process of determining if an allegation made against a provider concerning the provision of public services is substantiated.
- (2) "ICF/MR" means a facility certified for Medicaid as an Intermediate Care Facility for the Mentally Retarded.
- (3) "Level I incident" means the same as defined in 10A NCAC 27G .0103(b)(32) and does not meet the definition of a level II incident or level III incident.

- (4) "Level II incident" means the same as defined in 10A NCAC 27G .0103(b)(32), including a client death due to natural causes or terminal illness, or results in a threat to a client's health or safety, or a threat to the health or safety of others due to client behavior and does not meet the definition of a level III incident.
- (5) "Level III incident" means the same as defined in 10A NCAC 27G .0103(b)(32) and results in:
  - (a) a death, sexual assault, or permanent physical or psychological impairment to a client;
  - (b) a substantial risk of death, or permanent physical or psychological impairment to a client;
  - (c) a death, sexual assault, permanent physical or psychological impairment caused by a client;
  - (d) a substantial risk of death or permanent physical or psychological impairment caused by a client; or
  - (e) a threat caused by a client to a person's safety.
- (6) "Local Monitoring" means LME monitoring of the provision of public services in its catchment area that are provided by Category A and B providers.
- (7) "Monitor" or "Monitoring" means the interaction between the LME and a provider of public services regarding the functions set forth in Rule .0601(c) of this Section.
- (8) "Provider category" means the type of facility in which a client receives services or resides. The provider category determines the extent of monitoring that a provider receives and is determined as follows:
  - (a) Category A - facilities licensed pursuant to G.S. 122C, Article 2, except for hospitals. These include 24-hour residential facilities, day treatment, PRTFs and outpatient services;
  - (b) Category B – G.S. 122C, Article 2, community based providers not requiring State licensure;
  - (c) Category C - hospitals, state-operated facilities, nursing homes, adult care homes, family care homes, foster care homes or child care facilities; and
  - (d) Category D - individuals providing only outpatient or day services and who are licensed or certified to practice in the State of North Carolina.

*History Note:* Authority G.S. 122C-112.1; 143B-139.1;  
 Temporary Adoption Eff. July 1, 2003;  
 Eff. July 1, 2004;  
 Amended Eff. August 1, 2009;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .0603 INCIDENT RESPONSE REQUIREMENTS FOR CATEGORY A AND B PROVIDERS**

- (a) Category A and B providers shall develop and implement written policies governing their response to level I, II or III incidents. The policies shall require the provider to respond by:
  - (1) attending to the health and safety needs of individuals involved in the incident;
  - (2) determining the cause of the incident;
  - (3) developing and implementing corrective measures according to provider specified timeframes not to exceed 45 days;
  - (4) developing and implementing measures to prevent similar incidents according to provider specified timeframes not to exceed 45 days;
  - (5) assigning person(s) to be responsible for implementation of the corrections and preventive measures;
  - (6) adhering to confidentiality requirements set forth in G.S. 75, Article 2A, 10A NCAC 26B, 42 CFR Parts 2 and 3 and 45 CFR Parts 160 and 164; and
  - (7) maintaining documentation regarding Subparagraphs (a)(1) through (a)(6) of this Rule.
- (b) In addition to the requirements set forth in Paragraph (a) of this Rule, ICF/MR providers shall address incidents as required by the federal regulations in 42 CFR Part 483 Subpart I.
- (c) In addition to the requirements set forth in Paragraph (a) of this Rule, Category A and B providers, excluding ICF/MR providers, shall develop and implement written policies governing their response to a level III incident that occurs while the provider is delivering a billable service or while the client is on the provider's premises. The policies shall require the provider to respond by:
  - (1) immediately securing the client record by:
    - (A) obtaining the client record;
    - (B) making a photocopy;
    - (C) certifying the copy's completeness; and
    - (D) transferring the copy to an internal review team;

- (2) convening a meeting of an internal review team within 24 hours of the incident. The internal review team shall consist of individuals who were not involved in the incident and who were not responsible for the client's direct care or with direct professional oversight of the client's services at the time of the incident. The internal review team shall complete all of the activities as follows:
  - (A) review the copy of the client record to determine the facts and causes of the incident and make recommendations for minimizing the occurrence of future incidents;
  - (B) gather other information needed;
  - (C) issue written preliminary findings of fact within five working days of the incident. The preliminary findings of fact shall be sent to the LME in whose catchment area the provider is located and to the LME where the client resides, if different; and
  - (D) issue a final written report signed by the owner within three months of the incident. The final report shall be sent to the LME in whose catchment area the provider is located and to the LME where the client resides, if different. The final written report shall address the issues identified by the internal review team, shall include all public documents pertinent to the incident, and shall make recommendations for minimizing the occurrence of future incidents. If all documents needed for the report are not available within three months of the incident, the LME may give the provider an extension of up to three months to submit the final report; and
- (3) immediately notifying the following:
  - (A) the LME responsible for the catchment area where the services are provided pursuant to Rule .0604;
  - (B) the LME where the client resides, if different;
  - (C) the provider agency with responsibility for maintaining and updating the client's treatment plan, if different from the reporting provider;
  - (D) the Department;
  - (E) the client's legal guardian, as applicable; and
  - (F) any other authorities required by law.

*History Note: Authority G.S. 122C-112.1; 143B-139.1; Temporary Adoption Eff. July 1, 2003; Eff. July 1, 2004; Amended Eff. August 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0604 INCIDENT REPORTING REQUIREMENTS FOR CATEGORY A AND B PROVIDERS**

(a) Category A and B providers shall report all level II incidents, except deaths, that occur during the provision of billable services or while the consumer is on the providers premises or level III incidents and level II deaths involving the clients to whom the provider rendered any service within 90 days prior to the incident to the LME responsible for the catchment area where services are provided within 72 hours of becoming aware of the incident. The report shall be submitted on a form provided by the Secretary. The report may be submitted via mail, in person, facsimile or encrypted electronic means. The report shall include the following information:

- (1) reporting provider contact and identification information;
- (2) client identification information;
- (3) type of incident;
- (4) description of incident;
- (5) status of the effort to determine the cause of the incident; and
- (6) other individuals or authorities notified or responding.

(b) Category A and B providers shall explain any missing or incomplete information. The provider shall submit an updated report to all required report recipients by the end of the next business day whenever:

- (1) the provider has reason to believe that information provided in the report may be erroneous, misleading or otherwise unreliable; or
- (2) the provider obtains information required on the incident form that was previously unavailable.

(c) Category A and B providers shall submit, upon request by the LME, other information obtained regarding the incident, including:

- (1) hospital records including confidential information;
- (2) reports by other authorities; and

- (3) the provider's response to the incident.
- (d) Category A and B providers shall send a copy of all level III incident reports to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services within 72 hours of becoming aware of the incident. Category A providers shall send a copy of all level III incidents involving a client death to the Division of Health Service Regulation within 72 hours of becoming aware of the incident. In cases of client death within seven days of use of seclusion or restraint, the provider shall report the death immediately, as required by 10A NCAC 26C .0300 and 10A NCAC 27E .0104(e)(18).
- (e) Category A and B providers shall send a report quarterly to the LME responsible for the catchment area where services are provided. The report shall be submitted on a form provided by the Secretary via electronic means and shall include summary information as follows:
  - (1) medication errors that do not meet the definition of a level II or level III incident;
  - (2) restrictive interventions that do not meet the definition of a level II or level III incident;
  - (3) searches of a client or his living area;
  - (4) seizures of client property or property in the possession of a client;
  - (5) the total number of level II and level III incidents that occurred; and
  - (6) a statement indicating that there have been no reportable incidents whenever no incidents have occurred during the quarter that meet any of the criteria as set forth in Paragraphs (a) and (d) of this Rule and Subparagraphs (1) through (4) of this Paragraph.

*History Note:* Authority G.S. 122C-112.1; 143B-139.1;  
Temporary Adoption Eff. July 1, 2003;  
Eff. July 1, 2004;  
Amended Eff. August 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .0605 LOCAL MANAGEMENT ENTITY MANAGEMENT OF INCIDENTS**

Upon learning of a level III incident that occurs while a client is in the care of a provider or on a provider's premises, the LME shall respond by:

- (1) determining that necessary actions have been taken to protect the client's health and safety;
- (2) determining the client records are secured as set forth in Rule .0603 of this Section;
- (3) determining that a meeting of an internal review team is convened within 24 hours as set forth in Rule .0603 of this Section;
- (4) ensuring the client's legal guardian, as applicable, and other authorities are notified as set forth in Rule .0603 of this Section;
- (5) reviewing the internal review team's preliminary findings and final report;
- (6) considering any internal review team's request for an extension of up to three months to file the final report, if necessary to gather all relevant documents; and
- (7) conducting local monitoring of the provider according to the requirements as set forth in Rule .0608 of this Section.

*History Note:* Authority G.S. 122C-112.1; 143B-139.1;  
Temporary Adoption Eff. July 1, 2003;  
Eff. July 1, 2004;  
Amended Eff. August 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .0606 REFERRAL OF COMPLAINTS TO LOCAL MANAGEMENT ENTITIES PERTAINING TO CATEGORY A OR CATEGORY B PROVIDERS**

- (a) The Local Management Entity shall respond to complaints received concerning the provision of public services or client rights pertaining to Category A and B providers within its catchment area.
- (b) When the Local Management Entity is a subject of the complaint, the LME shall refer the complaint concerning a Category A provider to the Division of Health Service Regulation, or a Category B provider to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.
- (c) When the LME receives a complaint concerning a Category A provider, and the complaint is related to a North Carolina rule, the LME shall forward the complaint directly to the Division of Health Service Regulation.



(d) When the LME receives a complaint concerning a community-based ICF/MR, the LME shall forward the complaint directly to the Division of Health Service Regulation. The Division of Health Service Regulation is responsible for the complaint investigation.

(e) When a complaint investigation involving a Category B provider identifies an issue which if substantiated by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services could result in a revocation or suspension of the provider's funding pursuant to 10A NCAC 26C .0501 through .0504, the LME shall document the issue or issues creating the concern and notify the Division of Mental Health, Developmental Disabilities and Substance Abuse Services of the issue within 24 hours. The Division of Mental Health, Developmental Disabilities and Substance Abuse Services shall consult with the LME, and shall then determine which agency will lead the investigation and which agencies need to be involved. Separate complaint investigations shall not be performed.

(f) When a complaint investigation results in the Local Management Entity initiating action to withdraw endorsement of a provider endorsed by the Local Management Entity, the LME shall follow the requirements identified in 10A NCAC 26C .0709.

(g) When facilities employ contract clinical staff to perform clinical functions as a component of the service provided by the provider, the Local Management Entity may investigate a complaint concerning the contracted clinician only if the complaint involves an individual being served in the context of the publicly funded service.

*History Note: Authority G.S. 122C-112.1; 143B-139.1;  
Temporary Adoption Eff. July 1, 2003;  
Eff. July 1, 2004;  
Amended Eff. August 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0607 COMPLAINTS PERTAINING TO CATEGORY A OR CATEGORY B PROVIDERS EXCLUDING ICF/MR FACILITIES**

*History Note: Authority G.S. 122C-112.1; 143B-139.1;  
Temporary Adoption Eff. July 1, 2003;  
Eff. July 1, 2004;  
Repealed Eff. August 1, 2009.*

#### **10A NCAC 27G .0608 LOCAL MONITORING**

(a) The Local Management Entity shall develop and implement written policies governing local monitoring of Category A and B providers. The written policies shall address:

- (1) the frequency and extent of local monitoring based on the following:
  - (A) number and severity of level II or level III incidents reported by the provider;
  - (B) the provider's response to the incidents;
  - (C) the provider's compliance with the reporting requirements as set forth in Rule .0604 of this Section;
  - (D) the number and types of complaints received concerning a provider;
  - (E) the provider's response to the complaints;
  - (F) the conclusions reached from investigation of the complaints;
  - (G) the results of reviews conducted by the Division of Health Service Regulation, the Division of Mental Health, Developmental Disabilities and Substance Abuse Services or the Division of Social Services;
  - (H) compliance with the requirements of the provision of public services;
  - (I) the provider's quality improvement activities as required pursuant to 10A NCAC 27G .0201(7), and trends in improvement;
  - (J) compliance with the contract or Memorandum of Agreement with the Local Management Entity;
  - (K) the addition of a new service; and
  - (L) accreditation by an accreditation agency approved by the Secretary such as the Council on Accreditation (COA), the Council on Quality and Leadership (CQL), the Council on Accreditation of Rehabilitation Facilities (CARF), or The Joint Commission;
- (2) The quality of the mental health, developmental disabilities and substance abuse services of all providers;

- (3) For Category A service providers, the LME shall defer to the Division of Health Service Regulation in the monitoring of any component of services provided which is an element of rule that is monitored by the Division of Health Service Regulation. For Category A providers, the LME shall monitor all components of services provided which are not found in Rule; and
  - (4) If an investigation discloses issues that could affect either the provider's licensure if a Category A provider, or the provider's suspension according to 10A NCAC 26C .0501 through .0504, the Local Management Entity shall refer the provider to either the Division of Health Service Regulation or the Division of Mental Health, Developmental Disabilities and Substance Abuse Services pursuant to Rule .0606 of this Section.
- (b) When local monitoring occurs, the Local Management Entity shall communicate the results to the provider within 15 calendar days of completion. The communication of the results shall constitute a local monitoring report that includes:
- (1) identification of each service monitored;
  - (2) identification of any issues requiring correction; and
  - (3) the timelines for implementing the corrections which shall not exceed 60 days from the date the provider receives the local monitoring report.
- (c) A Local Management Entity that conducts the local monitoring of a provider serving another Local Management Entity's client shall provide a copy of the local monitoring report to the client's home Local Management Entity within 15 calendar days of completion.

*History Note: Authority G.S. 122C-112.1; 143B-139.1;  
 Temporary Adoption Eff. July 1, 2003;  
 Eff. July 1, 2004;  
 Amended Eff. August 1, 2009;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0609 LOCAL MANAGEMENT ENTITY REPORTING REQUIREMENTS**

- (a) As part of its quality improvement process as set forth in Rule .0201(a)(7) of this Subchapter, the LME shall review, not less than quarterly, patterns and trends in:
- (1) level I, level II and level III incidents;
  - (2) complaints concerning the provision of public services; and
  - (3) local monitoring results gathered pursuant to requirements established in 10A NCAC 27G .0608.
- (b) The LME shall provide reports based on the review specified in Paragraph (a) of this Rule. The reports shall be submitted via electronic means to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services quarterly on forms provided by the Secretary. Copies of the reports shall be provided to the LME's area board, local Consumer and Family Advisory Committee, established by G.S. 122C-170, and the local Client Rights Committee, established by Rule .0504 of this Subchapter.
- (c) The reports shall include the following:
- (1) summary numbers of the types of complaints, incidents and results of local monitoring;
  - (2) trends identified through analyses of complaints, incidents and local monitoring; and
  - (3) use of the analyses for improvement of the service system and planning of future monitoring activities.

*History Note: Authority G.S. 122C-112.1; 143B-139.1;  
 Eff. July 1, 2004;  
 Amended Eff. August 1, 2009;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0610 REQUIREMENTS CONCERNING THE NEED FOR PROTECTIVE SERVICES**

- (a) If the circumstances identified surrounding an incident, complaint or local monitoring give reasonable cause to believe that a disabled adult receiving services from a Category A or Category B provider may be abused, neglected or exploited and in need of protective services, the Local Management Entity shall ensure the procedures outlined in G.S. 108A, Article 6, are initiated.
- (b) If the circumstances surrounding an incident, complaint or local monitoring reveal that a child or adolescent may be abused, neglected or exploited and in need of protective services, the Local Management Entity shall ensure the procedures outlined in G.S. 7B, Article 3, are initiated.

*History Note: Authority G.S. 122C-112.1; 143B-139.1;*

*Eff. July 1, 2004;*

*Amended Eff. August 1, 2009;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .0700 - ACCREDITATION OF AREA PROGRAMS AND SERVICES**

<b>10A NCAC 27G .0701</b>	<b>GENERAL</b>
<b>10A NCAC 27G .0702</b>	<b>ACCREDITATION REVIEW</b>
<b>10A NCAC 27G .0703</b>	<b>ACCREDITATION OF THE AREA PROGRAM</b>
<b>10A NCAC 27G .0704</b>	<b>DENIAL OR REVOCATION OF ACCREDITATION</b>
<b>10A NCAC 27G .0705</b>	<b>INTERIM ACCREDITATION FOR NEW SERVICES</b>
<b>10A NCAC 27G .0706</b>	<b>RECIPROCITY</b>
<b>10A NCAC 27G .0707</b>	<b>PURCHASE OF SERVICE AND CAPITATION CONTRACTS</b>

*History Note: Authority G.S. 122C-112; 122C-141(b); 122C-142(a); 122C-191(d);  
Eff. May 1, 1996;  
Repealed Eff. May 1, 2009.*

## **SECTION .0800 - WAIVERS AND APPEALS**

### **10A NCAC 27G .0801 SUBMISSION OF REQUESTS FOR WAIVERS OF RULES**

Requests for waivers of these Rules insofar as they affect the issuance, renewal, revocation or suspension of licenses shall be submitted to the Director of DHSR in accordance with Rule .0813 of this Section. Requests for other waivers shall be sent to the Division Director, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3001 Mail Service Center, Raleigh, North Carolina 27699-3001.

*History Note: Authority G.S. 122C-112(a)(8); 143B-147(a)(8);  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;  
Amended Eff. September 1, 2021.*

### **10A NCAC 27G .0802 CONTENTS OF WAIVER REQUESTS**

Except as provided in Rules .0806 and .0813 of this Section, waiver requests shall be in writing and shall contain:

- (1) the name, address and telephone number of the person making the request;
- (2) the name, address and telephone number of the facility, program, agency or other entity for which the waiver is requested;
- (3) the rule number and title of any rule for which the waiver is requested;
- (4) a statement of facts including:
  - (a) the reason for the request;
  - (b) the nature and extent of the request; and
  - (c) confirmation that the health, safety or welfare of clients will not be threatened;
- (5) the time frame for which the waiver is requested; and
- (6) authorization for the waiver request and the date of such authorization. Required authorization is as follows:
  - (a) by the area board for a facility operated by an area program;
  - (b) by the governing board of the contract agency with a recommendation by the area board, for a contract agency (of area programs);
  - (c) by the governing body for a private facility; and
  - (d) by the Director of the Division of Prisons for the Department of Correction.

*History Note: Authority G.S. 122C-112(a)(8); 143B-147(a)(8);  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .0803 PROCEDURE FOR WAIVERS BY COMMISSION**

If any rule for which waiver is requested was adopted pursuant to the rule-making authority of the Commission, the procedures set forth in this Rule shall be followed:

- (1) The person requesting the waiver shall be notified regarding the time and place of the meeting at which the Commission will vote upon the waiver request. At the discretion of the Chairman of the Commission, the person requesting the waiver and any other interested person may be given the opportunity to speak regarding the waiver request.
- (2) Decisions regarding waiver requests shall be based upon, but not limited to, the following:
  - (a) the nature, extent, and rationale of the request; and
  - (b) safeguards to ensure that the health, safety or welfare of clients will not be threatened.
- (3) The Commission's decision shall be issued in writing by the Chairman of the Commission and shall state:
  - (a) the factual situation giving rise to the waiver request;
  - (b) the decision that the waiver request was granted, or granted subject to certain conditions;
  - (c) the time frame, if the waiver is granted; and
  - (d) the reason, if the waiver request was denied.
- (4) The waiver may be granted retroactively:
  - (a) to the date of the authorization as described in Item (6) of Rule .0802 of this Section; or
  - (b) to the time frame requested by the Division Director if the waiver is submitted in accordance with Rule .0806 of this Section.

*History Note: Authority G.S. 143B-147(a)(8);  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0804 WAIVERS REQUESTED BY COMMISSION**

- (a) Any member of the Commission may initiate a request for waiver of any rule adopted pursuant to the rule-making authority of the Commission, or the rule-making authority delegated to the Division Director by the Secretary as described in this Section.
- (b) In requesting a waiver on behalf of one or more agencies or services, the Commission member is subject to Rule .0806 of this Section.

*History Note: Authority G.S. 143B-147(a)(8);  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0805 PROCEDURE FOR WAIVERS BY DIVISION DIRECTOR**

If the rule for which a waiver is requested was adopted pursuant to the rule-making authority delegated by the Secretary, the procedures set forth in this Rule shall be followed:

- (1) Decisions regarding waiver requests shall be based upon, but not limited to, the criteria in Item (2) of Rule .0803 of this Section.
- (2) A decision regarding the waiver request shall be issued in writing by the Division Director within 60 days from the date of receipt of the waiver request and shall state:
  - (a) the factual situation giving rise to the waiver request;
  - (b) the reasons why the request was granted, granted subject to certain conditions, or denied; and
  - (c) if granted, the time frame for which the waiver is granted.
- (3) The waiver may be granted retroactively to the date of the authorization of the governing body as described in Item (6) of Rule .0802 of this Section or to the time frame requested.

*History Note: Authority G.S. 122C-112(a)(8);  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0806 WAIVERS REQUESTED BY DIVISION DIRECTOR**

- (a) The Division Director may initiate a request for waiver of rules adopted pursuant to the rule-making authority of the Commission as described in this Section.

(b) Except when requesting a waiver on behalf of one or more agencies or services, the Division Director shall be exempt from the provisions of Items (2) and (6) of Rule .0802 of this Section. Instead, the Division Director shall list the types of agencies or services for which the waiver is requested.

*History Note:* Authority G.S. 122C-112(a)(8);

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0807 RESERVED FOR FUTURE CODIFICATION**

#### **10A NCAC 27G .0808 APPEALS PROCEDURES FOR CONTRACT PROVIDERS**

(a) Pursuant to G.S. 122C-151.3, an area authority shall establish written procedures for the resolution of disputes regarding decisions of an area authority with a contractor, former contractor, client or person asserting the claims described in G.S. 122C-151.4.

(b) Decisions may be appealed to the Area Authority Appeals Panel as set forth in this Section.

*History Note:* Authority G.S. 122C-112; 122C-151.3; 122C-151.4;

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0809 RESERVED FOR FUTURE CODIFICATION**

#### **10A NCAC 27G .0810 STATE MH/DD/SA APPEALS PANEL ADMINISTRATIVE REVIEW PROCEDURES**

(a) Appellants, as identified in G.S. 122C-151.4(c), shall file written notice of appeal of the final decision of the Local Management Entity (LME), with the Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (Division) within 15 calendar days of the date of the final LME decision.

(b) "File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express mail to the current Director of the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services. A document or paper is deemed filed as of the date it is delivered to the Director. Filings addressed to a person other than the Division Director, or which fail to be filed within the time periods established by this Rule, or which otherwise fail to be filed in conformity with the rules in this Section shall be considered as improper filings and denied.

(c) The Division Director shall notify the LME that an appeal has been filed. Upon notification of the appeal filed pursuant to G.S. 122C-151.4(c)(1), (c)(2) and (c)(3), an LME shall forward a copy of its final decision, the signed contract between the LME and the contractor or former contractor, where applicable a copy of the endorsement application, and all supplementary documentation considered during the local appeals process, to the Division Director, with a copy to the appellant, within five business days of the date of the notification.

(d) Upon notification of the appeal filed under G.S. 122C-151.4(c)(4) and (5), an LME shall forward notification of its final decision and all supplementary documentation considered during the local appeals process to the Division Director, with a copy to the appellant, within five business days of the date of the notification.

(e) The Division Director shall appoint an impartial Panel, consisting of a Chairman, an LME representative and a provider representative, and shall forward all information to the Chairman of the Panel within 10 business days of receipt of the appeal record from the appellant and LME.

(f) The Panel shall deliberate in open session on each specific item being appealed; however, the panel may deliberate in closed session to prevent the disclosure of confidential information, pursuant to G.S. 143-318.11(a)(1).

(g) The Panel shall vote on each specific item being appealed.

(h) Findings and decisions of the Panel shall be by majority vote.

(i) The Panel may obtain any form of technical assistance or consultation relevant to the appeal in conducting the administrative review.

(j) The Panel shall complete an administrative review and notify the appealing party and the LME of its decision, in writing, within 20 business days of the Panel's receipt of the appeal record.

(k) Any decision may be delayed until a subsequent meeting if the Panel determines that it lacks sufficient information to render a decision at the initial administrative review.

(l) In all cases the administrative review decision shall be distributed within 10 business days of the decision being rendered.

(m) The appellant or the LME may appeal the administrative review decision by requesting an informal hearing before the Panel by submitting a written request to the Chairman of the Panel within 15 business days of the date of the administrative review decision.

(n) Unless the appellant or the LME requests a hearing before the Panel within 15 business days of the date of the administrative review decision, the administrative review decision shall be considered final.

(o) This Rule does not apply to contracts for personal services provided by a professional individual which include those of a doctor, dentist, attorney, architect, professional engineer, scientist or performer of the fine arts or similar professionals, or consultative service on a temporary or occasional basis.

*History Note: Authority G.S. 122C-151.4;*

*Eff. May 1, 1996;*

*Amended Eff. December 1, 2009;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0811 STATE MH/DD/SA APPEALS PANEL HEARING PROCEDURES**

(a) An informal hearing shall be held by the Panel no more than 30 business days after a written request for an informal hearing is received by the Chairman.

(b) The informal hearing shall be held at a time and place designated by the Chairman.

(c) The appellant and the LME shall be notified of the time and place of the informal hearing no less than 15 business days prior to the date of the informal hearing.

(d) The Chairman of the Panel:

- (1) shall convene the hearing at the prearranged time and place;
- (2) may afford the opportunity for rebuttal and summary comments to either of the presenting parties;
- (3) may limit the total number of persons presenting for the appellant and the LME; and
- (4) may impose time limits for presentations.

(e) Both the appellant and the LME shall attend the informal hearing.

(f) The representative of the appellant and the LME shall:

- (1) provide written notice to the Chairman of the Panel, specifying by name and position, all individuals who will attend the informal hearing no later than five business days before the hearing date;
- (2) provide the Panel with any requested information; and
- (3) ensure that a representative of the appellant and the LME will attend the informal hearing to make a presentation.

(g) Any member of the Panel may address questions to the representatives of the appellant or of the LME.

(h) All persons present at the informal hearing shall address only the Chairman or a specific member of the Panel who has addressed a specific question to that individual.

(i) Direct exchanges between presenters for the appellant and the LME are prohibited.

(j) No transcript shall be made and no party may record the proceeding.

(k) The Panel may obtain any form of technical assistance or consultation relevant to the appeal.

*History Note: Authority G.S. 122C-151.4;*

*Eff. May 1, 1996;*

*Amended Eff. December 1, 2009;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0812 STATE MH/DD/SA APPEALS PANEL HEARING DECISIONS**

(a) The Panel shall deliberate in open session on each specific item being appealed; however, the panel may deliberate in closed session to prevent the disclosure of confidential information, pursuant to G.S. 143-318.11(a)(1).

(b) The Panel shall vote on each specific item being appealed.

(c) Findings and decisions of the Panel shall be by majority vote.

(d) Each decision shall be conveyed in writing to the appellant and the LME within 10 business days of the date of the decision.

(e) Any decision may be delayed until a subsequent meeting if the Panel determines that it lacks sufficient information to render a decision at the initial informal hearing.

(f) In all cases the hearing decision shall be rendered within 30 business days of the date of the informal hearing.

(g) Appeals of the Panel's hearing decision shall be filed pursuant to G.S. 122C-151.4(f).

*History Note: Authority G.S. 122C-151.4;  
Eff. May 1, 1996;  
Amended Eff. December 1, 2009;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .0813 WAIVER OF LICENSURE RULES**

(a) The Secretary may waive any of these Rules related to licensure requirements. The decision to grant or deny the waiver request shall be based on the following:

- (1) the nature and extent of the request;
- (2) the existence of safeguards to ensure that the health, safety, or welfare of the clients residing in the facility will not be threatened;
- (3) the determination that the waiver will not affect the health, safety, or welfare of clients residing in the facility;
- (4) the existence of good cause; and
- (5) documentation of Local Management Entity (LME) or Local Management Entity – Managed Care Organization (LME-MCO) governing body approval when requests are from an LME or LME-MCO or contract agencies of an LME or LME-MCO or documentation of governing body approval of the facility when requests are from private facilities not contracting with an LME or LME-MCO.

(b) Requests for waivers shall be sent to the Director, Division of Health Service Regulation, 2718 Mail Service Center, Raleigh, North Carolina 27699-2718.

(c) The request shall be in writing and shall contain:

- (1) the name, address and telephone number of the requester;
- (2) the name, address and telephone number of the facility for which the waiver is requested;
- (3) the rule number and title of the rule or requirements for which waiver is being sought;
- (4) a statement of facts showing:
  - (A) the reason for, and the nature and extent of, the request; and
  - (B) that the health, safety or welfare of clients will not be threatened;
- (5) documentation of LME or LME-MCO governing body approval when requests are from an LME or LME-MCO or contract agencies of an LME or LME-MCO or documentation of governing body approval of the facility when requests are from private facilities not contracting with an LME or LME-MCO.

(d) Prior to issuing a decision on the waiver request, the Director of DHSR shall consult with the Director of DMH/DD/SAS, and may also request additional information or consult with additional parties as appropriate.

(e) A decision regarding the waiver request shall be issued in writing by the Director of DHSR and shall state the reasons why the request was granted or denied and any special conditions relating to the request. A copy of the decision shall be sent to the Director of DMH/DD/SAS. If the rule in question was adopted by the Commission, the Director of DMH/DD/SAS shall send a copy of the decision to all Commission members.

(f) Waivers related to physical building design and equipment shall remain in effect for 10 years.

(g) Waivers other than those identified in Paragraph (f) of this Rule shall not exceed the expiration date of the current license and shall be subject to renewal consideration upon the request of the licensee.

(h) Renewal requests pursuant to this Rule may be considered prior to the facility's application for licensure renewal being finalized when the requesting party has submitted the required application materials and fee. A waiver granted prior to licensure renewal being finalized shall be contingent upon licensure renewal being granted. A waiver granted prior to the licensure renewal shall become effective upon the date of the license renewal and is not retroactive.

(i) If a facility closes or undergoes a change of ownership, the waiver expires with the effective date of the closure or change of ownership.

(j) The decision of the Secretary regarding a waiver request may be appealed to the Office of Administrative Hearings through the contested case process set out in G.S. 150B, Article 3. The appeal shall be in writing and shall be filed within 60 days of receipt of the decision regarding the waiver request.

*History Note: Authority G.S. 122C-23(f); 122C-26(4); 122C-27(9); 143B-147;  
Eff. May 1, 1996;  
Amended Eff. November 1, 2012; October 1, 2007;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## SECTION .0900 - GENERAL RULES FOR INFANTS AND TODDLERS

### 10A NCAC 27G .0901 SCOPE

The rules in this Section shall apply to any facility which serves infants and toddlers with or at risk for developmental disabilities, delays or atypical development.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Recodified from 10 NCAC 14V .0801 Eff. January 1, 2001;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### 10A NCAC 27G .0902 DEFINITIONS

In addition to the definitions contained in G.S. 122C-3 and Rule .0103 of this Subchapter, the following definitions shall also apply:

- (1) "Atypical development" means those from birth to 60 months of age who:
  - (a) have autism;
  - (b) are diagnosed hyperactive;
  - (c) have an attention deficit disorder, severe attachment disorder, or other behavioral disorders; or
  - (d) exhibit evidence of, or are at risk for, atypical patterns of behavior and social-emotional development in one or more of the following areas:
    - (i) delays or abnormalities in achieving emotional milestones;
    - (ii) difficulties with:
      - (A) attachment and interactions with parents, other adults, peers, materials and objects;
      - (B) ability to communicate emotional needs;
      - (C) motor or sensory development;
      - (D) ability to tolerate frustration and control behavior; or
      - (E) ability to inhibit aggression;
    - (iii) fearfulness, withdrawal, or other distress that does not respond to the comforting of caregivers;
    - (iv) indiscriminate sociability; for example, excessive familiarity with relative strangers;
    - (v) self-injurious or other aggressive behavior;
    - (vi) substantiated evidence that raises concern for the child's emotional well-being regarding:
      - (A) physical abuse;
      - (B) sexual abuse; or
      - (C) other environmental circumstances indicating an abused or neglected juvenile as defined in G.S. 7A-517(1) and (21).
- (2) "Developmentally delayed children" means those whose development is delayed in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication, social and emotional; and adaptive skills. The specific level of delay must be:
  - (a) for children from birth to 36 months of age, documented by scores one and one-half standard deviations below the mean on standardized tests in at least one of the above areas of development. Or, it may be documented by a 20 percent delay on assessment instruments that yield scores in months; and
  - (b) for children from 36 to 60 months of age, documented by test performance two standard deviations below the mean on standardized tests in one area of development or by performance that is one standard deviation below the norm in two areas of development. Or, it may be documented by a 25 percent delay in two areas on assessment instruments that yield scores in months.
- (3) "Early Intervention Services" means those services provided for infants and toddlers specified in Section 303.12 of Subpart A of Part 303 of Title 34 of the Code of Federal Regulations, published January 1, 1992 and incorporated by reference.
  - (a) For the purposes of these services, "transportation" means assistance in the travel to and from the multidisciplinary evaluation; specified early intervention services provided by certified developmental day centers or other center-based services designed specifically for children with



or at risk for disabilities; and speech, physical or occupational therapy, or other early intervention services if provided in a specialized setting away from the child's residence.

- (b) Transportation assistance may be provided by staff, existing public or private services, or by the family, who shall be reimbursed for their expenses, in accordance with applicable fee provisions.
- (c) For the purposes of these services, "special instruction" means individually designed education and training in the strengths and needs of the child and family as identified in the multidisciplinary evaluation, in which the focus is on the major developmental areas and individual family needs. It occurs in two primary types of settings; home and inclusive center-based:
  - (i) The inclusive center-based settings may be those designed primarily for children with or at risk for disabilities, such as developmental day centers or therapeutic preschools, if they allow for planned and ongoing contact with children without disabilities.
  - (ii) Inclusive center-based settings also include those established primarily for children without disabilities, such as preschools, family day care homes, licensed child care centers:
    - (A) when provided in these programs, special instruction also includes consultation and training for staff on curriculum design, teaching and behavior management strategies, and approaches to modification of the environment to promote learning; and
    - (B) service coordination activities, including assistance to the family in identifying such programs must be provided with special instruction, if requested by the family; and
    - (C) all types of early intervention services shall be provided in natural environments to the maximum extent possible. The provision of early intervention services in a setting other than a natural environment shall occur only when early intervention cannot be achieved satisfactorily in a natural environment.
- (4) "Health Services" means those services provided for infants and toddlers specified in Section 303.13 of Subpart A of Part 303 of Title 34 of the Code of Federal Regulations, published June 22, 1989 and incorporated by reference.
- (5) "High risk children" means those from birth to 36 months of age for whom there is clinical evidence of conditions which have a high probability of resulting in developmental delay or atypical development and for whom there is clinical evidence that developmental or therapeutic intervention may be necessary. There are two categories of high risk children. These are:
  - (a) High Risk-Established: Diagnosed or documented physical or mental conditions which are known to result in developmental delay or atypical development as the child matures. Such conditions include, but need not be limited to the following:
    - (i) chromosomal anomaly or genetic disorders associated with developmental deficits;
    - (ii) metabolic disorders associated with developmental deficits;
    - (iii) infectious diseases associated with developmental deficits;
    - (iv) neurologic disorders;
    - (v) congenital malformations;
    - (vi) sensory disorders; or
    - (vii) toxic exposure.
  - (b) High Risk-Potential: Documented presence of indicators which are associated with patterns of development and which have a high probability of meeting the criteria for developmental delay or atypical development as the child matures. There shall be documentation of at least three of the parental or family, neonatal, or postneonatal risk conditions. These conditions are as follows:
    - (i) maternal age less than 15 years;
    - (ii) maternal PKU;
    - (iii) mother HIV positive;
    - (iv) maternal use of anticonvulsant, antineoplastic or anticoagulant drugs;
    - (v) parental blindness;
    - (vi) parental substance abuse;
    - (vii) parental mental retardation;
    - (viii) parental mental illness;

- (ix) difficulty in parent-infant bonding;
  - (x) difficulty in providing basic parenting;
  - (xi) lack of stable housing;
  - (xii) lack of familial and social support;
  - (xiii) family history of childhood deafness;
  - (xiv) maternal hepatitis B;
  - (xv) birth weight less than 1500 grams;
  - (xvi) gestational age less than 32 weeks;
  - (xvii) respiratory distress (mechanical ventilator greater than six hours);
  - (xviii) asphyxia;
  - (xix) hypoglycemia (less than 25 mg/dl);
  - (xx) hyperbilirubinemia (greater than 20 mg/dl);
  - (xxi) intracranial hemorrhage;
  - (xxii) neonatal seizures;
  - (xxiii) suspected visual impairment;
  - (xxiv) suspected hearing impairment;
  - (xxv) no well child care by age six months;
  - (xxvi) failure on standard developmental or sensory screening test;
  - (xxvii) significant parental concern;
  - (xxviii) chronic lung disease;
  - (xxix) parent history of suspected abuse or neglect; and
  - (xxx) mothers who are seen by a Maternal Outreach Worker from the local health department.
- (6) "Natural environments" means settings that are natural or normal for the child's age peers who have no disabilities.
- (7) Incorporation by reference in any of the rules in this Section of portions of the Code of Federal Regulations includes subsequent amendments and editions of the referenced material, which may be obtained at no cost from the Branch Head, Child and Adolescent Services, Developmental Disabilities Section, Division of MH/DD/SAS, 325 N. Salisbury Street, Raleigh, NC 27603.

*History Note:* Authority G.S.122C-3; 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et. seq.; Eff. May 1, 1996;  
 Temporary Amendment Eff. May 21, 1999;  
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## **10A NCAC 27G .0903 GENERAL REQUIREMENTS FOR INFANTS AND TODDLERS**

For all facilities serving infants and toddlers with or at risk for developmental disabilities, delays or atypical development, except for respite, there shall be:

- (1) an assessment which includes:
  - (a) physical (including vision and hearing), communication, cognitive, social and emotional and adaptive skills development, and the requirements set forth in 34 C.F.R. Part 303.344 (a)(2), incorporated by reference;
  - (b) a determination of the child's unique strengths and needs in terms of these areas of development and identification of services appropriate to meet those needs;
  - (c) if requested by the family, a determination of the resources, priorities and concerns of the family, and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with or at risk for a disability. The family-focused and directed assessment shall be based on information provided through a personal interview and incorporate the family's description of these resources, priorities, and concerns in this area;
  - (d) procedures developed and implemented to ensure participation by the client's family or the legally responsible person;

- (e) no single procedure used as the sole criterion for determining a child's eligibility;
  - (f) an integrated assessment process which involves at least two persons, each representing a different discipline or profession, with the specific number and types of disciplines based on the particular needs of the child. The assessment shall include current medical information provided by a physician, physician's assistant, nurse practitioner, or a registered nurse who has completed the "Child Health Training Program for Registered Nurses" taught under the Division of Maternal and Child Health Guidelines; however, a physician, physician's assistant, or nurse practitioner is not required as one of the disciplines involved in the assessment;
- Note: Further information regarding the assessment may be found in the document "North Carolina Infant-Toddler Program Manual," available from the Developmental Disabilities Section of DMH/DD/SAS at no cost upon request.
- (g) an evaluation process based on informed clinical opinion;
  - (h) an assessment process completed within 45 calendar days from the date of referral. The referral shall be initiated by a request for these services made to any one of the public agencies participating in the Part H of the Individuals with Disabilities Education Act Interagency Agreement. The request shall become a referral when the area program determines that all of the following is available:
    - (i) sufficient background information to enable the agency receiving the referral to establish communication through a telephone call or home visit;
    - (ii) reason for referral, date of referral and agency or individual making referral;
    - (iii) child and family identifying information such as names, child's birthdate and primary physician; and
    - (iv) summary of any pre-existing child and family screening or assessment information;
  - (i) a 45 calendar day completion requirement which may be extended in exceptional circumstances, such as, the child's health assessment is being completed out-of-state, or family desires make it impossible to complete the assessment within the time period. The specific nature and duration of these circumstances which prevent completion within 45 days and the attempts made by the provider to complete the assessment shall be documented and an interim Individualized Family Service Plan (IFSP) shall be developed and implemented; and
  - (j) the child's family or legally responsible person shall be fully informed of the results of the assessment process.
- (2) There shall be a habilitation plan which is referred to as the Individualized Family Service Plan (IFSP) which shall include:
- (a) a description of the child's present health status and levels of physical (including vision and hearing), communication, cognitive, social and emotional, and adaptive development;
  - (b) with the concurrence of the family, a description of the resources, priorities and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant and toddler with or at risk for a disability;
  - (c) outcomes for the child, and, if requested, outcomes for the child's family;
  - (d) criteria and time frames to be used to determine progress towards outcomes;
  - (e) planned habilitation procedures related to the outcomes;
  - (f) a statement of the specific early intervention services to be provided to meet the identified child and family needs, the initiation dates, frequency and method, duration, intensity and location (including the most natural environment and a justification of the extent, if any, to which the services are not provided in a natural environment) of service delivery, and the persons or agencies responsible;
  - (g) the name of the service coordinator from the profession most immediately relevant to the needs of the child or family; and who is otherwise qualified to carry out all applicable responsibilities for coordinating with other agencies and individuals the implementation of the IFSP;
  - (h) the plans for transition into services which are the responsibility of the NC Department of Public Instruction, or other available services, when applicable;
  - (i) the payment arrangements for the specific services delineated in Sub-Item (2)(f) of this Rule; and
  - (j) a description of medical and other services needed by the child, but which are not required under Part H of the Individuals with Disabilities Education Act, and the strategies to be pursued to secure those services through public or private resources. The requirement regarding medical

services does not apply to routine medical services, such as immunization and well-baby care, unless the child needs these services and they are not otherwise available.

- (3) The following requirements apply to the IFSP:
- (a) It shall be reviewed on at least a semi-annual basis or more frequently upon the family's request.
  - (b) It shall be revised as appropriate, but at least annually.
  - (c) The initial development and annual revision process for the IFSP for infants and toddlers, shall include participation by:
    - (i) the parent or parents of the child;
    - (ii) other family members, as requested by the parent;
    - (iii) an advocate or person outside of the family if the parent requests participation;
    - (iv) the provider of the early intervention services;
    - (v) the service coordinator designated for the family, if different from the provider of the early intervention services; and
    - (vi) the provider of the assessment service, if different from the provider of the early intervention services.
  - (d) The initial IFSP meeting and annual reviews shall be arranged and written notice provided to families early enough to promote maximum opportunities for attendance. The semi-annual review process shall include participation by persons identified in Sub-items (3)(c)(i) through (v) of this Rule. If any of these assessment and intervention providers are unable to attend one of the development or review meetings, arrangements may be made for the person's involvement through other means such as participation in a telephone conference call, having a knowledgeable authorized representative attend the meeting or making pertinent records available at the meeting. The facility shall attempt to obtain approval for such arrangements from all participants, however, it may proceed without such approval if necessary to complete the IFSP.
  - (e) The IFSP for infants and toddlers shall be based upon the results of the assessment referenced in Item (1) of this Rule and upon information from any ongoing assessment of the child and family. However, early intervention services may commence before completion of this assessment if:
    - (i) parental consent is obtained; and
    - (ii) the assessment is completed within the 45-day time period referenced in Paragraph (a) of this Rule.
  - (f) In the event that exceptional circumstances, such as child illness, residence change of family, or any other similar emergency, make it impossible to complete the assessment within the 45-day time period referenced in Item (1) of this Rule, the circumstances shall be documented and an interim IFSP developed with parent permission. The interim IFSP shall include:
    - (i) the name of the service coordinator who will be responsible for the implementation of the IFSP and coordination with other agencies and individuals;
    - (ii) outcomes for the child and family when recommended;
    - (iii) those early intervention services that are needed immediately; and
    - (iv) suggested activities that may be carried out by the family members.
  - (g) Each facility or individual who has a direct role in the provision of early intervention services specified in the IFSP is responsible for making a good faith effort to assist each eligible child in achieving the outcomes set forth in the IFSP.
  - (h) The IFSP shall be developed within 45 days of referral for those children determined to be eligible. The referral shall be as defined in Sub-item (1)(h) of this Rule.
  - (i) The contents of the IFSP shall be fully explained to the parents, and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in the plan. If the parents do not provide consent with respect to a particular early intervention service, or withdraw consent after first providing it, that service shall not be provided. The early intervention services for which parental consent is obtained must be provided.
  - (j) IFSP meetings shall be conducted in settings convenient to and in the natural language of the family.

*History Note: Authority G.S. 122C-26; 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et. seq; Eff. May 1, 1996; Temporary Amendment Eff. May 21, 1999;*

*Temporary Amendment Expired February 8, 2000;  
Codifier determined that findings did not meet criteria for temporary rule on May 22, 2000;  
Temporary Amendment Eff. May 30, 2000;  
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**10A NCAC 27G .0904 SURROGATE PARENTS**

(a) Circumstances Requiring Surrogate Parents. The area program shall assure the availability of a surrogate parent for infants and toddlers eligible for early intervention services when:

- (1) a biological parent or guardian cannot be identified;
- (2) efforts to locate the parent are unsuccessful; or
- (3) the child is involved in a voluntary placement agreement or is placed in protective custody through the local Department of Social Services.

(b) Identifying Need For And Selection Of A Surrogate Parent:

- (1) The child service coordinator shall be responsible for identifying the need for a surrogate parent.
- (2) Identification shall be based on any pertinent information and input from:
  - (A) the local Department of Social Services; and
  - (B) anyone serving on the Infant-Toddler Consortium.
- (3) The area program Director, or a designee, serving the county of the child's legal residence shall select the surrogate parent.

(c) Responsibilities Of A Surrogate Parent. A surrogate parent shall have the responsibility of being an active spokesperson for a child in matters related to the:

- (1) evaluation and assessment of the child;
- (2) development, signing, and implementation of the child's IFSP, including annual evaluations and periodic reviews; and
- (3) ongoing provision of early intervention services to the child.

(d) Priorities For Selection Of A Surrogate Parent:

- (1) The area program shall make every effort to select a surrogate parent who has close ties to the child.
- (2) In instances when children are placed in foster care or in the care of another individual, the biological parents or guardian shall be given first consideration to act as the surrogate parent.
- (3) The following order of priority shall then be considered when selecting the surrogate parent:
  - (A) person "acting as a parent" - a grandparent, governess, neighbor, friend, or private individual who is caring for the child;
  - (B) interested relative;
  - (C) foster parent;
  - (D) friend of the child's family; or
  - (E) other individuals.
- (4) The biological parent or guardian, if known, shall be informed regarding the selection of the surrogate parent.

(e) Criteria For Selection Process. Anyone who serves as a surrogate parent shall:

- (1) not have conflicting interests with those of the child who is represented;
- (2) have knowledge and skills that ensure the best possible representation of the child;
- (3) not have any prior history of committing abuse or neglect;
- (4) not be an employee of the agency involved in the provision of early intervention or other services for the child or be a provider of early intervention services to the child or the child's family. However, a person who otherwise qualifies to be a surrogate parent is not considered an employee based on being paid by a public agency to serve as a surrogate or foster parent; or
- (5) not be an employee of the state.

(f) Training Requirements For A Surrogate Parent:

- (1) Anyone who serves as a surrogate parent, and is not related to the child, shall have participated in training provided by or approved by the area mental health, developmental disabilities and substance abuse program.
- (2) Training shall include, but not be limited to, the following topics:

- (A) Part H of the Individuals with Disabilities Education Act, regarding parents' rights, entitlements for children, and services offered;
  - (B) developmental and emotional needs of eligible infants and toddlers;
  - (C) available advocacy services; and
  - (D) relevant cultural issues if the child's culture is different from that of the surrogate parent.
- (3) The level of training approach shall be based on needs of the surrogate parent, as determined by the surrogate parent in conjunction with the area program.

*History Note: Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et. seq; Eff. May 1, 1996;*  
*Temporary Amendment Eff. May 21, 1999;*  
*Temporary Amendment Expired February 8, 2000;*  
*Codifier determined that findings did not meet criteria for temporary rule on May 22, 2000;*  
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### **10A NCAC 27G .0905 PROCEDURAL REQUIREMENTS**

(a) General Area Program Requirements. Area programs and contract agencies shall comply with Section 303.402 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations, incorporated by reference, relating to:

- (1) the right of the parents of an eligible child to examine records;
- (2) the requirement of prior notice to parents of an eligible child in the parents' native language;
- (3) the requirement of parental consent [The period of reasonable time referenced in 303.403(a) shall be construed to be no less than two weeks.];
- (4) early intervention services [infants and toddlers referred for services shall be assessed in accordance with the provisions of 10A NCAC 26C .0303 of this Section, admitted in accordance with the provisions of Subparagraphs (a)(3) and (a)(4) of Rule .0201 of this Subchapter, and receive services in accordance with the provisions of 10A NCAC 26C .0303]; and
- (5) surrogate parents.

As used in this Section, the following terms shall have the meanings specified in Section 303.401 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations: "Consent", "Native Language", "Personally identifiable".

(b) Complaint Resolution/Mediation:

- (1) Parents of an eligible child shall have the right to a timely administrative resolution of any complaints concerning an area program's or contract agency's proposal or refusal to initiate or change the identification, evaluation or placement of the child, or concerning the provision of appropriate early intervention services to the child and the child's family. The parents of an eligible child shall also have the right to mediation of such complaints.
- (2) Whenever an area program or contract agency becomes aware that the parents of an eligible child disagree with any decision regarding early intervention services for their child, the area program or contract agency, whichever is appropriate, shall immediately advise the parents regarding the availability of, and procedure for, requesting complaint resolution under this Section.
- (3) A request by parents of an eligible child for administrative resolution or mediation of a complaint shall be in writing and sent to the Director of the area program in which the eligible child is receiving services.
- (4) A request by parents of an eligible child for administrative resolution or mediation of a complaint shall contain the following:
  - (A) name and address of the child;
  - (B) name and address of the parent;
  - (C) name and address of the area program or contract agency against whom the complaint is made;
  - (D) a statement of facts describing in sufficient detail the nature of the complaint;
  - (E) the signature of the complaining parent and the date of signing; and
  - (F) whether the parent desires mediation prior to the administrative resolution of his complaint.
- (5) Parents of an eligible child may request mediation to resolve a complaint as an intervening step prior to the administrative proceeding. If mediation is requested, the mediation shall take place prior to the administrative proceeding.

- (6) If mediation or administrative proceeding is requested, an impartial person shall be:
    - (A) subject to qualifications of an impartial person as specified in Section 303.421 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations and incorporated by reference;
    - (B) selected from a list of mediators and administrative hearing officers approved by the Chief of the Developmental Disabilities Section of DMH/DD/SAS; and
    - (C) appointed by the area director to serve as a mediator.
  - (7) DMH/DD/SAS shall provide a training program for the mediators and the administrative hearing officers.
  - (8) Mediation may not be used to deny or delay a parent's right to speedy complaint resolution. The mediation, administrative proceeding and written decision must be completed within the 30-day timeline set forth in Paragraph (f) of this Rule.
  - (9) Parents may not be assessed fees for the mediation or any other costs related to the mediation services.
  - (10) Each mediation session shall be scheduled in a timely manner and held in a location that is convenient to the parties involved.
  - (11) Agreements reached by the parties involved in the mediation process shall be set forth in a mediation agreement.
  - (12) Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process or civil hearings and the parties involved may be required to sign a confidentiality pledge prior to the commencement of the process.
- (c) **Scheduling Administrative Proceedings.** Upon receipt of written request for administrative complaint resolution, the Director of the area program in which the eligible child is receiving services shall schedule an administrative proceeding in accordance with the requirements of this Section. The parents shall be notified in writing of the date, time and location of the proceeding no later than seven calendar days prior to the hearing by the area director. The hearings must be scheduled at a time and place that is reasonably convenient to the parents. "Reasonably convenient" means the same as in Section 303.423 of Subpart E of Part 303 of the Code of Federal Regulations and is incorporated by reference.
- (d) **Authority And Responsibilities Of Impartial Person:**
- (1) The hearing officer shall have the powers listed in G.S. 150B-33, and in addition shall have the following authority:
    - (A) to establish reasonable time limitations on the parties' presentations;
    - (B) to disallow irrelevant, immaterial or repetitive evidence;
    - (C) to direct that additional evaluations of the child be performed;
    - (D) to make findings of fact and conclusions of law relevant to the issues involved in the hearing;
    - (E) to issue subpoenas for the attendance of witnesses or the production of documents; and
    - (F) to specify the type and scope of the early intervention services to be offered the child, where the proposed services are found to be inappropriate.
  - (2) The hearing officer does not have the authority to:
    - (A) determine that only a specific program, specific early intervention staff person or specific service provider is appropriate for the pupil; or
- B) determine noncompliance with state law and regulations.
- (3) The decision of the hearing officer shall be in writing and shall contain findings of fact, conclusions of law and the reasons for the decision. The hearing officer shall mail a copy of the decision to each party by certified mail, return receipt requested.
  - (4) The hearing officer shall inform the parent that the parent may obtain a transcript of the hearing at no cost.
- (e) **Parent Rights In Administrative Proceedings.** Parents of an eligible child shall have the rights set forth in Section 303.422 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations, incorporated by reference.
- (f) **Timelines.** The administrative proceeding shall be completed, and a written decision mailed to each of the parties within 30 days after the receipt of a parent's complaint as described in Paragraph (b) of this Rule.
- (g) **Civil Action.** Section 303.424 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations relating to the availability of a civil action for any party aggrieved by the findings and decision in an administrative proceeding is incorporated by reference.
- (h) **Status Of Child During Proceedings.** Section 303.425 of Subpart E of Part 303 of Title 34 of the Code of Federal Regulations relating to the status of a child during an administrative proceeding is incorporated by reference.
- (i) **Confidentiality.** Personally identifiable information concerning an eligible child or family member of an eligible child is confidential and may not be disclosed or acquired except as provided by in Paragraphs (j) and (k) of this Rule.
- (j) **Disclosure Of Confidential Information To Employees.** An area program or contract agency may disclose confidential information to its employees who have a legitimate need for access to the information.

(k) Written Consent Required. Except as provided in Paragraph (b) of this Rule, all disclosures of confidential information, including disclosures between an area program and contract agency, may be made only with the written consent of the parents. Client information may be disclosed between agencies participating in the provision of early intervention services in accordance with G.S. 122C-53(a), 122C-55(c), 122C-55(f), or 122C-55(h), as appropriate. However, the extent of information disclosed shall be limited to that information which is necessary to carry out the purpose of the disclosure. Parents shall be informed of their right to refuse to consent to the release of confidential information. The content of written consent forms shall comply with the Confidentiality Rules, 10A NCAC 26B.

(l) Consent To Receive Services. The parents of a child, eligible to receive early intervention services, may determine whether they, their child, or other family members will accept or decline any type of early intervention service without jeopardizing the right to receive other early intervention services.

*History Note: Authority G.S. 143B-147; 150B-1(d); 20 U.S.C. Sections 1401 et. seq., 1471 et. seq.; Eff. May 1, 1996; Temporary Amendment Eff. May 21, 1999; Temporary Amendment Expired February 8, 2000; Codifier determined that findings did not meet criteria for temporary rule on May 22, 2000; Temporary Amendment Eff. May 30, 2000; Recodified from 10 NCAC 14V .0805 Eff. January 1, 2001; Amended Eff. April 1, 2001; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .1000 - RESERVED FOR FUTURE CODIFICATION**

### **SECTION .1100 - PARTIAL HOSPITALIZATION FOR INDIVIDUALS WHO ARE ACUTELY MENTALLY ILL**

#### **10A NCAC 27G .1101 SCOPE**

A partial hospitalization facility is a day/night facility which provides a broad range of intensive and therapeutic approaches which may include group, individual, occupational, activity and recreational therapies, training in community living and specific coping skills, and medical services as needed primarily for acutely mentally ill individuals. This facility provides services to:

- (1) prevent hospitalization; or
- (2) to serve as an interim step for those leaving an inpatient hospital.

This facility provides a medical component in a less restrictive setting than a hospital or a residential treatment or rehabilitation facility.

*History Note: Authority G.S. 122C-26; 143B-147; Eff. May 1, 1996; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1102 STAFF**

(a) Staff shall include at least one qualified mental health professional.

(b) Each facility serving minors shall have:

- (1) a program director who has a minimum of two years experience in child or adolescent services and who has educational preparation in administration, education, social work, nursing, psychology or a related field; and
- (2) one staff member present if only one client is in the program, and two staff members present when two or more clients are in the program.

(c) Each facility shall have a minimum ratio of one staff member present for every six clients at all times.

*History Note: Authority G.S. 122C-26; 143B-147; Eff. May 1, 1996; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1103 OPERATIONS**



- (a) A physician shall participate in diagnosis, treatment planning, and admission and discharge decisions. This physician shall be a psychiatrist unless a psychiatrist is unavailable or for other good cause cannot be obtained.
- (b) Each facility shall operate for a minimum of four hours per day (exclusive of transportation time), five days per week, excluding legal or governing body designated holidays.

*History Note:* Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

## **SECTION .1200 - PSYCHOSOCIAL REHABILITATION FACILITIES FOR INDIVIDUALS WITH SEVERE AND PERSISTENT MENTAL ILLNESS**

### **10A NCAC 27G .1201 SCOPE**

A psychosocial rehabilitation facility is a day/night facility which provides skill development activities, educational services, and pre-vocational training and transitional and supported employment services to individuals with severe and persistent mental illness. Services are designed primarily to serve individuals who have impaired role functioning that adversely affects at least two of the following: employment, management of financial affairs, ability to procure needed public support services, appropriateness of social behavior, or activities of daily living. Assistance is also provided to clients in organizing and developing their strengths and in establishing peer groups and community relationships.

*History Note:* Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

### **10A NCAC 27G .1202 STAFF**

- (a) Each facility shall have a designated program director.
- (b) A minimum of one staff member on-site to each eight or fewer clients in average daily attendance shall be maintained.

*History Note:* Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

### **10A NCAC 27G .1203 OPERATIONS**

- (a) Skills development, educational and prevocational services. Each facility shall provide:
  - (1) skills development activities which include:
    - (A) community living, such as housekeeping, shopping, cooking, use of transportation facilities, money management;
    - (B) personal care such as health care, medication management, grooming;
    - (C) social relationships;
    - (D) use of leisure time;
  - (2) educational activities which include assisting the client in securing needed education services such as adult basic education and special interest courses; and
  - (3) prevocational services which focus on the development of positive work habits and participation in work activities.
- (b) Employment Services. Each facility shall provide transitional or supported employment services to facilitate client entry into competitive employment.
  - (1) When supported employment services are provided by the facility, each client shall be one for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of severe mental illness.
  - (2) When supported employment is to be provided by the facility, one of the following models shall be used:
    - (A) job coaching and supervision of individuals in an industry or business;
    - (B) mobile crew service jobs of eight or fewer workers in the community under the training and supervision of a crew leader; or
    - (C) small business enterprises operated with eight or fewer workers with training and supervision provided on site.

- (3) When transitional employment services are provided by the facility:
    - (A) There shall be an agreement between the facility and employer for a specific job and the job shall first be performed by a facility staff member to determine its technical requirements.
    - (B) The selection of a client to fill a placement is the responsibility of the facility and the individual client.
  - (4) When supported employment services are provided through a vendorship arrangement between the psychosocial rehabilitation program and the Division of Vocational Rehabilitation, the rules in Section .5800 of this Subchapter shall apply.
- (c) Operating Hours. Each facility shall operate for a minimum of five hours per day, five days per week (exclusive of transportation time).

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .1300 - RESIDENTIAL TREATMENT FOR CHILDREN OR ADOLESCENTS**

### **10A NCAC 27G .1301 SCOPE**

- (a) The rules of this Section apply only to a residential treatment facility that provides residential treatment, level II, program type service.
- (b) A residential treatment facility providing residential treatment, level III service, shall be licensed as set forth in 10A NCAC 27G .1700.
- (c) A residential treatment facility for children and adolescents is a free-standing residential facility which provides a structured living environment within a system of care approach for children or adolescents who have a primary diagnosis of mental illness or emotional disturbance and who may also have other disabilities.
- (d) Services shall be designed to address the functioning level of the child or adolescent and include training in self-control, communication skills, social skills, and recreational skills. Children or adolescents may receive services in a day treatment facility, have a job placement, or attend school.
- (e) Services shall be designed to support the child or adolescent in gaining the skills necessary to return to the natural, or therapeutic home setting.
- (f) The residential treatment facility shall coordinate with other individuals and agencies within the client's system of care.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Amended Eff. March 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .1302 STAFF**

- (a) Each facility shall have a director who has a minimum of two years experience in child or adolescent services and who has educational preparation in administration, education, social work, nursing, psychology or a related field.
- (b) At all times, at least one direct care staff member shall be present with every four children or adolescents. If children or adolescents are cared for in separate buildings, the ratios shall apply to each building.
- (c) When two or more clients are in the facility, an emergency on-call staff shall be readily available by telephone or page and able to reach the facility within 30 minutes.
- (d) Psychiatric consultation shall be available as needed for each client.
- (e) Clinical consultation shall be provided by a qualified mental health professional to each facility at least twice a month.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .1303 OPERATIONS**

- (a) Capacity. Each facility shall serve no more than a total of 12 children and adolescents, except as set forth in this Rule.

- (1) Any facility licensed as a Residential Treatment Facility in this category on January 4, 1994 and providing services to more than a total of 12 children and adolescents may continue to provide services at no more than the facility's licensed capacity, providing that the capacity does not exceed 24.
  - (2) Any Child Caring Institution which was licensed by the Division of Social Services on January 4, 1994 may seek licensure as a Residential Treatment Facility as follows:
    - (A) the capacity of each residential unit in the Residential Treatment Facility shall be limited to 12 children and adolescents;
    - (B) each residential unit will be administered, staffed, and located to function separately from all other residential units in the facility; and
    - (C) the overall capacity shall be limited to the current capacity of the institution at the time of licensure as a Residential Treatment Facility.
  - (3) The two former Child Caring Institutions that were licensed as Residential Treatment Facilities in this category on April 1, 1990 shall be:
    - (A) exempt from the capacity limit of 24;
    - (B) exempt from the provisions in Parts (2)(A) and (B) of this Rule; and
    - (C) limited to the licensed capacity existing on July 1, 1993.
- (b) Family Involvement. Family members or other responsible adults shall be involved in development of plans in order to assure a smooth transition to a less restrictive setting.
- (c) Education. Children and adolescents residing in a residential treatment facility shall receive appropriate educational services, either through a facility-based school, 'home-based' services, or through a day treatment program. Transition to a public school setting shall be part of the treatment plan.
- (d) Age Limitation. If an adolescent has his 18th birthday while receiving treatment in a residential facility, he may continue in the facility for six months or until the end of the state fiscal year, whichever is longer.
- (e) Clothing. Each child or adolescent shall have his own clothing and shall have training and help in its selection and care.
- (f) Personal Belongings. Each child or adolescent shall be entitled to age-appropriate personal belongings unless such entitlement is counter-indicated in the treatment plan.
- (g) Hours of Operation. Each facility shall operate 24 hours per day, at least five days per week, at least 50 weeks per year, excluding legal holidays.

*History Note: Authority G.S. 122C-26; 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1304 PHYSICAL PLANT**

- (a) The facility shall not be hospital-based.
- (b) Subject to building and fire codes, the facility may be locked to prevent unauthorized entry.

*History Note: Authority G.S. 122C-26; 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .1400 - DAY TREATMENT FOR CHILDREN AND ADOLESCENTS WITH EMOTIONAL OR BEHAVIORAL DISTURBANCES**

#### **10A NCAC 27G .1401 SCOPE**

- (a) Day treatment is a day/night facility for children and adolescents who are emotionally disturbed which coordinates educational activities and intensive treatment while allowing the individual to live at home or in the community.
- (b) This service is designed to increase the ability of a child or adolescent to relate to others and function appropriately within the community while serving as an intervention to prevent hospitalization or placement outside the home or community.
- (c) It shall provide a therapeutic environment as well as other activities which may include individual therapy, group therapy, recreational therapy, language communication skills development, social skills development, pre-vocational service, vocational training, service to parents, and individual advocacy.
- (d) The client's educational activities may be provided in this facility or in another educational setting, such as regular classes or special education programs within a typical school setting.

- (e) Treatment, services, and discharge plans provided by day treatment programs shall be coordinated with other individuals and agencies within each client's local system of care.
- (f) Day treatment facilities may include before/after school and summer facilities, and early intervention.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1402 STAFF**

- (a) Each facility shall have a program director who has a minimum of two years experience in child or adolescent services and who has educational preparation in administration, education, social work, nursing, psychology or a related field.
- (b) A minimum of two staff members shall be present with clients at all times except on occasions when only one client is in the program, in which case only one staff member is required to be present.
- (c) A minimum ratio of one staff member to every eight clients shall be maintained at all times.
- (d) Psychiatric consultation shall be available for each client.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1403 OPERATIONS**

If an adolescent has his 18th birthday while receiving treatment in a day treatment facility, he may continue in the facility for six months or until the end of the state fiscal year, whichever is longer.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .1500 - INTENSIVE RESIDENTIAL TREATMENT FOR CHILDREN AND ADOLESCENTS WHO ARE EMOTIONALLY DISTURBED OR WHO HAVE A MENTAL ILLNESS**

#### **10A NCAC 27G .1501 SCOPE**

#### **10A NCAC 27G .1502 STAFF**

#### **10A NCAC 27G .1503 OPERATIONS**

#### **10A NCAC 27G .1504 PHYSICAL PLANT**

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Repealed Eff. May 1, 2007.*

### **SECTION .1600 - RESERVED FOR FUTURE CODIFICATION**

### **SECTION .1700 - RESIDENTIAL TREATMENT STAFF SECURE FOR CHILDREN OR ADOLESCENTS**

#### **10A NCAC 27G .1701 SCOPE**

- (a) A residential treatment staff secure facility for children or adolescents is one that is a free-standing residential facility that provides intensive, active therapeutic treatment and interventions within a system of care approach. It shall not be the primary residence of an individual who is not a client of the facility.
- (b) Staff secure means staff are required to be awake during client sleep hours and supervision shall be continuous as set forth in Rule .1704 of this Section.
- (c) The population served shall be children or adolescents who have a primary diagnosis of mental illness, emotional disturbance or substance-related disorders; and may also have co-occurring disorders including developmental disabilities. These children or adolescents shall not meet criteria for inpatient psychiatric services.
- (d) The children or adolescents served shall require the following:
  - (1) removal from home to a community-based residential setting in order to facilitate treatment; and

- (2) treatment in a staff secure setting.
- (e) Services shall be designed to:
  - (1) include individualized supervision and structure of daily living;
  - (2) minimize the occurrence of behaviors related to functional deficits;
  - (3) ensure safety and deescalate out of control behaviors including frequent crisis management with or without physical restraint;
  - (4) assist the child or adolescent in the acquisition of adaptive functioning in self-control, communication, social and recreational skills; and
  - (5) support the child or adolescent in gaining the skills needed to step-down to a less intensive treatment setting.
- (f) The residential treatment staff secure facility shall coordinate with other individuals and agencies within the child or adolescent's system of care.

*History Note: Authority G.S. 122C-26; 143B-147;  
 Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006;  
 Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1702 REQUIREMENTS OF QUALIFIED PROFESSIONALS**

- (a) Each facility shall utilize at least one direct care staff who meets the requirements of a qualified professional as set forth in 10A NCAC 27G .0104(18). In addition, this qualified professional shall have two years of direct client care experience.
- (b) For each facility of five or less beds:
  - (1) the qualified professional specified in Paragraph (a) of this Rule shall perform clinical and administrative responsibilities a minimum of 10 hours each week; and
  - (2) 70% of the time shall occur when children or adolescents are awake and present in the facility.
- (c) For each facility of six or more beds:
  - (1) the qualified professional specified in Paragraph (a) of this Rule shall perform clinical and administrative responsibilities a minimum of 32 hours each week; and
  - (2) 70% of the time shall occur when children or adolescents are awake and present in the facility.
- (d) The governing body responsible for each facility shall develop and implement written policies that specify the clinical and administrative responsibilities of its qualified professional(s). At a minimum these policies shall include:
  - (1) supervision of its associate professional(s) as set forth in Rule .1703 of this Section;
  - (2) oversight of emergencies;
  - (3) provision of direct psychoeducational services to children or adolescents;
  - (4) participation in treatment planning meetings;
  - (5) coordination of each child or adolescent's treatment plan; and
  - (6) provision of basic case management functions.

*History Note: Authority G.S. 122C-26; 143B-147;  
 Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006;  
 Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1703 REQUIREMENTS FOR ASSOCIATE PROFESSIONALS**

- (a) In addition to the qualified professional specified in Rule .1702 of this Section, each facility shall have at least one full-time direct care staff who meets or exceeds the requirements of an associate professional as set forth in 10A NCAC 27G .0104(1).
- (b) The governing body responsible for each facility shall develop and implement written policies that specify the responsibilities of its associate professional(s). At a minimum these policies shall address the following:
  - (1) management of the day to day day-to-day operations of the facility;
  - (2) supervision of paraprofessionals regarding responsibilities related to the implementation of each child or adolescent's treatment plan; and
  - (3) participation in service planning meetings.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006;*  
*Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1704 MINIMUM STAFFING REQUIREMENTS**

- (a) A qualified professional shall be available by telephone or page. A direct care staff shall be able to reach the facility within 30 minutes at all times.
- (b) The minimum number of direct care staff required when children or adolescents are present and awake is as follows:
  - (1) two direct care staff shall be present for one, two, three or four children or adolescents;
  - (2) three direct care staff shall be present for five, six, seven or eight children or adolescents; and
  - (3) four direct care staff shall be present for nine, ten, eleven or twelve children or adolescents.
- (c) The minimum number of direct care staff during child or adolescent sleep hours is as follows:
  - (1) two direct care staff shall be present and one shall be awake for one through four children or adolescents;
  - (2) two direct care staff shall be present and both shall be awake for five through eight children or adolescents; and
  - (3) three direct care staff shall be present of which two shall be awake and the third may be asleep for nine, ten, eleven or twelve children or adolescents.
- (d) In addition to the minimum number of direct care staff set forth in Paragraphs (a)-(c) of this Rule, more direct care staff shall be required in the facility based on the child or adolescent's individual needs as specified in the treatment plan.
- (e) Each facility shall be responsible for ensuring supervision of children or adolescents when they are away from the facility in accordance with the child or adolescent's individual strengths and needs as specified in the treatment plan.

*History Note: Authority G.S. 122C-26; 143B-147;*  
*Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006;*  
*Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1705 REQUIREMENTS OF LICENSED PROFESSIONALS**

- (a) Face to face clinical consultation shall be provided in each facility at least four hours a week by a licensed professional. For purposes of this Rule, licensed professional means an individual who holds a license or provisional license issued by the governing board regulating a human service profession in the State of North Carolina. For substance-related disorders this shall include a licensed Clinical Addiction Specialist or a certified Clinical Supervisor.
- (b) The consultation specified in Paragraph (a) of this Rule shall include:
  - (1) clinical supervision of the qualified professional specified in Rule .1702 of this Section;
  - (2) individual, group or family therapy services; or
  - (3) involvement in child or adolescent specific treatment plans or overall program issues.

*History Note: Authority G.S. 122C-26; 143B-147;*  
*Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006;*  
*Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1706 OPERATIONS**

- (a) Each facility shall serve no more than a total of 12 children and adolescents.
- (b) Family members or other legally responsible persons shall be involved in development of plans in order to assure a smooth transition to a less restrictive setting.
- (c) The residential treatment staff secure facility shall coordinate with the local education agency to ensure that the child's educational needs are met as identified in the child's education plan and the treatment plan. Most of the children will be able to attend school; for others, the facility will coordinate services across settings such as alternative learning programs, day treatment, or a job placement.
- (d) Psychiatric consultation shall be available as needed for each child or adolescent.
- (e) If an adolescent has his 18th birthday while receiving treatment in the facility, he may remain for six months or until the end of the state fiscal year, whichever is longer.
- (f) Each child or adolescent shall be entitled to age-appropriate personal belongings unless such entitlement is counter-indicated in the treatment plan.

(g) Each facility shall operate 24 hours per day, seven days per week, and each day of the year.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006;  
Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1707 PERSONS PERMITTED IN THE FACILITY**

- (a) Only admitted children or adolescents, legally responsible persons, staff, other family and friends identified in the treatment plan, and others permitted by the facility director shall be permitted on the premises.
- (b) Individuals other than those specified in Paragraph (a) of this Rule are prohibited from entering the facility except in instances of emergency or as permitted by law.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006;  
Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1708 TRANSFER OR DISCHARGE**

- (a) The purpose of this Rule is to address the transfer or discharge of a child or adolescent from the facility.
- (b) A child or adolescent shall not be discharged or transferred from a facility, except in case of emergency, without the advance written notification of the treatment team, including the legally responsible person. For purposes of this Rule, treatment team means the same as the existing child and family team or other involved persons as set forth in Paragraph (c) of this Rule.
- (c) The facility shall meet with existing child and family teams or other involved persons including the parent(s) or legal guardian, area authority or county program representative(s) and other representatives involved in the care and treatment of the child or adolescent, including local Department of Social Services, Local Education Agency and criminal justice agency, to make service planning decisions prior to the transfer or discharge of the child or adolescent from the facility.
- (d) In case of an emergency, the facility shall notify the treatment team including the legally responsible person of the transfer or discharge of the child or adolescent as soon as the emergency situation is stabilized.
- (e) In case of an emergency, notification may be by telephone. A service planning meeting as set forth in Paragraph (c) of this Rule shall be held within five business days of an emergency transfer or discharge.

*History Note: G.S. 122C-26; 143B-147;  
Eff. April 3, 2006 pursuant to E.O. 101, Michael F. Easley, March 27, 2006;  
Pursuant to G.S. 150B-21.3(c), a bill was not ratified by the General Assembly to disapprove this rule;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .1800 – INTENSIVE RESIDENTIAL TREATMENT FOR CHILDREN OR ADOLESCENTS**

#### **10A NCAC 27G .1801 SCOPE**

- (a) An intensive residential treatment facility is one that is a 24-hour residential facility that provides a structured living environment within a system of care approach for children or adolescents whose needs require more intensive treatment and supervision than would be available in a residential treatment staff secure facility.
- (b) It shall not be the primary residence of an individual who is not a client of the facility.
- (c) The population served shall be children or adolescents who have a primary diagnosis of mental illness, severe emotional and behavioral disorders or substance-related disorders; and may also have co-occurring disorders including developmental disabilities. These children or adolescents shall not meet criteria for acute inpatient psychiatric services.
- (d) The children or adolescents served shall require the following:
  - (1) removal from home to an intensive integrated treatment setting; and
  - (2) treatment in a locked setting.
- (e) Services shall be designed to:
  - (1) assist in the development of symptom and behavior management skills;
  - (2) include intensive, frequent and pre-planned crisis management;
  - (3) provide containment and safety from potentially harmful or destructive behaviors;

- (4) promote involvement in regular productive activity, such as school or work; and
- (5) support the child or adolescent in gaining the skills needed for reintegration into community living.
- (f) The intensive residential treatment facility shall coordinate with other individuals and agencies within the child or adolescent's system of care.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. April 1, 2006;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1802 REQUIREMENTS OF LICENSED PROFESSIONALS**

(a) Each facility shall have at least one full-time licensed professional. For purposes of this Rule, licensed professional means an individual who holds a license or provisional license issued by the governing board regulating a human service profession in the State of North Carolina. For substance related disorders this shall include a Licensed Clinical Addiction Specialist or a Certified Clinical Supervisor.

(b) The governing body responsible for each facility shall develop and implement written policies that specify the clinical and administrative responsibilities of its licensed professional(s). At a minimum these policies shall include:

- (1) supervision of direct care staff;
- (2) oversight of emergencies;
- (3) provision of direct clinical psychoeducational services to children, adolescents or families;
- (4) participation in treatment planning meetings; and
- (5) coordination of each child or adolescent's treatment plan.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. April 1, 2006;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1803 REQUIREMENTS OF QUALIFIED PROFESSIONALS**

(a) Each facility shall have at least one full-time qualified professional as set forth in 10A NCAC 27G .0104(18). In addition, the qualified professional shall have two years of direct client care experience.

(b) For each facility:

- (1) a qualified professional shall perform clinical and administrative responsibilities a minimum of 40 hours each week; and
- (2) 75% shall occur when children or adolescents are awake and present in the facility.

(c) The governing body responsible for each facility shall develop and implement written policies that specify the clinical and administrative responsibilities of its qualified professional(s). At a minimum these policies shall include:

- (1) management of the day to day operations of the facility;
- (2) supervision of paraprofessionals regarding responsibilities related to the implementation of each child or adolescent's treatment plan;
- (3) participation in treatment planning meetings; and
- (4) provision of basic case management functions.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. April 1, 2006;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1804 MINIMUM STAFFING REQUIREMENTS**

(a) A Qualified Professional shall be available by telephone or page. A direct care staff shall be able to reach the facility within 30 minutes at all times.

(b) If children or adolescents are cared for in separate units/buildings, the minimum staffing numbers shall apply to each unit/building.

(c) The minimum number of direct care staff required when children or adolescents are present and awake is as follows:

- (1) three direct care staff shall be present for up to six children or adolescents;
- (2) four direct care staff shall be present for seven, eight or nine children or adolescents; and
- (3) five direct care staff shall be present for 10, 11 or 12 children or adolescents.



- (d) During child or adolescent sleep hours three direct care staff shall be present of which two shall be awake and the third may be asleep.
- (e) In addition to the minimum number of direct care staff set forth in Paragraphs (a)-(d) of this Rule, more direct care staff may be required in the facility based on the child or adolescent's individual needs as specified in the treatment plan.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. April 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1805 OPERATIONS**

- (a) Each facility shall serve no more than 12 children or adolescents.
- (b) Family members or other legally responsible persons shall be involved in development of plans in order to assure a smooth transition to a less restrictive setting.
- (c) Educational services within the facility shall be arranged and designed to maintain the educational and intellectual development of the child or adolescent. Treatment staff shall coordinate with the local education agency to ensure that the child or adolescent's educational needs are met as identified in the education plan.
- (d) Psychiatric consultation shall be available as needed for each child or adolescent.
- (e) If an adolescent has his 18th birthday while receiving treatment in the facility, he may remain for six months or until the end of the state fiscal year, whichever is longer.
- (f) Each child or adolescent shall be entitled to age-appropriate personal belongings unless such entitlement is counter-indicated in the treatment plan.
- (g) Each facility shall operate 24 hours per day, seven days per week, and each day of the year.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. April 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1806 TRANSFER OR DISCHARGE**

- (a) The purpose of this Rule is to address the transfer or discharge of a child or adolescent from the facility.
- (b) A child or adolescent shall not be discharged or transferred from a facility, except in case of emergency, without the advance written notification of the treatment team, including the legally responsible person. For purposes of this Rule, treatment team means the same as the existing child and family team or other involved persons as set forth in Paragraph (c) of this Rule.
- (c) The facility shall meet with existing child and family teams or other involved persons including the parent(s) or legal guardian, area authority or county program representative(s) and other representatives involved in the care and treatment of the child or adolescent, including local Department of Social Services, Local Education Agency and criminal justice agency, to make service planning decisions prior to the transfer or discharge of the child or adolescent from the facility.
- (d) In case of an emergency, the facility shall notify the treatment team including the legally responsible person of the transfer or discharge of the child or adolescent as soon as the emergency situation is stabilized.
- (e) In case of an emergency, notification may be by telephone. A service planning meeting as set forth in Paragraph (c) of this Rule shall be held within five business days of an emergency transfer or discharge.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. April 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .1900 - PSYCHIATRIC RESIDENTIAL TREATMENT FOR CHILDREN AND ADOLESCENTS**

#### **10A NCAC 27G .1901 SCOPE**

- (a) The rules in this Section apply to psychiatric residential treatment facilities (PRTF)s.
- (b) A PRTF is one that provides care for children or adolescents who have mental illness or substance abuse/dependency in a non-acute inpatient setting.
- (c) The PRTF shall provide a structured living environment for children or adolescents who do not meet criteria for acute inpatient care, but do require supervision and specialized interventions on a 24-hour basis.

- (d) Therapeutic interventions shall address functional deficits associated with the child or adolescent's diagnosis and include psychiatric treatment and specialized substance abuse and mental health therapeutic care. These therapeutic interventions and services shall be designed to address the treatment needs necessary to facilitate a move to a less intensive community setting.
- (e) The PRTF shall serve children or adolescents for whom removal from home or a community-based residential setting is essential to facilitate treatment.
- (f) The PRTF shall coordinate with other individuals and agencies within the child or adolescent's catchment area.
- (g) The PRTF shall be accredited through one of the following; Joint Commission on Accreditation of Healthcare Organizations; the Commission on Accreditation of Rehabilitation Facilities; the Council on Accreditation or other national accrediting bodies as set forth in the Division of Medical Assistance Clinical Policy Number 8D-1, Psychiatric Residential Treatment Facility, including subsequent amendments and editions. A copy of Clinical Policy Number 8D-1 is available at no cost from the Division of Medical Assistance website at <http://www.dhhs.state.nc.us/dma/>.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. November 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1902 STAFF**

- (a) Each facility shall be under the direction a physician board-eligible or certified in child psychiatry or a general psychiatrist with experience in the treatment of children and adolescents with mental illness.
- (b) At all times, at least two direct care staff members shall be present with every six children or adolescents in each residential unit.
- (c) If the PRTF is hospital based, staff shall be specifically assigned to this facility, with responsibilities separate from those performed on an acute medical unit or other residential units.
- (d) A psychiatrist shall provide weekly consultation to review medications with each child or adolescent admitted to the facility.
- (e) The PRTF shall provide 24 hour on-site coverage by a registered nurse.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. November 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1903 OPERATIONS**

- (a) A PRTF may have more than one residential unit. Each unit of a PRTF shall serve no more than 12 children or adolescents except as set out in Paragraph (b) of this Rule. Each residential unit shall be administered, staffed, and located to function separately from all other residential units in the facility.
- (b) A facility licensed to provide PRTF services with a unit capacity of greater than 12, as of the effective date of these Rules may continue to provide these services at that greater capacity and may continue to renew its license at that greater capacity.
- (c) Discharge planning shall begin on the day of admission. Efforts for discharge to a less restrictive community residential setting shall be documented from the date of admission. Legally responsible persons, family members or both and the child or adolescent shall be present at discharge planning meetings.
- (d) Each facility shall operate 24-hours a day, seven days a week and each day of the year.
- (e) Family members or other legally responsible persons shall be involved in the development and implementation of treatment plans in order to assure a smooth transition to a less restrictive setting.
- (f) Children or adolescents residing in a PRTF shall receive educational services through a facility-based school. Educational services shall meet applicable standards as required by federal and State law.
- (g) Each child or adolescent shall be entitled to age-appropriate personal belongings unless such entitlement is counter-indicated in the treatment plan.

*History Note: Authority G.S. 143B-147;  
Eff. November 1, 2005;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .1904 TRANSFER OR DISCHARGE**

- (a) The purpose of this Rule is to address the transfer or discharge of a child or adolescent from the facility.

(b) A child or adolescent shall not be discharged or transferred from a facility, except in case of emergency, without the advance written notification of the treatment team, including the legally responsible person. For purposes of this Rule, treatment team means the same as the existing child and family team or other involved persons as set forth in Paragraph (c) of this Rule.

(c) The PRTF shall meet with existing child and family teams and other involved persons including the parent(s) or legal guardian, area authority or county program representative(s) and other representatives involved in the care and treatment of the child or adolescent including local Department of Social Services, Local Education Agency and criminal justice agency, to make service planning decisions prior to the transfer or discharge of the child or adolescent from the facility.

(d) In case of an emergency, the facility shall notify the treatment team including the legally responsible person of the transfer or discharge the child or adolescent as soon as the emergency situation is stabilized.

(e) In case of an emergency, notification may be by telephone. A service planning meeting as set forth in Paragraph (c) of this Rule shall be held within five business days of an emergency transfer or discharge.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. November 1, 2005;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .2000 - RESERVED FOR FUTURE CODIFICATION**

### **SECTION .2100 - SPECIALIZED COMMUNITY RESIDENTIAL CENTERS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES**

#### **10A NCAC 27G .2101 SCOPE**

(a) A specialized community residential center is a 24-hour facility which provides care, treatment and developmental training over an extended period of time, through integration of medical services and close supervision, for individuals who are developmentally disabled or have multiple disabilities.

(b) The service is designed to assist each individual to attain his highest level of independent living skills while receiving care for his physical needs.

(c) This facility may be certified for Medicaid as an Intermediate Care Facility for the Mentally Retarded (ICF/MR).

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2102 STAFF**

(a) Each facility shall designate a director who has experience in developmental disabilities and holds a baccalaureate degree with specialization in administration, education, social work, nursing, psychology or a related field or who has comparable experience and education.

(b) At least one registered nurse or licensed practical nurse shall be on the grounds of the facility at all times.

(c) Each facility shall have at least one registered nurse on staff.

(d) During waking hours, the following minimum client to staff ratios shall be in effect for each building:

(1) a minimum of two direct care staff members shall be on duty at all times; and

(2) a minimum of one direct care staff member shall be on duty for every five clients.

(e) During sleeping hours, the following minimum client to staff ratios shall be in effect for each building:

(1) one direct care staff member shall be awake and on duty at all times and one other staff member shall be on call in the building; and

(2) a minimum of one direct care staff member shall be on duty for every ten clients.

(f) Medical care shall be available on a 24-hour basis for each client.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2103 OPERATIONS**

- (a) Capacity. Facilities beginning operation subsequent to the effective date of these rules shall be designed to serve no more than 30 clients at one location.
- (b) Personal Clothing. Each client shall have adequate changes of personal clothing at least daily.
- (c) Daily Training Activities:
  - (1) Daily training activities shall be scheduled to meet the developmental needs of each client.
  - (2) Activities shall take into consideration the length of time each client should be scheduled for needed rest periods, his need for individual attention, and special limitation of activities and diets.
  - (3) Both free play and organized recreational activities shall be provided as appropriate to individual needs.
  - (4) Field trips and community experiences shall be provided for individual clients.
  - (5) Daily routines common to non-disabled clients shall be followed.
  - (6) Daily outdoor activities shall be planned in acceptable weather when appropriate to the health and physical needs of the client.
  - (7) When adults are served, vocational services shall be provided unless there is medical contraindication.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2104 PHYSICAL PLANT**

No more than six infants or children and no more than four adolescents or adults may share an individual bedroom regardless of bedroom size.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .2200 - BEFORE/AFTER SCHOOL AND SUMMER DEVELOPMENTAL DAY SERVICES FOR CHILDREN WITH OR AT RISK FOR DEVELOPMENTAL DELAYS, DEVELOPMENTAL DISABILITIES, OR ATYPICAL DEVELOPMENT**

#### **10A NCAC 27G .2201 SCOPE**

- (a) Before/after school developmental day services for school age youth and preschool youth with or at risk for developmental delays, developmental disabilities, or atypical development are facilities that provide individual habilitative programming and recreational activities.
  - (1) Services are provided preceding and following the school day during the months of local school operation and shall be designed to meet developmental needs of the client as well as the child care needs of families.
  - (2) Before/after school services may be provided as a component of a developmental day center.
- (b) Summer developmental day services for school aged and preschool youth with or at risk for developmental delays, developmental disabilities, or atypical development are facilities that provide individual habilitative programming and recreational activities in a licensed child care center for school-age youth during the summer period, when they are not participating in educational activities. This service is:
  - (1) designed to promote continuing progress in acquiring developmental skills such as self-help, fine and gross motor, language and communication, cognitive and social skills in order to facilitate functioning in a less restrictive environment; and
  - (2) designed to meet child care needs of families.
- (c) The rules in this Section are applicable when these services are provided as a separate free-standing component which is not in the same facility as a developmental day center for children licensed under G.S. 110, Article 7.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2202 STAFF**

- (a) Each staff member, except student trainees and supervised volunteers, shall be at least 18 years of age.

- (b) Each facility shall have a designated program director who has experience working with individuals diagnosed with developmental disabilities, and holds a baccalaureate degree with specialization in administration, education, social work, nursing, psychology, or a related human services field.
- (c) A minimum of two staff members shall provide direct child care at all times.
- (d) A minimum of one direct care staff member shall be on duty for every five clients.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Readopted Eff. November 1, 2022.*

#### **10A NCAC 27G .2203 OPERATIONS**

- (a) Each before/after school developmental day service shall be available for a minimum of three hours per day (exclusive of transportation time), five days per week, during the months of local school operation.
- (b) Each summer developmental day service shall be available for a minimum of eight hours per day (exclusive of transportation time), five days per week, during the weeks in which local school operation is closed for summer break.
- (c) The center shall provide or secure opportunities for the parent or the legally responsible person to attend individual or group activities.
- (d) Grouping shall allow for attending to the individual needs of each client and reflect developmentally appropriate practices.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2204 PHYSICAL PLANT**

**(a) Classroom And Activity Space:**

- (1) A ratio of 50 square feet per client shall be available for indoor classroom and activity space, exclusive of space occupied by sinks, lockers, storage cabinets, and other fixed equipment.
- (2) Space shall be available for small groups and individualized training.
- (3) Special interest areas shall be provided to enhance the development of individual clients.
- (4) Space for indoor physical activities shall be available for the provision of those activities enhancing gross motor development.
- (5) Centers with at least 40% of their enrollment being clients without disabilities and having an inclusion plan approved by DMH/DD/SAS for area-operated programs and by the area program director for contract agency centers may have a total of 35 square feet available per client for indoor classroom and activity space.

**(b) Outdoor Activity Space:**

- (1) Outdoor activity space shall be available in the ratio of 200 square feet per child scheduled to use the area at any one time.
- (2) Centers with at least 40% of their enrollment being children without disabilities and having an inclusion plan approved by DMH/DD/SAS for area-operated programs and by the area program director for contract agency centers may have a total of 100 square feet available per child.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .2300 - ADULT DEVELOPMENTAL AND VOCATIONAL PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES**

#### **10A NCAC 27G .2301 SCOPE**

- (a) An Adult Developmental and Vocational Program (ADVP) is a day/night facility which provides organized developmental activities for adults with developmental disabilities to prepare the individual to live and work as independently as possible. The activities and services of an ADVP are designed to adhere to the principles of normalization and community integration aimed at increasing age-appropriate actions, images and appearance of the individual.

(b) An ADVP offers a diverse variety of specific services and activities. These include vocational evaluation, vocational training, remunerative employment, personal and community living skill development, adult basic education and long-term support and follow-up. Support services to clients' families and consultation with the clients' employers and other involved agencies may also be provided. The amount of time devoted to these areas varies considerably depending on the needs of the clients served.

(c) The rules contained in this Section are applicable to facility-based ADVP services.

(d) The majority of the ADVP activities in this model, whether vocational or developmental in nature, are carried out on the premises of a site specifically designed for this purpose.

(e) It is the ADVP that shall be subject to licensure, not the location of the business or organization where the client may be placed for work.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .2302 DEFINITIONS**

In addition to the terms defined in Rule .0103 of this Subchapter and G.S. 122C-3, the following terms shall also apply:

- (1) "Approved supported employment conversion plan" means a planned approach to changing the type of services delivered from ADVP facility-based to supported employment. Approval of the conversion plan is the responsibility of the Chief of the appropriate disability section of DMH/DD/SAS or his designee and the Area Director or his designee if the facility is operated by a contract agency of the area program or other service provider. DMH/DD/SAS shall request appropriate personnel from the Division of Vocational Rehabilitation to participate in the plan review process. The request for approval of the supported employment conversion plan shall include specific written information in the following areas:
  - (a) number of clients to be moved into supported employment;
  - (b) types of supported employment models to be used;
  - (c) time frame for the conversion period;
  - (d) interim proposed facility staffing patterns and responsibilities; and
  - (e) proposed budget for the conversion plan.
- (2) "Supported employment" means a day/night service which involves paid work in a job which would otherwise be done by a non-disabled worker. Supported employment is carried out in an integrated work site where an individual or a small number of people with disabilities work together and where the work site is not immediately adjacent to another program serving persons with disabilities. It includes involvement of staff working with the individuals in these integrated settings.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .2303 STAFF**

(a) Each ADVP shall have a designated full-time program director.

(b) The Program Director shall be at least a high school graduate or equivalent with three years of experience in developmental disabilities programming.

(c) Each facility shall have evaluation services available for all clients.

(d) Each facility shall maintain an overall direct service ratio of at least one full-time or full-time equivalent direct service staff member for every ten or fewer clients. Facilities having an approved supported employment conversion plan as defined in Rule .2302 of this Section may exclude a maximum of ten clients or 20 percent of a facility's average daily enrollment, whichever is greater, when calculating the required direct service ratio.

(e) If the site is maintained by the ADVP:

- (1) A safety committee comprised of staff members and clients shall be appointed and shall meet at least quarterly to review accident reports and to monitor the ADVP for safety; and
- (2) Minutes shall be kept of all meetings.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2304 OPERATIONS**

(a) Safety Educational Program. Each ADVP shall provide an ongoing educational program for staff and clients designed to teach them the principles of accident prevention and control of specific hazards. The program shall include training for clients in personal, work and environmental safety.

(b) Business Practices:

- (1) If the ADVP seeks or receives remuneration for goods or services provided to another individual, organization or business:
  - (A) Supplies, materials or tools, if provided by the ADVP, shall be identified as a separate amount in the bid price;
  - (B) Wages paid to ADVP clients shall be on a piece rate or hourly commensurate wage basis;
  - (C) Each client involved in productive work shall receive a written statement for each pay period which indicates gross pay, hours worked and deductions; and
  - (D) Prices for goods produced in the ADVP shall be equal to or exceed the cost of production (including commensurate wages, overhead, tools and materials).
- (2) If the client is an employee of another individual, organization or business, the ADVP shall review client earnings information on at least an annual basis to ensure appropriateness of pay rates and amounts.
- (3) Clients shall be counseled concerning their rights and responsibilities in such matters as wages, hours, working conditions, social security, redress for injury and the consequences of their own tortious or unethical conduct.

(c) Handbook. Each ADVP shall have a client handbook including, but not limited to, information about services and activities.

- (1) The client handbook shall be written in a manner comprehensible to clients and reflective of adult status.
- (2) Each client shall be given a handbook, and the handbook shall be reviewed with the client.

(d) Hours Of Operation. ADVP services shall be available for client attendance at least six hours per day (exclusive of transportation time), five days per week, unless closed in accordance with governing board policy.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2305 PHYSICAL PLANT**

If the site is maintained by the ADVP:

- (1) Each site shall be inspected annually by an outside safety consultant with written documentation and follow-up on recommendations; and
- (2) Each site shall be designed and equipped to promote the training, employment and adult status of clients.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2306 CLIENT ELIGIBILITY AND ADMISSIONS**

(a) Eligibility. Clients served shall be eligible for ADVP regardless of financial resources with the exception of a client whose work earnings exceed 60% of the prevailing wage over a consecutive 90-day period. Eligibility for clients in non-supported employment settings whose earnings have exceeded over 60% of the prevailing wage for over 90 consecutive days may be extended for up to one calendar year if supported employment options are not available locally and the client is ineligible for other services from the Division of Vocational Rehabilitation, or if the client's social, behavioral or vocational skill deficits preclude participation in supported employment options and results in ineligibility for other vocational rehabilitation services. The eligibility extension shall occur through the annual habilitation planning process carried out by the designated area program qualified developmental disabilities professional. Requests for the extension shall be based on a joint case review involving a representative of the involved ADVP, the local VR unit and the area program. The request shall identify the specific skill deficits precluding eligibility for supported employment or other vocational rehabilitation services and include plans for addressing these deficits. The certification extension may be reapplied for a maximum of two times only. The same criteria and procedures shall be followed in each instance of reapplication as are required for the initial extension.

(b) Admissions. Each ADVP shall have written admission policies and procedures.

- (1) A pre-admission staffing shall be held for each client considered for admission to the ADVP. During the staffing, information shall be considered regarding the client's medical, psychological, social, and vocational histories.
- (2) Results of the pre-admission staffing shall be documented and forwarded to the referral or sponsoring agency. The client shall be notified of the results of the staffing.
- (3) A qualified developmental disabilities professional of the area program shall certify the eligibility of each client for the ADVP service.

*History Note: Authority G.S. 122C-51; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .2400 - DEVELOPMENTAL DAY SERVICES FOR CHILDREN WITH OR AT RISK FOR DEVELOPMENTAL DELAYS, DEVELOPMENTAL DISABILITIES OR ATYPICAL DEVELOPMENT**

### **10A NCAC 27G .2401 SCOPE**

A developmental day service is a day/night service which provides individual habilitative programming for children with, or at risk for developmental delay, developmental disabilities or atypical development in specialized licensed child care centers. The service:

- (1) is designed to meet developmental needs of the children such as self-help, physical, language and speech, and cognitive and psychosocial skills in order to facilitate their functioning in a less restrictive environment, as well as to meet child care needs of families; and
- (2) offers family training and support.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .2402 STAFF**

(a) Each developmental day center shall have a designated director who holds a bachelor level degree with specialization in administration, education, social work, nursing, psychology or a related field or have comparable experience and education.

(b) Each staff member except student trainees and supervised volunteers shall be at least 18 years of age.

(c) Staff shall provide continuous supervision of each child.

(d) A minimum of two staff members shall provide direct child care at all times.

(e) A minimum of one direct child care staff member shall be on duty for every five children.

(f) If school or preschool aged children are served under contract with the Department of Public Instruction, a preschool handicapped, B-K, or special education certified teacher shall be employed for each 20 children or less. The type of certification shall be based on the ages of the children served. When infants and toddlers are served, a professional privileged in accordance with the requirements of Part H of Individuals with Disabilities Education Act shall be employed for each 20 children or less. This material is incorporated by reference and includes subsequent editions and amendments.

(g) If infants are served, a minimum of one direct care staff member shall be on duty for every three infants.

(h) Centers with at least 40% of their enrollment being children without disabilities, and having an inclusion plan approved by DMH/DD/SAS for area-operated programs and by the area program director for contract agency centers, may utilize the following staff/child ratio:

- (1) Infants - 1:4;
- (2) Toddlers and older children - 1:6.

(i) The disciplines of social work, physical therapy, occupational therapy and speech and language therapy shall be available through center employees, consultants, or agreements with other providers.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .2403 OPERATIONS**



- (a) Hours. Developmental day services for preschool children shall be available for a minimum of eight hours per day (exclusive of transportation time), five days per week, twelve months a year.
- (b) Daily Training Activities. Activities shall be planned around the following principles:
  - (1) Group and individual activities, related to individual outcome plans, shall be scheduled daily.
  - (2) Both free play and organized recreational activities shall be provided. No more than one-third of the daily schedule shall be designated for both of these activities combined.
- (c) Grouping of children. Grouping shall allow for attending to the individual needs of each child and reflect developmentally appropriate practices.
- (d) Family Services:
  - (1) Parents shall be provided the opportunity to observe their child in the program.
  - (2) The center shall provide or secure opportunities for parents to attend parent training seminars.
- (e) Environmental Rating. Each center shall complete a professionally recognized environmental rating scale that evaluates the appropriateness of the learning environment design and the teaching materials and equipment used.

*History Note: Authority G.S. 122C-51; 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .2404 PHYSICAL PLANT**

- (a) Classroom And Activity Space:
  - (1) A ratio of 50 square feet per child shall be available for indoor classroom and activity space, exclusive of space occupied by sinks, lockers, storage cabinets, and other fixed equipment.
  - (2) Space shall be available for small groups and individualized training.
  - (3) Special interest areas shall be provided to enhance the development of individual children.
  - (4) Space for indoor physical activities shall be available for the provision of those activities enhancing gross motor development.
  - (5) Centers with at least 40% of their enrollment being children without disabilities and having an inclusion plan approved by DMH/DD/SAS for area-operated programs and by the area program director for contract agency centers may have a total of 35 square feet available per child for indoor classroom and activity space.
- (b) Outdoor Activity Space:
  - (1) Outdoor activity space shall be available in the ratio of 200 square feet per child scheduled to use the area at any one time.
  - (2) Centers with at least 40% of their enrollment being children without disabilities and having an inclusion plan approved by DMH/DD/SAS for area-operated programs and by the area program director for contract agency centers may have a total of 100 square feet available per child.

*History Note: Authority G.S. 122C-51; 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .2500 - EARLY CHILDHOOD INTERVENTION SERVICES (ECIS) FOR CHILDREN WITH OR AT RISK FOR DEVELOPMENTAL DELAYS, DEVELOPMENTAL DISABILITIES, OR ATYPICAL DEVELOPMENT AND THEIR FAMILIES**

- 10A NCAC 27G .2501 SCOPE**
- 10A NCAC 27G .2502 DEFINITIONS**
- 10A NCAC 27G .2503 STAFF REQUIREMENTS**
- 10A NCAC 27G .2504 FOLLOW-ALONG**

*History Note: Authority G.S. 122C-51; 143B-147; 20 U.S.C. Sections 1401 et. seq., 1471 et. seq.; 20 USC 1471;  
 Eff. May 1, 1996;  
 Repealed Eff. November 1, 2011.*

### **SECTION .2600 - RESERVED FOR FUTURE CODIFICATION**

**SECTION .2700 - RESERVED FOR FUTURE CODIFICATION**

**SECTION .2800 - RESERVED FOR FUTURE CODIFICATION**

**SECTION .2900 - RESERVED FOR FUTURE CODIFICATION**

**SECTION .3000 - RESERVED FOR FUTURE CODIFICATION**

**SECTION .3100 - NONHOSPITAL MEDICAL DETOXIFICATION FOR INDIVIDUALS WHO ARE  
SUBSTANCE ABUSERS**

**10A NCAC 27G .3101 SCOPE**

- (a) Nonhospital medical detoxification is a 24-hour residential facility which provides medical treatment and supportive services under the supervision of a physician.
- (b) This facility is designed to withdraw an individual from alcohol or other drugs and to prepare him to enter a more extensive treatment and rehabilitation program.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

**10A NCAC 27G .3102 STAFF**

- (a) A minimum of one direct care staff member shall be on duty at all times for every nine or fewer clients.
- (b) The treatment of each client shall be under the supervision of a physician.
- (c) The services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available to each client.
- (d) Each facility shall have at least one staff member on duty at all times trained in the following areas:
  - (1) substance abuse withdrawal symptoms, including delirium tremens; and
  - (2) symptoms of secondary complications to substance abuse.
- (e) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

**10A NCAC 27G .3103 OPERATIONS**

- (a) Monitoring Clients. Each facility shall have a written policy that requires:
  - (1) procedures for monitoring each client's general condition and vital signs during at least the first 72 hours of the detoxification process; and
  - (2) procedures for monitoring and recording each client's pulse rate, blood pressure and temperature at least every four hours for the first 24 hours and at least three times daily thereafter.
- (b) Discharge Planning And Referral To Treatment/Rehabilitation Facility. Before discharging the client, the facility shall complete a discharge plan for each client and refer each client who has completed detoxification to an outpatient or residential treatment/rehabilitation facility.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

**SECTION .3200 - SOCIAL SETTING DETOXIFICATION FOR SUBSTANCE ABUSE**

**10A NCAC 27G .3201 SCOPE**

- (a) Social setting detoxification is a 24-hour residential facility which provides social support and other non-medical services to individuals who are experiencing physical withdrawal from alcohol and other drugs.
- (b) Individuals receiving this service need a structured residential setting but are not in need of immediate medical services; however, back-up physician services shall be available, if indicated.
- (c) The facility is designed to assist individuals in the withdrawal process and to prepare them to enter a more extensive treatment and rehabilitation program.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3202 STAFF**

- (a) A minimum of one direct care staff member shall be on duty at all times for every nine or fewer clients.
- (b) The services of a certified alcoholism counselor or a certified substance abuse counselor shall be available on an as-needed basis to each client.
- (c) Each facility shall have at least one staff member on duty trained in the following areas:
  - (1) monitoring vital signs;
  - (2) alcohol withdrawal symptoms, including delirium tremens; and
  - (3) symptoms of secondary complications to alcoholism.
- (d) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3203 OPERATIONS**

- (a) Monitoring Clients. Each facility shall have a written policy that requires:
  - (1) procedures for monitoring each client's general condition and vital signs during at least the first 72 hours of the detoxification process; and
  - (2) procedures for monitoring and recording each client's pulse rate, blood pressure and temperature at least four times daily for the first 72 hours after admission.
- (b) Discharge Planning And Referral To Treatment/Rehabilitation Facility. The facility shall complete a discharge plan for each client and refer each client who has completed detoxification to an outpatient or residential treatment or rehabilitation facility.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .3300 - OUTPATIENT DETOXIFICATION FOR SUBSTANCE ABUSE**

#### **10A NCAC 27G .3301 SCOPE**

An outpatient detoxification facility is a periodic service which provides services involving the provision of supportive services, particularly active support systems under the supervision of a physician for clients who are experiencing physical withdrawal from alcohol and other drugs, including but not limited to appropriate medical, nursing and specialized substance abuse services.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3302 STAFF**

- (a) The treatment of each client shall be under the supervision of a physician.

- (b) The services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available to each client.
- (c) Each facility shall have at least one staff member on duty trained in the following areas:
- (1) monitoring vital signs;
  - (2) alcohol withdrawal symptoms, including delirium tremens; and
  - (3) symptoms of secondary complications to alcoholism.
- (d) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3303 OPERATIONS**

- (a) Hours. Each outpatient detoxification facility shall operate at least eight hours per day, for a minimum of five days per week.
- (b) Discharge Planning And Referral To Treatment/Rehabilitation Facility. Before discharging the client, the facility shall complete a discharge plan for each client and refer each client who has completed detoxification to the level of treatment or rehabilitation in accordance with the client needs.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .3400 - RESIDENTIAL TREATMENT/REHABILITATION FOR INDIVIDUALS WITH SUBSTANCE ABUSE DISORDERS**

#### **10A NCAC 27G .3401 SCOPE**

- (a) A residential treatment or rehabilitation facility for alcohol or other drug abuse disorders is a 24-hour residential service which provides active treatment and a structured living environment for individuals with substance abuse disorders in a group setting.
- (b) Individuals must have been detoxified prior to entering the facility.
- (c) Services include individual, group and family counseling and education.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3402 STAFF**

- (a) Each facility shall have full-time staff as follows:
- (1) One full-time certified alcoholism, drug abuse or substance abuse counselor for a facility having up to 30 occupied beds, and for every 30 occupied bed increment or portion thereafter.
  - (2) One full-time qualified alcoholism, drug abuse or substance abuse professional as defined in Paragraphs (14), (17) and (19) of 10A NCAC 27G .0104 for facilities having 11 or more occupied beds, and for every additional occupied 10-bed increment or portion thereafter.
  - (3) The remaining full-time staff members required by Subparagraph (a)(1) of this Rule may be either qualified alcoholism, drug abuse, or substance abuse counselors.
- (b) A minimum of one staff member shall be present in the facility when clients are present in the facility.
- (c) In facilities that serve minors, a minimum of one staff member for each five or fewer minor clients shall be on duty during waking hours when minor clients are present.
- (d) Any qualified alcoholism, drug abuse or substance abuse professional who is not certified shall become certified by the North Carolina Substance Abuse Professional Certification Board within 26 months from the date of employment, or from the date an unqualified person meets the requirements to be qualified, whichever is later.

- (e) Each direct care staff member shall receive annual continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, and family therapy through in-service training, academic course work, or training approved by the North Carolina Substance Abuse Professional Certification Board.
- (f) Each direct care staff member in a facility that serves minors shall receive training in youth development and therapeutic techniques in working with youth.
- (g) Each facility shall have at least one staff member on duty trained in the following areas:
  - (1) alcohol and other drug withdrawal symptoms; and
  - (2) symptoms of secondary complications to alcoholism and drug addiction.

*History Note: Authority G.S. 122C-26; 143B-147;*  
*Eff. May 1, 1996;*  
*Amended Eff. July 1, 1998;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3403 OPERATIONS**

- (a) Each facility shall provide or have access to the following services:
  - (1) individual, group or family therapy for each client;
  - (2) educational counseling, including schools for minors;
  - (3) vocational counseling;
  - (4) job development and placement;
  - (5) money management;
  - (6) nutrition education; and
  - (7) referrals to supportive services including Alcoholics Anonymous, Narcotics Anonymous, legal counseling, vocational training and placement.
- (b) The facility shall have a written schedule for daily routine activities.
- (c) The facility shall establish a schedule for the provision of treatment and rehabilitation services.
- (d) Before discharging the client, the facility shall complete a discharge plan for each client and refer each client who has completed residential treatment to an outpatient or residential/rehabilitation facility.

*History Note: Authority G.S. 122C-26; 143B-147;*  
*Eff. May 1, 1996;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .3500 - OUTPATIENT FACILITIES FOR INDIVIDUALS WITH SUBSTANCE ABUSE DISORDERS**

#### **10A NCAC 27G .3501 SCOPE**

Outpatient facilities provide periodic service for individuals with substance abuse disorders. Outpatient services include individual, group, family, and educational counseling.

*History Note: Authority G.S. 122C-26; 143B-147;*  
*Eff. May 1, 1996;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3502 STAFF**

- (a) The services of a certified alcoholism counselor, a certified drug abuse counselor or a certified substance abuse counselor shall be available to each client.
- (b) Each facility shall have at least one staff member on duty trained in the following areas:
  - (1) alcohol and other drug withdrawal symptoms; and
  - (2) symptoms of secondary complications to alcoholism and drug addiction.
- (c) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.
- (d) Each direct care staff member in an outpatient facility that serves minors shall receive specialized training in youth development and therapeutic techniques in working with youth.

*History Note:* Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .3503 OPERATIONS**

- (a) Group size shall be limited to a maximum of 20 participants.
- (b) Before discharging the client, the facility shall complete a discharge plan for each client and refer each client who has completed services to the level of treatment or rehabilitation in accordance with the client needs.

*History Note:* Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

### **SECTION .3600 - OUTPATIENT OPIOID TREATMENT**

#### **10A NCAC 27G .3601 SCOPE**

- (a) An outpatient opioid treatment facility provides periodic services designed to offer the individual an opportunity to effect constructive changes in his lifestyle by using methadone or other medications approved for use in opioid treatment in conjunction with the provision of rehabilitation and medical services.
- (b) Methadone and other medications approved for use in opioid treatment are also tools in the detoxification and rehabilitation process of an opioid dependent individual.
- (c) For the purpose of detoxification, methadone and other medications approved for use in opioid treatment shall be administered in decreasing doses for a period not to exceed 180 days.
- (d) For individuals with a history of being physiologically addicted to an opioid drug for at least one year before admission to the service, methadone and other medications approved for use in opioid treatment may also be used in maintenance treatment. In these cases, methadone and other medications approved for use in opioid treatment may be administered or dispensed in excess of 180 days and shall be administered in stable and clinically established dosage levels.

*History Note:* Authority G.S. 122C-26; 143B-147; 21 C.F.R. Part 1300; 42 C.F.R. Part 8;  
Eff. May 1, 1996;  
Temporary Amendment Eff. December 3, 2001;  
Amended Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .3602 DEFINITIONS**

In addition to terms defined in G.S. 122C-3 and Rule .0103 of this Subchapter, the following definitions shall also apply:

- (1) "Capacity management system" is a computerized database, maintained at the Office of the North Carolina State Authority for governing treatment of opioid addiction with an opioid drug, which ensures timely notification of the State whenever a program reaches 90 percent of its capacity to treat intravenous drug users, and to make any excess treatment capacity available. The requirement to have a capacity management system in 45 C.F.R. Part 96.126(a), the Substance Abuse Prevention and Treatment Block Grant, is incorporated by reference and includes all subsequent amendments and editions and may be obtained from the Substance Abuse Services Section of DMH/DD/SAS. The computerized system shall ensure that a continuous updated record of all such reports is maintained and that excess capacity information shall be available to all other programs.
- (2) "Central registry" is a computerized patient database, maintained at the Office of the North Carolina State Authority for governing treatment of opioid addiction with an opioid drug. The purpose of the database is to prevent multiple methadone treatment program enrollments; thereby lessening the possibility of methadone diversion for illicit use.
- (3) "Waiting list management system" is a component of the capacity management system whereby systematic reporting of treatment demand is maintained. The data required for the waiting list management component of the capacity shall include a unique patient identifier for each intravenous drug user seeking treatment, the date initial treatment was requested, and the date the drug user was removed from the waiting list. The waiting list management system requirement in 45 CFR 96.126(c) is incorporated by reference and includes

subsequent amendments and editions of the referenced material. It may be obtained from the Substance Abuse Services Section of DMH/DD/SAS.

- (4) "Methadone hydrochloride" (hereafter referred to as methadone) is a synthetic narcotic analgesic with multiple actions quantitatively similar to those of morphine, most prominent of which involves the central nervous system and organs composed of smooth muscle. The principal actions of therapeutic value or analgesia and sedation are detoxification or temporary maintenance in narcotic addiction. The methadone abstinence syndrome, although quantitatively similar to that of morphine differs in that the onset is slower, the course more prolonged, and the symptoms are less severe.
- (5) "Other medications approved for use in opioid treatment" are those medications approved by the Food and Drug Administration for use in opioid treatment and also approved for accepted medical uses under the North Carolina Controlled Substances Act.
- (6) "Program compliance for purposes of take-home eligibility" is determined by:
  - (a) absence of recent drug abuse;
  - (b) clinic attendance;
  - (c) absence of behavioral problems at the clinic;
  - (d) stability of the patient's home environment and social relationships;
  - (e) length of time in comprehensive maintenance treatment;
  - (f) assurance that take-home medication can be safely stored within the patient's home; and
  - (g) evidence the rehabilitative benefit the patient derived from decreasing the frequency of clinic attendance outweighs the potential risks of diversion.
- (7) "Recent drug abuse for purposes of determining program compliance" is established by evidence of the misuse of either opioids, methadone, cocaine, barbiturates, amphetamines, delta-9-tetrahydrocannabinol (hereafter referred to as THC), benzodiazepines or alcohol documented in the results of two random drug tests conducted within the same 90-day period of continuous treatment.
- (8) "Counseling session in Outpatient Opioid Treatment" is a face-to-face or group discussion of issues related to and of progress toward a client's treatment goals that is conducted by a person as specified in Rule .3603, Paragraph (a) of this Section.

*History Note: Authority G.S. 122C-26; 143B-147; 21 C.F.R. Part 1300; 42 C.F.R. Part 8; Eff. May 1, 1996; Temporary Amendment Eff. February 7, 2000; Amended Eff. April 1, 2001; Temporary Amendment Eff. December 3, 2001; Amended Eff. April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3603 STAFF**

- (a) A minimum of one certified drug abuse counselor or certified substance abuse counselor to each 50 clients and increment thereof shall be on the staff of the facility. If the facility falls below this prescribed ratio, and is unable to employ an individual who is certified because of the unavailability of certified persons in the facility's hiring area, then it may employ an uncertified person, provided that this employee meets the certification requirements within a maximum of 26 months from the date of employment.
- (b) Each facility shall have at least one staff member on duty trained in the following areas:
  - (1) drug abuse withdrawal symptoms; and
  - (2) symptoms of secondary complications to drug addiction.
- (c) Each direct care staff member shall receive continuing education to include understanding of the following:
  - (1) nature of addiction;
  - (2) the withdrawal syndrome;
  - (3) group and family therapy; and
  - (4) infectious diseases including HIV, sexually transmitted diseases and TB.
- (d) Each facility shall have staff to provide or secure the following services:
  - (1) individual, group or family therapy for each client;
  - (2) educational counseling;
  - (3) vocational counseling;
  - (4) job development and placement;

- (5) money management;
- (6) nutrition education; and
- (7) referrals to supportive services including Alcoholics Anonymous, Narcotics Anonymous, legal counseling, vocational training and placement.

*History Note: Authority G.S. 122C-26; 143B-147; 21 C.F.R. Part 2 ' 291.505; 21 C.F.R. Part 1300; Eff. May 1, 1996; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3604 OPERATIONS**

(a) Hours. Each facility shall operate at least six days per week, 12 months per year. Daily, weekend and holiday medication dispensing hours shall be scheduled to meet the needs of the client.

(b) Compliance with The Substance Abuse and Mental Health Services Administration (SAMHSA) or The Center for Substance Abuse Treatment (CSAT) Regulations. Each facility shall be certified by a private non-profit entity or a State agency, that has been approved by the SAMHSA of the United State Department of Health and Human Services and shall be in compliance with all SAMHSA Opioid Drugs in Maintenance and Detoxification Treatment of Opioid Addiction regulations in 42 CFR Part 8, which are incorporated by reference to include subsequent amendments and editions. These regulations are available from the CSAT, SAMHSA, Rockwall II, 5600 Fishers Lane, Rockville, Maryland 20857 at no cost.

(c) Compliance With DEA Regulations. Each facility shall be currently registered with the Federal Drug Enforcement Administration and shall be in compliance with all Drug Enforcement Administration regulations pertaining to opioid treatment programs codified in 21 C.F.R., Food and Drugs, Part 1300 to end, which are incorporated by reference to include subsequent amendments and editions. These regulations are available from the United States Government Printing Office, Washington, D.C. 20402 at the published rate.

(d) Compliance With State Authority Regulations. Each facility shall be approved by the North Carolina State Authority for Opioid Treatment, DMH/DD/SAS, which is the person designated by the Secretary of Health and Human Services to exercise the responsibility and authority within the state for governing the treatment of addiction with an opioid drug, including program approval, for monitoring compliance with the regulations related to scope, staff, and operations, and for monitoring compliance with Section 1923 of P.L. 102-321. The referenced material may be obtained from the Substance Abuse Services Section of DMH/DD/SAS.

(e) The State Authority shall base program approval on the following criteria:

- (1) compliance with all state and federal law and regulations;
- (2) compliance with all applicable standards of practice;
- (3) program structure for successful service delivery; and
- (4) impact on the delivery of opioid treatment services in the applicable population.

(f) Take-Home Eligibility. Any client in comprehensive maintenance treatment who requests unsupervised or take-home use of methadone or other medications approved for treatment of opioid addiction must meet the specified requirements for time in continuous treatment. The client must also meet all the requirements for continuous program compliance and must demonstrate such compliance during the specified time periods immediately preceding any level increase. In addition, during the first year of continuous treatment a patient must attend a minimum of two counseling sessions per month. After the first year and in all subsequent years of continuous treatment a patient must attend a minimum of one counseling session per month.

(1) Levels of Eligibility are subject to the following conditions:

- (A) Level 1. During the first 90 days of continuous treatment, the take-home supply is limited to a single dose each week and the client shall ingest all other doses under supervision at the clinic;
- (B) Level 2. After a minimum of 90 days of continuous program compliance, a client may be granted for a maximum of three take-home doses and shall ingest all other doses under supervision at the clinic each week;
- (C) Level 3. After 180 days of continuous treatment and a minimum of 90 days of continuous program compliance at level 2, a client may be granted for a maximum of four take-home doses and shall ingest all other doses under supervision at the clinic each week;
- (D) Level 4. After 270 days of continuous treatment and a minimum of 90 days of continuous program compliance at level 3, a client may be granted for a maximum of five take-home doses and shall ingest all other doses under supervision at the clinic each week;



- (E) Level 5. After 364 days of continuous treatment and a minimum of 180 days of continuous program compliance, a client may be granted for a maximum of six take-home doses and shall ingest at least one dose under supervision at the clinic each week;
  - (F) Level 6. After two years of continuous treatment and a minimum of one year of continuous program compliance at level 5, a client may be granted for a maximum of 13 take-home doses and shall ingest at least one dose under supervision at the clinic every 14 days; and
  - (G) Level 7. After four years of continuous treatment and a minimum of three years of continuous program compliance, a client may be granted for a maximum of 30 take-home doses and shall ingest at least one dose under supervision at the clinic every month.
- (2) Criteria for Reducing, Losing and Reinstatement of Take-Home Eligibility:
- (A) A client's take-home eligibility is reduced or suspended for evidence of recent drug abuse. A client who tests positive on two drug screens within a 90-day period shall have an immediate reduction of eligibility by one level of eligibility;
  - (B) A client who tests positive on three drug screens within the same 90-day period shall have all take-home eligibility suspended; and
  - (C) The reinstatement of take-home eligibility shall be determined by each Outpatient Opioid Treatment Program.
- (3) Exceptions to Take-Home Eligibility:
- (A) A client in the first two years of continuous treatment who is unable to conform to the applicable mandatory schedule because of exceptional circumstances such as illness, personal or family crisis, travel or other hardship may be permitted a temporarily reduced schedule by the State authority, provided she or he is also found to be responsible in handling opioid drugs. Except in instances involving a client with a verifiable physical disability, there is a maximum of 13 take-home doses allowable in any two-week period during the first two years of continuous treatment.
  - (B) A client who is unable to conform to the applicable mandatory schedule because of a verifiable physical disability may be permitted additional take-home eligibility by the State authority. Clients who are granted additional take-home eligibility due to a verifiable physical disability may be granted up to a maximum 30-day supply of take-home medication and shall make monthly clinic visits.
- (4) Take-Home Dosages For Holidays: Take-home dosages of methadone or other medications approved for the treatment of opioid addiction shall be authorized by the facility physician on an individual client basis according to the following:
- (A) An additional one-day supply of methadone or other medications approved for the treatment of opioid addiction may be dispensed to each eligible client (regardless of time in treatment) for each state holiday.
  - (B) No more than a three-day supply of methadone or other medications approved for the treatment of opioid addiction may be dispensed to any eligible client because of holidays. This restriction shall not apply to clients who are receiving take-home medications at Level 4 or above.
- (g) Withdrawal From Medications For Use In Opioid Treatment. The risks and benefits of withdrawal from methadone or other medications approved for use in opioid treatment shall be discussed with each client at the initiation of treatment and annually thereafter.
- (h) Random Testing. Random testing for alcohol and other drugs shall be conducted on each active opioid treatment client with a minimum of one random drug test each month of continuous treatment. Additionally, in two out of each three-month period of a client's continuous treatment episode, at least one random drug test will be observed by program staff. Drug testing is to include at least the following: opioids, methadone, cocaine, barbiturates, amphetamines, THC, benzodiazepines and alcohol. Alcohol testing results can be gathered by either urinalysis, breathalyzer or other alternate scientifically valid method.
- (i) Client Discharge Restrictions. No client shall be discharged from the facility while physically dependent upon methadone or other medications approved for use in opioid treatment unless the client is provided the opportunity to detoxify from the drug.
- (j) Dual Enrollment Prevention. All licensed outpatient opioid addiction treatment facilities which dispense Methadone, Levo-Alpha-Acetyl-Methadol (LAAM) or any other pharmacological agent approved by the Food and Drug Administration for the treatment of opioid addiction subsequent to November 1, 1998, are required to participate in a computerized Central Registry or ensure that clients are not dually enrolled by means of direct contact or a list exchange with all opioid treatment programs within at least a 75-mile radius of the admitting program. Programs are also required to participate in a

computerized Capacity Management and Waiting List Management System as established by the North Carolina State Authority for Opioid Treatment.

(k) Diversion Control Plan. Outpatient Addiction Opioid Treatment Programs in North Carolina are required to establish and maintain a diversion control plan as part of program operations and shall document the plan in their policies and procedures. A diversion control plan shall include the following elements:

- (1) dual enrollment prevention measures that consist of client consents, and either program contacts, participation in the central registry or list exchanges;
- (2) call-in's for bottle checks, bottle returns or solid dosage form call-in's;
- (3) call-in's for drug testing;
- (4) drug testing results that include a review of the levels of methadone or other medications approved for the treatment of opioid addiction;
- (5) client attendance minimums; and
- (6) procedures to ensure that clients properly ingest medication.

*History Note: Authority G.S. 122C-26; 143B-147; 21 C.F.R. Part 1300; 42 C.F.R. Part 8; Eff. May 1, 1996; Temporary Amendment Eff. February 7, 2000; Amended Eff. April 1, 2001; Temporary Amendment Eff. December 3, 2001; Amended Eff. April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3605 MEDICATION UNITS AND MOBILE UNITS**

(a) Definitions:

- (1) "Opioid Treatment Program" (hereafter, OTP) means the same as defined in G.S. 122C-3(25a).
- (2) "OTP Facility" means the primary location on the facility license.
- (3) "Opioid Treatment Program Medication Unit" (hereafter OTP Medication Unit) means the same as defined in G.S. 122C-3(25b).
- (4) "Opioid Treatment Program Mobile Unit" (hereafter OTP Mobile Unit) means the same as defined in G.S. 122C-3(25c).

(b) The OTP Facility shall provide any medical, counseling, vocational, educational, and other assessment and treatment services not provided by the OTP Medication Unit or OTP Mobile Unit.

(c) The OTP shall determine the type of services to be provided at the OTP Medication Units and OTP Mobile Units. The OTP shall specify which services are offered at the OTP Medication Units and OTP Mobile Units. Any services not offered at the OTP Medication Unit or Mobile Unit shall be provided at the OTP facility.

(d) Location and Service Capacity.

- (1) The OTP shall ensure that each OTP Medication Unit and OTP Mobile Unit complies with all applicable State and Federal laws and regulations, including without limitation, Substance Abuse and Mental Health Services Administration and Federal Drug Enforcement Agency regulations governing their operation.
- (2) An OTP with geographically separate OTP Medication Units and OTP Mobile Units shall maintain and provide the location of each unit associated with the OTP.
- (3) The OTP Medication Units and Mobile Units shall operate within a radius of 75 miles from the Opioid Treatment Program facility.
- (4) The OTP shall maintain and provide schedules for the days and hours of operation to meet patient needs.
- (5) The OTP shall establish and implement an operating protocol identifying the number of patients allowed per OTP Medication Unit and OTP Mobile Unit based on staffing ratios.
- (6) The OTP shall establish and implement an operating protocol which includes predetermined location(s), hours of operations, and a daily departure guide and business record of each OTP Mobile Unit's location.

(e) Staffing Requirements. The OTP and any associated OTP Medication Units and OTP Mobile Units shall maintain standard operating and emergency staffing to ensure service delivery at the OTP and any associated OTP Medication Units and OTP Mobile Units. Staffing shall include, but not be limited to the following:

- (1) The OTP and any associated OTP Medication Units and OTP Mobile Units shall have a 1.0 Full Time Employee (FTE) Licensed Clinical Addiction Specialist (LCAS), or Licensed Clinical Addiction Specialist-Associate (LCAS-A) per 50 patients. This position can be filled by more than one LCAS or LCAS-A staff member (ratio 1:50); and

- (2) The OTP and any associated OTP Medication Units and OTP Mobile Units shall have 1.0 FTE LCAS, LCAS-A, Certified Alcohol and Drug Counselor (CADC), Certified Alcohol and Drug Counselor Intern (CADC-I), Licensed Clinical Social Worker (LCSW), Licensed Clinical Social Worker – Associate (LCSW-A), Licensed Clinical Mental Health Counselor (LCMHC), Licensed Clinical Mental Health Counselor – Associate (LCMHC-A), Licensed Marriage and Family Therapist (LMFT), Licensed Marriage and Family Therapist – Associate (LMFT-A), Licensed Psychological Associate (LPA), or Licensed Psychologist (LP) for each additional 50 patients in the program (ratio 1:50); and
- (3) The OTP and any associated OTP Medication Units and OTP Mobile Units shall have a Medical Director who is a physician licensed to practice medicine in North Carolina and who meets the standards and requirements outlined in 42 CFR 8.2 and 42 CFR 8.12(b).
  - (A) The Medical Director is responsible for ensuring all medical, psychiatric, nursing, pharmacy, toxicology, and other services offered at the OTP and any associated OTP Medication Units and OTP Mobile Units are conducted in compliance with State and Federal laws and regulations, consistent with appropriate standards of care; and
  - (B) The Medical Director shall be physically present at the OTP a minimum of four hours per month to assure regulatory compliance and to carry out those duties assigned to the Medical Director in 42 CFR 8.2 and 42 CFR 8.12(b)(2).
  - (C) The Medical Director shall be responsible for supervision of any physician extender(s) and other medical staff.
- (f) Each OTP shall develop and implement a policy regarding the maintenance, location, and retention of records for its OTP Medication Units and OTP Mobile Units, in accordance with State and Federal laws and regulations.
- (g) Operations and Service Delivery.
  - (1) Each OTP Medication Unit and OTP Mobile Unit shall be deemed part of the OTP license and shall be subject to inspections the Department deems necessary to validate compliance with all applicable rules, and State and Federal laws and regulations.
  - (2) The OTP shall ensure that its OTP Medication Units and OTP Mobile Units adhere to all State and federal program requirements for Opioid Treatment Programs.
  - (3) Each OTP Medication Unit and OTP Mobile Unit shall establish and implement a written policy and procedure for operations that meets the needs of its patients.
  - (4) The OTP shall establish and implement policies and procedures for a clinical and individualized assessment of patients to receive services at an OTP Medication Unit or OTP Mobile Unit that considers medical and clinical appropriateness and accessibility to patients served.
  - (5) The OTP shall ensure that patients receiving services at an OTP Medication Unit or OTP Mobile Unit receive a minimum of two counseling sessions per month during the first year of continuous treatment and a minimum of one counseling session per month after the first year and in all subsequent years of continuous treatment.
  - (6) Counseling staff shall be available, either in person and on-site or by telehealth, a minimum of five days per week to offer and provide counseling in accordance with the patient's treatment plan or person-centered plan.
  - (7) The OTP shall establish and implement a policy and procedure to determine the appropriateness of telehealth services for a patient that takes into consideration the patient's choice along with the patient's behavior, physical, and cognitive abilities. The patient's verbal or written consent shall be documented when telehealth services are provided.
  - (8) The OTP shall ensure that patients receiving services at an OTP Medication Unit or OTP Mobile Unit receive medical interventions, including naloxone, when medically necessary and in compliance with the patient's treatment plan, person-centered plan, standing orders, or emergency intervention protocols.
  - (9) An OTP and its associated OTP Medication Units and OTP Mobile Units shall ensure that all dosing of medication to patients on the site of the OTP and any associated OTP Medication Units and OTP Mobile Units is directly observed by a Physician, Physician Assistant, Nurse Practitioner, Registered Nurse, or Licensed Practical Nurse, in accordance with applicable State and Federal Law and the OTP's Diversion Control Plan.

*History Note:* Authority G.S. 122C-35; 42 C.F.R. 8.12;  
 Emergency Adoption Eff. September 23, 2024;  
 Temporary Adoption Eff. January 2, 2025.

## **SECTION .3700 - DAY TREATMENT FACILITIES FOR INDIVIDUALS WITH SUBSTANCE ABUSE DISORDERS**

### **10A NCAC 27G .3701 SCOPE**

- (a) Day treatment facilities provide services in a group setting for individuals who need more structured treatment for substance abuse than that provided by outpatient treatment, and may serve as an alternative to a 24-hour treatment program.
- (b) Day treatment services shall have structured programs, which may include individual, group, and family counseling, recreational therapy, peer groups, substance abuse education, life skills education, and continuing care planning.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .3702 STAFF**

- (a) The staff of the day treatment facility shall include a minimum of one full-time or equivalent certified alcoholism, drug abuse or substance abuse counselor for every 16 or fewer clients.
- (b) If the facility falls below the prescribed ratio in Paragraph (a) of this Rule, and is unable to employ an individual who is certified because of the unavailability of certified persons in the facility's hiring area, then it may employ an uncertified person, provided that this employee meets the certification requirements within a maximum of 26 months from the date of his employment.
- (c) In facilities which provide services to minors, a minimum of two staff members shall be present with minor clients at all times, and a minimum ratio of one staff member to each eight or fewer clients shall be maintained. In the event that only one minor client is in the facility, only one staff member is required to be present.
- (d) Each facility shall have at least one staff member on duty trained in the following areas:
  - (1) alcohol and other drug withdrawal symptoms; and
  - (2) symptoms of secondary complications due to alcoholism and drug addiction.
- (e) Each direct care staff member shall receive continuing education to include understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy and other treatment methodologies.
- (f) Each direct care staff member in a day treatment facility that serves minors shall receive specialized training in youth development and therapeutic techniques in working with youth.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .3703 OPERATIONS**

- (a) Each day treatment facility shall operate at least three days per week, but not fewer than 12 hours per week.
- (b) A client shall be provided a structured program of treatment for a minimum of five hours per week.
- (c) Before discharging the client, the facility shall complete a discharge plan for each client and refer each client who has completed services to the level of treatment or rehabilitation in accordance with the client needs.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .3800 - SUBSTANCE ABUSE SERVICES FOR DWI OFFENDERS**

### **10A NCAC 27G .3801 ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS (ADETS)**

- (a) An alcohol and drug education traffic school (ADETS) is a prevention and intervention service which provides an educational program primarily for first offenders convicted of driving while impaired as provided in G.S. 20-179(m).
- (b) Provisions shall be made for family members and other non-students to attend classes if the instructor determines that their presence will not disrupt the class or result in class size exceeding the maximum.

*History Note: Authority G.S. 20-179; 20-179.2; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3802 STAFF**

(a) Certification. Each class shall have a designated instructor who is certified by DMH/DD/SAS. An individual seeking initial certification as an instructor shall:

- (1) be a high school graduate or its equivalent;
- (2) have a working knowledge of alcohol, other drugs, and traffic safety issues;
- (3) complete and submit the original and one copy of the application to the DWI/Criminal Justice Branch of DMH/DD/SAS;
- (4) complete an initial in-service training program provided by DMH/DD/SAS; and
- (5) demonstrate skills by teaching all classes.

(b) Notice. DMH/DD/SAS shall notify the applicant of the decision regarding initial certification within 60 days after receipt of the application.

(c) Duration. The duration of full certification shall be for a maximum period of two years.

(d) Provisional certification. An applicant who does not obtain initial certification may be issued a provisional certification, and shall be:

- (1) informed as to the specific reasons why full certification was denied;
- (2) provided with eligibility requirements necessary to reapply for full certification; and
- (3) informed regarding the right to appeal the certification decision.

(e) Recertification:

- (1) Individuals seeking recertification shall submit documentation of having received a minimum of 48 hours of training in alcohol and drug education traffic subjects during the previous two years. This training shall be provided by or subject to approval by DMH/DD/SAS. Documentation of having received this training shall be submitted to the DWI/Criminal Justice Branch at least 30 days prior to expiration of the current certification.
- (2) An individual seeking recertification for each subsequent two-year cycle shall submit documentation of having received 30 hours of training in alcohol and drug education traffic subjects during the preceding two years;
- (3) The training shall be provided or approved by DMH/DD/SAS; and
- (4) Documentation of this training shall be submitted to the DWI/Criminal Justice Branch of DMH/DD/SAS at least 90 days prior to expiration of the existing certification.

(f) Revocation or suspension of certification may be issued for failure to:

- (1) cover the required subjects outlined in the prescribed curriculum;
- (2) maintain accurate student records;
- (3) comply with certification requirements;
- (4) report all students who complete the prescribed course to DMH/DD/SAS in a timely manner.

*History Note: Authority G.S. 20-179; 20-179.2; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3803 OPERATIONS**

(a) Curriculum. School instructors shall follow the requirements in G.S. 122C-142.1.

(b) The program of instruction shall consist of not less than 16 hours of classroom instruction.

(c) Each school may provide up to three additional hours for classroom time and such activities as an initial student assessment, data gathering or a summary conference with students.

(d) Class Schedule. Each school shall provide a written notice to each student referred by the court as to the time and location of all classes which the student is scheduled to attend.

(e) Each student shall be scheduled to attend the first and the last class sessions in the order prescribed in the curriculum.

(f) Classes shall be scheduled to avoid the majority of employment and educational conflicts.

(g) Each school shall have a written policy which allows for students to be excused from assigned classes by the instructor provided that the excused absence is made up and does not conflict with Subparagraph (b)(1) of this Rule.

(h) No class session shall be scheduled or held for more than three hours excluding breaks on any day or evening.

(i) Class Size. Class size shall be limited to a maximum of 20 persons.

- (j) Requirements contained in 10A NCAC 27G .3800 SUBSTANCE ABUSE SERVICES FOR DWI OFFENDERS shall be followed by anyone who provides DWI assessments.
- (k) DWI Services Certificates of Completion. The original copy of the North Carolina Department of Health and Human Services DWI Services Certificates of Completion shall be forwarded to DMH/DD/SAS for review within two weeks of completion of all services.

*History Note: Authority G.S. 20-179; 20-176; 122C-142.1; 143B-147;  
Eff. May 1, 1996;  
Amended Eff. October 1, 2006; July 1, 1998;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3804 PURPOSE AND SCOPE**

- (a) These Rules set forth procedures for providing, supervising and reporting DWI substance abuse assessments and the treatment and education (ADETS) provided to DWI offenders.
- (b) Assessments may be sought either voluntarily on a pre-trial basis, by order of the presiding judge and as a condition for driver license reinstatement.
- (c) These Rules apply to any facility that conducts DWI assessments and alcohol and drug education traffic schools (ADETS) or treatment.
- (d) In order to perform DWI assessments, a facility shall be authorized by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services to provide services to this population (See Rule .3806); and
- (1) be licensed by the State to provide services to individuals with substance abuse disorders; or
  - (2) provide substance abuse services and be exempt from licensure under G.S. 122C-22; and
  - (3) follow state DWI laws, administrative rules contained in this Section and the generic rules for substance abuse facilities contained in 10A NCAC 27G .0100 through .0700. The rules can be found in Division publication APSM 30-1, "RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE FACILITIES AND SERVICES", and include any subsequent editions and amendments. This publication may be obtained through the Division of MHDDSAS at a cost of five dollars and seventy-five cents (\$5.75).

*History Note: Authority G.S. 20-179(e)(6); 122C-142.1;  
Eff. April 1, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3805 DEFINITIONS**

For the purpose of the rules in this Section, the following terms shall have the meanings indicated:

- (1) "American Society of Addiction Medicine (ASAM) Placement Criteria" means the Patient Placement Criteria for the Treatment of Substance-Related Disorders, copyright 1996 by the American Society of Addiction Medicine.
- (2) "Certified ADETS Instructor" means an individual who is certified by the Division in accordance with 10A NCAC 27G .3800 ALCOHOL AND DRUG EDUCATION TRAFFIC SCHOOLS (ADETS) contained in Division publication APSM 30-1 RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE FACILITIES AND SERVICES and available at the current printing cost.
- (3) "Clinical Interview" means the face to face interview with a substance abuse counselor intended to gather information on the client, including, but not limited to the following; demographics, medical history, past and present driving offense record, alcohol concentration of current offense, social and family history, substance abuse history, vocational background and mental status.
- (4) "Continuing Care" means an outpatient service designed to maximize the recovery experience begun in more intensive inpatient or outpatient treatment. As a continuation of the treatment experience this service is expected to begin upon the client's discharge from intensive treatment.
- (5) "Division" means the same as defined in G.S. 122C-3 (hereafter referred to as DMH/DD/SAS).
- (6) "DMH Form 508-R (DWI Services Certificate of Completion)" means the form which is used in documenting the offenders completion of the DWI substance abuse assessment and treatment or ADETS.

- (7) "Driving Record" means a person's North Carolina complete driving history as maintained by the North Carolina Driver's License Division's history file, as well as records in other states in which the client has resided,
- (8) "DSM" means the current edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, 1400 K Street, N.W., Washington, D.C. 20005 at a cost of thirty nine dollars and ninety-five cents (\$39.95) for the soft cover edition and fifty four dollars and ninety-five cents (\$54.95) for the hard cover edition. Where used in these definitions, incorporation by reference of DSM-IV includes subsequent amendments and editions of the referenced material.
- (9) "DWI Facility Authorization Process" means the process specified in 10A NCAC 27G .3806, by which facilities are granted the privilege to serve this sanctioned population.
- (10) "DWI Offenses" means impaired driving as described in G.S. 20-138.1, impaired driving in a commercial vehicle as described in G.S. 20-138.2 and/or driving by person less than 21 years old after consuming alcohol or drugs as described in G.S. 20-138.3.
- (11) "DWI Categories of Service" means:  
Level I Alcohol and Drug Education Traffic School (ADETS);  
Level II Short Term Outpatient Treatment;  
Level III Longer Term Outpatient Treatment;  
Level IV Day or Intensive Outpatient Treatment;  
Level V Inpatient and/or Residential Treatment.
- (12) "DWI Substance Abuse Assessment" means a service provided to persons charged with or convicted of a DWI offense to determine the presence or absence of a substance abuse handicap. The assessment involves a clinical interview as well as the use of an approved standardized test.
- (13) "Facility" means the term as defined in G.S. 122C-3(14).
- (14) "Interpreter" means a person who can accurately provide spoken exchange between languages including idiomatic differences.
- (15) "Language Barrier" means the situation in which a client's primary and native language is not English, and staff available to the facility do not speak a language in which the client is proficient.
- (16) "Licensure Rules" means the rules contained in 10A NCAC 27G .0100 through .0700; .0900 through .5200; and .5400 through .6900 of the North Carolina Administrative Code and published in Division publication APSM 30-1, RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE FACILITIES AND SERVICES.
- (17) "Minimal Program Content" means the required educational topics, learning experiences and counseling issues applicable to each level of treatment (See Rule .3817 of this Section - Minimal Program Content)
- (18) "Notice of Intent" means the initial step in the process for a licensed substance abuse facility or exempt agency to be authorized to provide services to DWI offenders in accordance with Rule .3806 of this Section. This written notice shall declare the facility's intent to comply with applicable laws and rules and shall be copied to the designated area authority as provided in G.S. 122C-142.1 (a).
- (19) "Special Service Plan" means a plan for persons who exhibit unusual circumstances, such as severe hearing impairment; other physical disabilities, and/or concurrent psychiatric illness.
- (20) "Standardized Test" means an instrument approved by the Department of Health and Human Services with documented reliability and validity, which serves to assist the assessment agency or individual in determining if the client has a substance abuse handicap. A current listing of the approved standardized tests may be obtained at no cost by writing the DWI/Criminal Justice Branch, Division of MH/DD/SAS, 3008 Mail Service Center, Raleigh, NC 27699-3008.
- (21) "Substance Abuse Handicap" means a degree of dysfunction directly related to the recurring use, abuse or dependence upon an impairing substance as described in the current edition of the DSM.

*History Note:* Authority G.S. 122C-3; 122C-142.1; 143B-147;  
Eff. April 1, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .3806 AUTHORIZATION: FACILITIES PROVIDING SA SERVICES TO DWI OFFENDERS**

(a) Application Process: Facilities licensed to provide substance abuse services by the Division of Health Service Regulation, or determined by DHSR to be exempt from license under the provisions of G.S. 122C-22 are eligible to apply for Authorization to provide services to DWI offenders.

- (b) The DWI/Criminal Justice Branch of the Substance Abuse Section of the DMHDDSAS will provide application materials to facilities within 10 business days of the receipt of the request. Requests may be made in writing to DWI Services, 3008 Mail Service Center, Raleigh, NC 27699-3008.
- (c) The applicant facility shall submit the application form and required supportive documentation to DWI Services for review.
- (d) When the review of the facility documents confirms that the applicant is in compliance with applicable Rules, Statutes and the Code of Facility Conduct, the facility will be authorized to begin services to DWI offenders.
- (e) A decision on the application for Authorization shall be communicated to the facility within 20 business days of the receipt of the application by the DMH/DD/SAS. Upon approval, a five-digit Facility Code shall be issued to identify the facility as authorized to provide services to DWI offenders.
- (f) Term of Authorization: Facility Authorization to provide DWI services shall be granted for a period not to exceed two years.
- (g) A facility's Authorization shall expire at any time the facility license ceases to be in effect.
- (h) Facility Monitoring of Authorized Facilities: Facility compliance reviews shall be conducted according to a schedule determined by DMH/DD/SAS. The interval between reviews for any facility shall be no greater than two years.
- (i) Compliance problems and program deficiencies will be addressed in the review and correction plans developed with the facility. Each correction plan will have a follow-up plan.
- (j) Refusal to complete a correction plan or persistent non-compliance will be grounds for suspension until correction or revocation of the Authorization.
- (k) The DMH/DD/SAS will conduct reviews of reports and DWI Certificates of Completion Forms generated by facilities. Compliance and procedural problems will be addressed through communication with facilities and correction plans.
- (l) Written complaints of misconduct against facilities shall be forwarded to the DMH/DD/SAS. All written complaints will be reviewed and investigated. When non-compliance is confirmed, it will be addressed with the facility through communication, correction plans or the suspension/revocation process.
- (m) Suspension and Revocation: DMHDDSAS may suspend or revoke a facility's authorization to provide services to DWI offenders at any time for failure to comply with applicable Statutes and Rules.
- (n) Such suspension or revocation will apply to the Authorization to serve DWI offenders and will not directly affect the facility's license to serve the public at large. The DMH/DD/SAS will inform licensing and certification bodies of any such action against a facility and its staff.
- (o) In circumstances in which the direct care of a client is compromised or when there is failure to comply with a specific statute or rule concerning services to clients, the suspension shall be immediate. Serious and persistent non-compliance will result in revocation of the approval.
- (p) When the non-compliance involves procedural or programmatic issues and presents no immediate threat to clients, the facility will be afforded an opportunity to propose and complete a plan of correction to be monitored by the DMH/DD/SAS.
- (q) Failure to complete the correction plans, which were the subject of a suspension, will result in revocation of the Authorization.
- (r) A facility whose Authorization has been revoked may apply for Authorization after one year upon demonstration that all relevant problems have been corrected.
- (s) Revocation Process: The Branch Head will initiate action affecting the Authorization of a facility. Such action shall be limited to the following:
- (1) Revocation of the Authorization;
  - (2) Suspension of the Authorization until such time as the problem is corrected and the correction verified; or
  - (3) A Written Correction Plan shall be completed by the facility while continuing to operate under close monitoring.
- (t) Appeal Process: A facility whose Authorization is revoked may appeal to the DWI Quality Improvement panel for a review of the revocation within 30 working days from the date of notification.
- (u) An appeal hearing shall be scheduled and conducted by the DWI Quality Improvement Panel within 60 working days after the request.
- (v) The facility owner shall be notified, in writing of the decision of the DWI Quality Improvement Panel within 30 working days after the hearing.

*History Note:* Authority G.S. 20-17.6(c); 122C-22; 122C-142.1;  
Eff. April 1, 2001;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.



#### **10A NCAC 27G .3807 DWI SUBSTANCE ABUSE ASSESSMENT ELEMENTS**

(a) DWI substance abuse assessments shall only be provided by a facility licensed by the State as a substance abuse treatment facility as specified in 10A NCAC 27G .0400 LICENSING PROCEDURES or a facility which provides substance abuse services and is exempt from licensure under G.S. 122C-22.

(b) A face to face clinical interview shall be conducted, in a licensed facility, with the individual, by a substance abuse counselor in accordance with the minimum qualifications specified in Rule .3808 of this Section. The purpose of this interview is to formulate a DSM diagnosis and arrive at a service level recommendation consistent with the placement criteria accepted by ASAM.

(c) In addition to the clinical interview, the clinician performing the assessment shall administer to the individual, an approved standardized test and must review the complete driving record as defined in Rule .3805 in this Section, as well as verify the alcohol concentration reading at the time of arrest.

(d) The agency or individual performing the assessment shall have the individual execute the appropriate release of information form per 42 C.F.R., Part 2. This form provides permission for the assessing agency to communicate with and report its findings to the DMH/DD/SAS, the area authority, the Division of Motor Vehicles, the Court, the Department of Correction, the agency providing the recommended treatment or education and any agency or individual the client requests to be so informed.

*History Note: Authority G.S. 20-17.6(c); 122C-22; 122C-142.1;*

*Eff. April 1, 2001;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3808 QUALIFICATIONS OF INDIVIDUALS PERFORMING ASSESSMENTS**

Individuals performing DWI substance abuse assessments shall have at least one of the following qualifications:

- (1) certification/licensure or other credential issued by the North Carolina Substance Abuse Professional Certification Board that acknowledges an individual to be qualified to provide counseling for persons with substance abuse disorders; or
- (2) graduation from a masters degree level program and one year of supervised experience in the profession of alcohol and drug abuse counseling; and be registered with the North Carolina Substance Abuse Professional Certification Board; or
- (3) graduation from a four-year college or university and two years of supervised experience in the profession of alcohol and drug abuse counseling, and be registered with the North Carolina Substance Abuse Professional Certification Board; or
- (4) graduation from high school or equivalent and three years of supervised experience in the profession of alcohol and drug abuse counseling and be registered with the North Carolina Substance Abuse Professional Certification Board; or
- (5) be licensed by the Board of Medical Examiners of the State of North Carolina or the North Carolina Psychology Board; or
- (6) be a diplomat of the American Society of Addiction Medicine.

*History Note: Authority G.S. 20-17.6(c); 122C-142.1; 143B-147;*

*Eff. April 1, 2001;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3809 RESPONSIBILITIES OF ASSESSING AGENCY**

(a) Following the completion of the assessment process, which may include a staffing conference and review of the assessment by the supervisor, the agency or clinician performing the assessment shall inform the individual of the service level required.

(b) If treatment is required the individual shall be informed, in writing, of any other available treatment facilities within the county, both private and public, which provide the level of required treatment.

(c) Facilities shall refer any individual who is required to attend ADETS to the area authority, or its designated agency. A DMH 508-R Form and documentation of the driving record, alcohol concentration and the DSM diagnosis shall accompany all referrals regardless of the level of service. There shall be no charge for providing these documents within the state.

(d) The agency or clinician performing the assessment shall inform the client of the possible consequences of failing to comply with required treatment or ADETS.

- (e) All persons assessed shall be provided written documentation that explains the requirements for reinstatement of the drivers license, including the minimum hours and duration of service. If a level of treatment is required, this written documentation shall be in the form of a client contract that minimally addresses program requirements and fees.
- (f) When a language barrier is identified the assessing agency shall arrange for the services of an interpreter to assist in the services provided as defined in Rule .3805(14) of this Section.

*History Note:* Authority G.S. 20-17.6(c); 122C-142.1; 143B-147;

*Eff. April 1, 2001;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3810 RESPONSIBILITIES OF TREATMENT AND ADETS PROVIDERS**

- (a) All providers shall conduct an orientation/intake interview with every client being admitted to a level of treatment, in which the assessment, diagnosis and placement shall be reviewed in the light of the client's current situation and an individual treatment plan shall be developed in compliance with 10A NCAC 27G .0203 located in the Licensure Rules as defined in Rule .3805(16) of this Section.
- (b) Any facility accepting a transferred case shall provide the level of intervention required by the assessor, unless there is a subsequent negotiated agreement between the assessor and the service provider at which time a corrected DMH-508R shall be completed by assessor.
- (c) The facility providing the recommended treatment or ADETS shall have the individual execute the appropriate release of information giving that facility permission to report the client's progress to the DMHDDSAS, Division of Motor Vehicles, Court, Department of Correction; and, assessing and treatment agencies, as appropriate.
- (d) Identification of a substance abuse handicap shall be considered indicative of the need for treatment, when diagnostic criteria apply. In such instances, educationally-oriented and support group services shall only be provided as a supplement to a more extensive treatment plan.
- (e) When the court determines that an individual shall receive services, such services shall be provided by a facility licensed by the State to provide services.

*History Note:* Authority G.S. 20-17.6(c); 122C-142.1; 143B-147;

*Eff. April 1, 2001;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3811 REPORTING REQUIREMENTS**

- (a) The assessment portion of the DMH Form 508-R shall be completed for each client who received a DWI Substance Abuse Assessment. An initial supply of this form may be obtained from the DWI/Criminal Justice Branch of the DMH/DD/SAS, 3008 Mail Service Center, Raleigh, NC 27699-3008 reviewed and signed by a substance abuse counselor who is credentialed by the North Carolina Professional Substance Abuse Certification Board or by an ASAM certified physician. An initial supply of this form may be obtained from the DWI/Criminal Justice Branch of the DMH/DD/SAS, 3008 Mail Service Center Raleigh, NC 27699-3008 at no cost.
- (b) The assessment portion of DMH Form 508-R shall be reviewed and signed, at the time of the review, by a certified alcoholism, drug abuse, substance abuse counselor. The date of expiration of that professional's certification and credentials shall be indicated on the client's Certificate of Completion and no assessment shall be signed after the expiration date.
- (c) The facility providing the recommended treatment or education shall have the client sign the appropriate release of information, and provide periodic progress reports. That report shall be filed at intervals not to exceed six months, with the court and with the Department of Correction per their request.
- (d) The purpose of the rules of this Section is to establish specific procedures for conducting and reporting DWI substance abuse assessments, Alcohol and Drug Education Traffic Schools (ADETS), and treatment of DWI offenders.
- (e) Upon completion of the recommended treatment or ADETS service, the agency shall forward the top page of the completed DMH 508-R to the DWI/Criminal Justice Branch, DMH/DD/SAS; and distribute any remaining copies to the offender and the court. The agency shall retain a copy of the form for a minimum period of at least 5 years.
- (f) In the event that an assessment or treatment agency ceases to provide DWI-related services, the agency shall notify, in writing, the DWI Criminal Justice Branch to assure that all DMH Form 508-R's and other related documents as specified in these Rules are properly processed, or transferred to another provider authorized by DMH/DD/SAS to conduct DWI Assessments. The licensing and certifying bodies shall be notified of violations of this Rule.

(g) By February 15 of each year, all assessing agencies shall forward, in writing, to the DWI Criminal Justice Branch of the Division the following information on the previous year's activities, which shall include but need not be limited to the number of:

- (1) pre-trial assessments conducted;
- (2) post trial assessments conducted;
- (3) individuals referred to ADETS; and
- (4) substance abuse handicaps identified and the recommended levels of treatment.

*History Note: Authority G.S. 20-17.6 (c); 122C-142.1; 143B-147;*

*Eff. April 1, 2001;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3812 PRE-TRIAL ASSESSMENTS**

(a) A DMH Form 508-R shall be initiated for each individual who voluntarily refers himself or herself for a DWI assessment, under the provisions of G.S. 20-179(e)(6).

(b) The DMH Form 508-R shall not be used to report the results of the pre-trial assessment to the court or attorney. The results shall be summarized in a concise, easy to interpret fashion on agency letterhead and signed by the individual who performed the assessment or the assessor's supervisor.

*History Note: Authority G.S. 20-179(e)(6) and (m); 143B-147;*

*Eff. April 1, 2001;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3813 PLACEMENT CRITERIA FOR ASSESSED DWI CLIENTS**

(a) Clients who have completed a DWI substance abuse assessment shall be placed in the appropriate service level.

(b) Placement of clients in a specific category shall be based on the assessment outcome, diagnosis, and level of care determined to be necessary for treatment.

(c) In addition to the terms defined in Rule .3805(10) of this Section for each of the following progressive categories, determination for placement shall be based on the criteria specified in this Paragraph.

- (1) Alcohol and Drug Education Traffic School (ADETS):
  - (A) the assessment did not identify a substance abuse handicap;
  - (B) the person has no previous DWI offense conviction;
  - (C) the person had an alcohol concentration of 0.14% or less at the time of arrest;
  - (D) the person did not refuse to submit to a chemical test;
  - (E) the person meets the admission criteria for Level 0.5 (Early Intervention) of ASAM PPC-2; and
  - (F) ADETS shall be conducted in accordance with the rules established in this Section.
- (2) Short-term Outpatient Treatment:
  - (A) the assessment outcome suggests diagnosis of psychoactive substance abuse only;
  - (B) the client does not fit all aspects of the diagnosis, but, under certain circumstances, the clinical impression provides reason to conclude that a treatment setting would be more appropriate than ADETS. Some of these circumstances include, but are not limited to:
    - (i) alcohol concentration is .15 or higher
    - (ii) refusal of chemical test at time of arrest;
    - (iii) problems relating to family history of substance abuse;
    - (iv) other problems which seem to be a contributing factor to DWI behavior, such as grief, loss; and
    - (v) the client meets the criteria for Level I of the ASAM Placement Criteria;
  - (C) this category of service requires a minimum of 20 contact hours over a minimum of 30 days. Each client must have services scheduled weekly.
- (3) Longer-term Outpatient Treatment:
  - (A) when a client meets minimal conditions for the diagnosis of "substance dependence";
  - (B) the criteria for Level I of the ASAM placement criteria are met; and
  - (C) this category of service requires a minimum of 40 contact hours over a minimum of 60 days. Each client must have services scheduled weekly.
- (4) Day Treatment/Intensive Outpatient Treatment:

- (A) the assessment confirms a diagnosis of substance dependence, with or without physiological dependence;
  - (B) the ASAM placement criteria for Level II Outpatient Treatment is met;
  - (C) the program:
    - (i) offers additional continuing care, urging voluntary participation of the client and significant others; and
    - (ii) requires a minimum of 90 contact hours and participation of the client over a period of at least 90 days, for any client referred under G.S. 20-179(g - k), or G.S. 20-17.6; and
  - (D) the program may be preceded by a brief inpatient admission for detoxification or stabilization of a medical or psychiatric condition.
- (5) Inpatient and Residential Treatment Services:
- (A) the level of care requires that the client meets the same diagnostic criteria as Day Treatment, as defined in this Rule;
  - (B) outpatient treatment of other associated problems has not been successful;
  - (C) the client meets the placement criteria for Levels III.5 or IV.7 (inpatient) of the ASAM Placement Criteria with regard to the "Criteria Dimensions" as set forth in ASAM Patient Placement Criteria, Adult Crosswalk:
    - (i) withdrawal risk;
    - (ii) need for medical monitoring;
    - (iii) emotional and behavioral problems requiring a structured setting;
    - (iv) high resistance to treatment;
    - (v) inability to abstain; and
    - (vi) lives in a negative and destructive environment;
  - (D) in order for the client to meet the required minimum 90-day time frame for treatment, the client, upon discharge, shall enroll in an approved continuing care or other outpatient program:
    - (i) these services shall be provided according to a written continuing care plan which shall address the needs of the client;
    - (ii) these services shall utilize individual, family and group counseling as required to meet the needs of the client; and
    - (iii) the plan shall include client participation.
- (6) Special Service Plan:
- (A) Documentation of the need for a special program to correspond with the recommendations of the DWI assessment;
  - (B) Conditions under which a Special Service Plan is implemented may include, but need not be limited to, the following:
    - (i) severe hearing impairment;
    - (ii) other physical disabilities;
    - (iii) concurrent psychiatric illness and; or
    - (iv) language differences and communication problems.

*History Note: Authority G.S. 20-17.6(c); 122C-142.1; 143B-147;  
Eff. April 1, 2001;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .3814 DOCUMENTATION REQUIREMENTS**

- (a) When conducting the assessment for an individual charged with, or convicted of, offenses related to Driving While Impaired (DWI), a DMH Form 508-R shall be completed.
- (b) If treatment is recommended, client record documentation shall include, but not be limited to the following minimum requirements for each DWI Category of Service listed in Rule .3805 of this Section, except for the ADETS category:
  - (1) all items specified in the "clinical interview", as defined in Rule .3805 of this Section;
  - (2) results of the administration of an approved "standardized test", as defined in Rule .3805 of this Section;
  - (3) release of information as set forth in Rules .3807 and .3810 of this Section; and
  - (4) release of information covering any collateral contacts, and documentation of the collateral information.
- (c) Substance abuse facility policies and operational procedures shall be in writing and address and comply with each of the requirements in 10A NCAC 27G .0201.

(d) Substance abuse treatment records shall comply with the elements contained in 10A NCAC 27G .0203, .0204, .0206 of this Subchapter and 10A NCAC 27G .3807 and 10A NCAC 27G .3810.

*History Note:* Authority G.S. 20-179 (e)(6) and (m); 122C-142.1; 143B-147;  
Eff. April 1, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .3815 AUTHORIZATION TO PROVIDE DWI SUBSTANCE ABUSE ASSESSMENTS**

Any facility that provides DWI assessments shall comply with 10A NCAC 27G .3801 through .3817 of this Subchapter.

*History Note:* Authority G.S. 20-17.6 (c); 122C-142.1; 143B-147;  
Eff. April 1, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .3816 SERVICES FOR NON-ENGLISH SPEAKING OFFENDERS/CLIENTS**

(a) Providers offering services to special populations/language groups shall inform DMHDDSAS in writing and include these services in facility monitoring activities.

(b) When a facility represents to the DMHDDSAS and to the public that it provides assessment and treatment services to DWI offenders of a certain language group, those services must be provided in compliance with applicable rules by staff who not only are qualified to provide the service, but are also fluent in the language of the target group. When such services are available in the county, facilities not able to provide them shall refer persons needing such services to facilities prepared to serve them.

(c) When services described in Paragraph (b) of this Rule are not available in the County:

- (1) A facility may provide DWI assessments with the help of a competent interpreter. The facility must first attempt to locate a Certified Interpreter. If that is not possible, the facility may use an individual whose competence as an interpreter is recognized in the community and who can provide references from persons who are in a position to know, such as a leader in the language/cultural group represented. In no case shall a person of the offender's family or immediate social group be used to interpret.
- (2) It is not acceptable to conduct group and individual treatments services via interpreter.
- (3) When an offender presents for services and speaks only a language in which no Substance Abuse Services are available in the area, the facility must assist the offender in locating acceptable services. If the services of a competent interpreter are available, a Special Plan may be developed which will provide the offender basic information to proceed in resolving the DWI offense. Such special plans must be documented in detail.
- (4) Clients who meet this criteria are clients whose primary/native language is not English and who can not communicate English fluently to complete an assessment or treatment.

*History Note:* Authority G.S. 20-17.6(c); 122C-142.1; 143B-147;  
Eff. April 1, 2001;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .3817 MINIMAL PROGRAM CONTENT**

(a) All levels of Substance Abuse Services for DWI offenders shall include education for all clients on:

- (1) all items specified in the "clinical interview", as defined in Rule .3805 of this Section;
- (2) North Carolina DWI laws, penalties and requirements for driver license reinstatement;
- (3) the effects of alcohol and other psychoactive substances on the body, brain, judgment and emotions of individuals, with special attention to the systems and abilities used in the operation of a motor vehicle;
- (4) the measurement of alcohol in the system, Alcohol Concentration; and
- (5) the effects of fatigue, hunger, anger, depression and prolonged inattention on driving behavior, by themselves and in conjunction with mood altering drugs in the body.

(b) Short Term Outpatient Treatment shall include all of Paragraph (a) of this Rule and the following items:

- (1) responsible decision making concerning the use of alcoholic beverages;
- (2) indicators that a person is at increased risk for more serious alcohol/drug problems:
  - (A) family history of alcohol/drug problems;
  - (B) attachment to a peer group in which primary social activities center on alcohol or other drug use;

- (C) strong need for approval and acceptance and a desire to alter feelings; and
  - (D) early signs of tolerance.
- (3) introduce coping skills appropriate to the problem level: to include skills for refusing to drink/use, planning and limit setting strategies and an abstinence contract as a learning experience.
- (c) Longer Term Outpatient Treatment shall include all of Paragraph (a) of this Rule and the following items:
  - (1) an explanation of alcohol/drug dependence, as a bio-psycho-social illness characterized by:
    - (A) general progression of dysfunction in body, emotions and social/family functioning;
    - (B) strong emotional defense patterns including denial, rationalization and deflecting blame;
    - (C) pronounced ambivalence, i.e. the individual wants to be different yet wants to continue in the present behavior; and
    - (D) difficulties in social and family systems of the individual.
  - (2) The introduction of concepts, skills and resources for recovery:
    - (A) relapse Prevention concepts and skill building;
    - (B) assistance in learning to address spiritual needs; and
    - (C) resources for self-help, support and ongoing recovery.
- (d) Day Treatment/Intensive Outpatient Treatment Provide (a) and (c), but in the context of the client's more advanced problems and greater need for intensive treatment (see ASAM Level II):
  - (1) The program shall take a thorough history of the client and address all relevant problems through further assessment and/or services provided by the program or referral. Problem areas shall include the following:
    - (A) health and medical conditions;
    - (B) family relationships;
    - (C) manifestations of emotional problems or psychiatric illness;
    - (D) legal issues; and
    - (E) employment related issues.
  - (2) Training and Continued Education: Individuals who conduct and/or supervise DWI substance abuse services shall complete at least 12 hours of DWI-specific education within each two-year period, which must be documented in the personnel record of the employee and reported to DWI Services with the application for renewal of the approval process.

*History Note:* Authority G.S. 20-17.6(c); 122C-142.1;  
 Eff. April 1, 2001;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

## **SECTION .3900 - DRUG EDUCATION SCHOOLS (DES)**

### **10A NCAC 27G .3901 SCOPE**

A drug education school (DES) is a prevention and intervention service which provides an educational program for drug offenders as provided in the North Carolina Controlled Substances Act and Regulations.

*History Note:* Authority G.S. 90-96; 90-96.01; 90-113.14; 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

### **10A NCAC 27G .3902 STAFF**

- (a) Each class shall have a designated instructor who is certified by the DMH/DD/SAS. An individual seeking initial certification as an instructor shall:
  - (1) be a college graduate or its equivalent;
  - (2) have a working knowledge of alcohol and other drug issues;
  - (3) complete and submit the original and one copy of the application to the DWI/Criminal Justice Branch of DMH/DD/SAS;
  - (4) complete an initial in-service training program provided by DMH/DD/SAS; and
  - (5) demonstrate skills by teaching all classes.
- (b) Notice. DMH/DD/SAS shall notify the applicant of the decision regarding initial certification within 60 days after receipt of the application.
- (c) Duration. The duration of full certification shall be for a maximum period of two years.

(d) Provisional certification. An applicant who does not obtain initial certification may be issued a provisional certification, and shall be:

- (1) informed as to the specific reasons why full certification was denied;
- (2) provided with eligibility requirements necessary to reapply for full certification; and
- (3) informed regarding the right to appeal the certification decision.

(e) Recertification:

- (1) individuals seeking recertification shall submit documentation of having received a minimum of 48 hours of training in alcohol and drug education subjects during the previous two years. This training shall be provided by or subject to approval by DMH/DD/SAS. Documentation of having received this training shall be submitted to the DWI/Criminal Justice Branch at least 30 days prior to expiration of the current certification;
- (2) an individual seeking recertification for each subsequent two-year cycle shall submit documentation of having received 30 hours of training in alcohol and drug education subjects during the preceding two years;
- (3) the training shall be provided or approved by DMH/DD/SAS; and
- (4) documentation of this training shall be submitted to the DWI/Criminal Justice Branch of DMH/DD/SAS at least 90 days prior to expiration of the existing certification.

(f) Revocation or suspension of certification may be issued for failure to:

- (1) cover the required subjects outlined in the prescribed curriculum;
- (2) maintain accurate student records;
- (3) comply with certification requirements; and
- (4) report all students who complete the proscribed course to DMH/DD/SAS in a timely manner.

*History Note: Authority G.S. 90-96; 90-96.01; 90-113.14; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **10A NCAC 27G .3903 OPERATIONS**

(a) Population Served:

- (1) Each school shall be designed primarily to serve individuals who are using drugs at the experimental, social-recreational or abusive levels, but who are not drug dependent or engaged in drug dealing.
- (2) First offenders referred by the court in accordance with G.S. 90-96 and G.S. 90-113.14 (Conditional Discharges and Expunction of Records for First Offense) shall be served.
- (3) Each school shall establish a written policy regarding participation of persons referred from other sources. These persons may be enrolled on a space-available basis.

(b) Initial assessment. Each school shall provide an initial assessment for each potential student prior to the first class session to determine whether the student is eligible to attend the school and to determine if referral to a treatment resource is appropriate.

(c) Class Size:

- (1) Class size shall be limited to a maximum of 35 participants; however, the affective education portions of the class shall be limited to a maximum of 20 participants.
- (2) Provisions shall be made for family members and guardians of students to audit classes; however, such individuals shall not be counted in the maximum class size.

(d) Curriculum. School instructors shall use a curriculum approved by the Division. Instructors may use the curriculum specified in the "North Carolina Curriculum Manual for Drug Education Schools" (DMH/DD/SAS publication APSM 125-2). Instructors who desire to use a different curriculum shall submit it to the Division for prior approval. The Division shall review the proposed curriculum to determine that it follows professionally accepted standards to meet the course objectives of reducing the prevalence of drug taking by modifying the behavior of course participants and of reducing the impact of drug use on the criminal justice system.

- (1) The program of instruction shall consist of not less than 15 hours of classroom instruction as specified in the curriculum in Paragraph (d) of this Rule.
- (2) Each school may provide up to five additional hours of activity for classroom time and such activities as parent/child communication session, data gathering or a summary conference with students.

(e) Class Schedule. Each school shall provide a written notice to each student referred by the court as to the time and location of all classes which the student is scheduled to attend.

- (1) Each student shall be scheduled to attend all sessions as described in the approved curriculum.

- (2) Classes shall be scheduled to avoid the majority of employment and educational conflicts.
  - (3) Each school shall have a written policy which allows for students to be excused from assigned classes by the instructor provided that the excused absence is made up and does not conflict with Subparagraph (e)(1) of this Rule.
  - (4) Students shall have an opportunity to complete classes within the 150 day time limit for the course specified in G.S. 90-96 and 90-113.14 (Conditional Discharges and Expunction of Records for First Offense). The course instructor shall monitor the 150 day time limit and notify the court if the student does not complete the school within that time limit.
  - (5) No class session shall be scheduled or held for more than three hours excluding breaks on any day or evening.
- (f) Court Liaison:
- (1) Each school shall develop and implement written procedures of liaison with the court. These procedures shall include at least the following:
    - (A) the procedure used to obtain referral of offenders from the court;
    - (B) a provision that the school shall notify each student of the time, date, and location of assigned classes;
    - (C) the procedure for notifying the court of a student's successful completion of the course;
    - (D) communicating to students in writing the requirements for successfully completing the course and developing a procedure to notify the court of noncompliance cases.
  - (2) These procedures shall be agreed upon and signed by the designated employee of the school and, if possible, by the clerk of court, judge and district attorney.

*History Note:* Authority G.S. 90-96; 90-96.01; 90-113.14; 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

## **SECTION .4000 - TREATMENT ALTERNATIVES TO STREET CRIMES (TASC)**

### **10A NCAC 27G .4001 SCOPE**

- (a) Treatment Alternatives to Street Crimes (TASC) is a service designed to offer a supervised community-based alternative to incarceration or potential incarceration primarily to individuals who are alcohol or other drug abusers, but also to individuals who are mentally ill or developmentally disabled and who are involved in crimes of a non-violent nature.
- (b) This service provides a liaison between the criminal justice system and alcohol and other drug treatment and educational services. It provides screening, identification, evaluation, referral and monitoring of alcohol or other drug abusers for the criminal justice system.

*History Note:* Authority G.S. 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

### **10A NCAC 27G .4002 STAFF**

- (a) Each TASC staff member shall have a baccalaureate degree in either criminal justice or human service related fields or an associate of arts degree with four years experience in criminal justice or human service related fields.
- (b) TASC personnel shall receive continuing education in the following areas:
  - (1) the physiological, sociological and psychological correlates of substance abuse;
  - (2) substance abuse treatment;
  - (3) judicial and political issues related to substance abuse; and
  - (4) substance abuse treatment and rehabilitation resources.
- (c) Each TASC program shall provide its staff with:
  - (1) a revised and documented training plan, completed annually;
  - (2) a schedule for implementation of the plan;
  - (3) documentation of at least 32 hours annually of TASC relevant training which shall include, but need not be limited to, the following:
    - (A) TASC mission and philosophy;
    - (B) pharmacology;



- (C) sentencing practices;
- (D) assessment of drug dependency;
- (E) substance abuse treatment modalities and expectations; and
- (F) case management.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4003 OPERATIONS**

(a) Population Served. Each TASC program shall be designed to serve individuals who have a documented substance abuse problem and who are involved with the criminal justice system.

(b) Screening and Identification. Each TASC program shall:

- (1) provide to potential referral sources a process by which identification, screening and referrals may be accomplished. The process shall include:
  - (A) procedures which delineate the method for identifying TASC-eligible clients;
  - (B) documented evidence that the program is seeking to have clients referred to it through the justice system. This evidence shall be in the form of a written agreement that shall be signed by the appropriate local judicial official;
  - (C) eligibility criteria for TASC client participation; and
  - (D) written evidence that cooperating justice system component and treatment agencies are aware of, and have a clear understanding of, who is eligible to receive TASC services.
- (2) maintain a listing of community-based treatment, education, and other referral services that includes admission and referral criteria.

(c) Evaluation. Each TASC program shall conduct or secure an assessment or evaluation for each prospective client referred from the criminal justice system which shall include:

- (1) documentation that a standardized TASC assessment process is utilized to ensure that all eligibility criteria are met and that standardized TASC assessment instruments and procedures are used to confirm:
  - (A) a substance abuse dysfunction;
  - (B) current criminal charges; and
  - (C) client criminal history.
- (2) a face to face assessment interview.

(d) Referral. Each TASC program shall ensure that:

- (1) each client is referred to an appropriate level of care, including treatment for mental illness or services for a developmental disability, within 48 hours of the TASC assessment. In the event that immediate placement is unavailable, office monitoring shall be provided.
- (2) documentation in the signed agreement indicates that the potential TASC client has been informed and understands program requirements.

(e) Monitoring/Reporting. Each TASC program shall develop and implement a monitoring and reporting procedure for each client, which shall include, but need not be limited to:

- (1) notification to the criminal justice system component and treatment provider of each client's TASC acceptance;
- (2) an approved individual TASC case management plan completed by the TASC program and the client within 30 days of admission;
- (3) documentation requirements for monthly progress reports from the TASC program to the referring agency;
- (4) notification, within 24 hours, of any client's TASC termination; and
- (5) documentation in the TASC file of progress for each TASC client from admission to discharge.

(f) Success/Failure Criteria:

- (1) Each TASC program shall develop and implement procedures to measure client success or failure, including readmission criteria.
- (2) All cooperating justice system components and treatment agencies shall be aware of this criteria as documented in a signed agreement.

(g) Management Information System. Each TASC program shall report, monthly, to the DWI/Criminal Justice Branch, TASC program data using the standardized data form approved by the DMH/DD/SAS.

(h) TASC Unit Organization:

- (1) Each area program or contract agency shall ensure that TASC is recognized as a distinct service and include it on the organizational chart.
- (2) The area program and/or contract agency shall appoint a qualified TASC administrator with a specific job description.

*History Note: Authority G.S. 122C-57; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .4100 - RESIDENTIAL RECOVERY PROGRAMS FOR INDIVIDUALS WITH SUBSTANCE ABUSE DISORDERS AND THEIR CHILDREN**

### **10A NCAC 27G .4101 SCOPE**

- (a) A 24-hour residential recovery program is a professionally supervised residential facility which provides trained staff who work intensively with individuals with substance abuse disorders who provide or have the potential to provide primary care for their children.
- (b) These programs shall include, for each parent in the program, assessment/referral, individual and group therapy, therapeutic parenting skills, basic independent living skills, educational groups, child supervision, aftercare, follow-up and access to preventive and primary health care.
- (c) Goals for parent-child interaction shall be established and progress towards meeting these goals shall be documented in the parent's service record.
- (d) The facility may utilize services from another facility providing treatment, support or medical services.
- (e) Services shall be designed to provide a safe and healthy environment for clients and their children.
- (f) Each facility shall assist the individual with the development of independent living skills in preparation for community based living.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Temporary Amendment Eff. February 15, 2002;  
Amended Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .4102 STAFF**

- (a) Each individual and child admitted to a facility shall receive services as appropriate to his or her needs from a qualified professional who has responsibility for the client's treatment program. Each individual and child shall receive age-appropriate, therapeutic professional services.
- (b) A minimum of one staff member shall be present in the facility with an individual at all times unless the designated qualified professional has documented in the individual client plan certain clearly delineated instances in which the client may be without supervision. In the case of multi-unit facilities which are licensed under the same license, a staff person shall be on the facility premises at all times when an individual is on the premises unless the designated qualified professional has assessed and documented in the individual client plan certain clearly delineated instances in which the client may be without supervision.
- (c) A minimum of one staff member shall be present when one or more children are in the facility. In the case of multi-unit facilities which are licensed under the same license, a staff person shall be on the facility premises at all times when one or more children are in the facility. In circumstances when the child's parent is not present, the staff member must be in the unit with the child or children.
- (d) Each individual identified as a residential staff member shall receive pre-service training in the following areas:
  - (1) confidentiality;
  - (2) client rights;
  - (3) crisis management;
  - (4) developmentally appropriate child behavior management;
  - (5) medication education and administration;
  - (6) symptoms of secondary complications to substance abuse or drug addiction;
  - (7) signs and symptoms of pre-term labor; and
  - (8) signs and symptoms of post-partum complications.

(e) Adequate training to support the therapeutic process shall also be provided to all residential staff in the following areas within 60 days of employment:

- (1) therapeutic parenting skills;
- (2) dynamics and needs of emotionally disturbed and substance abusing individuals and their children;
- (3) multi-cultural and gender specific issues;
- (4) issues of substance abuse and the process of recovery;
- (5) HIV/AIDS;
- (6) sexually transmitted diseases;
- (7) drug screening;
- (8) domestic violence, sexual abuse, and sexual assault;
- (9) pregnancy, delivery and well child care; and
- (10) infant feeding, including breast feeding.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Temporary Amendment Eff. February 15, 2002;  
Amended Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4103 OPERATIONS**

(a) Admissions:

- (1) Admission to the facility shall be a joint decision of the designated qualified professional, the provider of residential care, and the individual.
- (2) The individual shall have the opportunity for at least one pre-admission visit to the facility except for an emergency admission.

(b) Coordination Of Treatment And Education To Children In The Facility: Each facility or multi-unit facility shall provide or make arrangements for the following:

- (1) The appropriate education program for a child shall be coordinated with his/her service plan.
- (2) Each child shall receive preventive and primary health care services.
- (3) Each child shall have required immunizations as specified by G.S. 130A-152.
- (4) Each child, birth through four years of age, shall receive a behavioral health and developmental screening, and if appropriate, receive a multi-disciplinary evaluation by qualified professionals for early childhood intervention services. Parents shall be provided information on services that the child is eligible for or entitled to receive at screening and evaluation.
- (5) Each child five years of age and over, shall receive a behavioral health and developmental screening, and if appropriate, be evaluated for child mental health and substance abuse disorder(s) by a qualified professional(s).
- (6) Each child three years of age and over, shall receive substance abuse prevention services to address at-risk factors associated with being a child in a high-risk family.

(c) Emergency Medical Services: Each facility shall ensure the availability of emergency medical services to include:

- (1) immediate access to a physician;
- (2) acute care hospital services; and
- (3) assistance from a local ambulance service, rescue squad or other trained medical personnel within 20 minutes of the facility.

(d) Schedules: The facility shall:

- (1) have a written schedule for daily routine activities; and
- (2) establish a schedule for the provision of treatment and rehabilitation services.

(e) Discharge Plan: Before discharging the client, the facility shall complete a discharge plan for each client and refer each client who has completed services to the level of treatment or rehabilitation in accordance with the client needs.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Temporary Amendment Eff. February 15, 2002;  
Amended Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4104 PHYSICAL PLANT**

- (a) Each facility shall have the capacity to serve a minimum of three individuals.
- (b) Client bedrooms shall have at least 80 square feet for a single occupancy and the following additional square feet for clients' children:
- (1) 40 square feet for each infant and toddler;
  - (2) 60 square feet for each pre-school age child; and
  - (3) 80 square feet for each child above age six.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .4200 - SUBSTANCE ABUSE PRIMARY PREVENTION SERVICES**

#### **10A NCAC 27G .4201 SCOPE**

Substance abuse primary prevention programs focus on the prevention of alcohol, tobacco and other drug (ATOD) abuse and aim to educate and counsel individuals on such abuse, and provide for activities to reduce the risk of such abuse. They are directed towards the general population or towards individuals in targeted high risk groups who are not in need of treatment in order to reduce the incidence of health related problems and promote positive behaviors and well-being.

*History Note: Authority G.S. 143B-147; 42 C.F.R. 96.124;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4202 STAFF**

Each facility that provides primary prevention programs shall designate a director for the primary prevention program who shall be a Qualified Substance Abuse Prevention Professional (QSAPP).

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Amended Eff. October 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4203 OPERATIONS**

A comprehensive primary prevention program shall include activities and services in each of the following six primary prevention strategies:

- (1) Information Dissemination;
- (2) Prevention Education;
- (3) Alternative Activities;
- (4) Problem Identification and Referral;
- (5) Community-Based Process; and
- (6) Environmental Approaches;

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .4300 - THERAPEUTIC COMMUNITY**

#### **10A NCAC 27G .4301 SCOPE**

- (a) A Therapeutic Community is a highly structured, supervised, 24-hour residential facility designed to treat the behavioral and emotional issues of individuals to promote self-sufficiency and a crime and drug-free lifestyle.
- (b) The Therapeutic Community shall emphasize self-help, abstinence from drugs and alcohol, personal growth, peer support, and may serve as an alternative to incarceration.

- (c) Services shall be designed to create the environment of an extended family in which individuals develop self-esteem, construct a productive lifestyle through peer support and actual experience, leading to a successful re-entry into the larger community.
- (d) The facility shall provide or ensure access to a variety of intensive therapy and program milieu approaches designed to confront and modify the client's anti-social and dysfunctional behavior.
- (e) The goal shall be to assist the client in learning socially acceptable skills for coping with responsibilities and relationships, and to maintain a lifestyle which is substance abuse free.
- (f) Consideration shall be given to meeting client needs in social, medical, psychological, vocational and educational areas.
- (g) If children are residing in a Therapeutic Community, the facility shall also meet the rules for Therapeutic Homes for Individuals with Substance Abuse Disorders and Their Children set forth in Section .4100 of this Subchapter except for 10 NCAC 27G .4102(c), .4102(e), .4103(2), and .4104(b).

*History Note: Authority G.S. 143B-147;*

*Eff. August 1, 2000;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4302 DEFINITIONS**

In addition to the terms defined in G.S. 122C-3 and Rule .0103 of this Subchapter, the following terms shall apply:

- (1) "ADD/ADHD" means the same as described in DSM-IV Diagnoses and Codes.
- (2) "Qualified therapeutic community professional" means:
  - (a) a person who has five years of supervised experience in a therapeutic community and has graduated from either a licensed therapeutic community or a therapeutic community accredited by Therapeutic Communities of America, Washington, D.C., or
  - (b) has a bachelor's degree and two years of experience in a licensed 24-Hour residential facility or service for substance abuse, or
  - (c) is a certified substance abuse counselor with two years experience in a licensed 24-Hour residential facility or service for substance abuse, or
  - (d) has ten years of supervised experience in licensed 24-Hour residential facility or service for substance abuse.

*History Note: Authority G.S. 143B-147;*

*Eff. August 1, 2000;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4303 STAFF**

- (a) A minimum of one staff member shall be present at all times when an adult or child is on the premises, except when an adult client has been deemed capable of remaining in the facility without supervision for a specified time by a qualified therapeutic community professional.
- (b) Staff-client ratios in the facilities shall be 1:30 and a minimum of one qualified therapeutic community professional shall be available for each 100 clients in a facility.
- (c) Each direct care staff member shall receive training in the following areas within 90 days of employment:
  - (1) the history, philosophy and operations of the therapeutic community;
  - (2) manipulative, anti-social and self-defeating behaviors;
  - (3) behavior modification techniques; and
  - (4) in programs which serve as alternatives to incarceration, training shall be received on:
    - (A) personality traits of offenders and criminogenic behavior; and
    - (B) the criminal justice system.
- (d) Each direct care staff member shall receive continuing education which shall include understanding the nature of addiction, the withdrawal syndrome, symptoms of secondary complications to substance abuse or drug addiction, HIV/AIDS, sexually-transmitted diseases, and drug screening.
- (e) In a facility with children and pregnant women, each direct care staff member shall receive training in:
  - (1) developmentally-appropriate child behavior management;
  - (2) signs and symptoms of pre-term labor;
  - (3) signs and symptoms of post-partum depression;
  - (4) therapeutic parenting skills;

- (5) dynamics and needs of children and adults diagnosed as ADD/ADHD;
- (6) domestic violence, sexual abuse and sexual assault;
- (7) pregnancy, delivery and well-child care; and
- (8) infant feeding, including breast feeding.

*History Note: Authority G.S. 143B-147;*

*Eff. August 1, 2000;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4304 OPERATIONS**

- (a) Admission to a Therapeutic Community facility shall be a joint decision of the qualified therapeutic community professional, direct care staff and the individual.
- (b) Each facility shall operate in partnership with the staff and the self-government structure of the program.
- (c) The services of a qualified therapeutic community professional shall be available on an as-needed basis.
- (d) Each individual admitted to a facility shall receive services appropriate to his or her needs and age.
- (e) The purpose of this program shall be to provide clients with on-the-job work skills, training and work ethic development, and to provide revenue to support the program.
- (f) A component of therapeutic communities may be business training schools, licensed when appropriate, which may include moving and storage, landscaping, construction, telemarketing, secretarial and clerical, retail sales, and temporary job placement. Revenue produced through the operation of business training schools shall be placed in the general operating fund.
- (g) Residents shall not receive any income.
- (h) Programs may accept clients at no charge and shall provide an opportunity for clients to pay for their own treatment.
- (i) Each facility shall provide or have access to the following services:
  - (1) a structured environment which emphasizes behavior change and cognitive skills;
  - (2) assessment of the appropriateness for participation in a therapeutic community or referral elsewhere;
  - (3) recovery skills;
  - (4) relationship skills;
  - (5) communication skills;
  - (6) coordination of support services;
  - (7) interactive training for employment;
  - (8) recreational and enrichment skills;
  - (9) life skills which promote self-sufficiency;
  - (10) parenting skills;
  - (11) drug and crime free education; and
  - (12) after care and transitional living services skills.

*History Note: Authority G.S. 143B-147;*

*Eff. August 1, 2000;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4305 CLIENT RIGHTS**

Therapeutic community facilities shall operate in accordance with Rule .0504 of this Subchapter and G.S. 122C-Article 3, except:

- (1) since the facility can operate as an alternative to incarceration, random searches shall be conducted of an individual's belongings and bedroom in compliance with G.S. 122C-62; and
- (2) privileges of the resident shall be determined as responsibility levels increase.

*History Note: Authority G.S. 143B-147;*

*Eff. August 1, 2000;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4306 PHYSICAL PLANT**

- (a) A therapeutic community facility shall allow:
  - (1) dormitory occupancy with the number of individuals sharing a bedroom to be determined by the programmatic needs of the clients but in no case shall be more than 25 individuals per room;

- (2) mothers and children admitted to the facility to share a bedroom to assist in bonding between the two, and emphasizing the responsibility of the mother in the development of her child; and
  - (3) two mothers may share the same bedroom with their children to promote interactive education and peer support between residents; and
  - (4) in no circumstance shall a male child age 10 or above occupy a room with two or more mothers.
- (b) Client bedrooms shall have at least 50 square feet for single occupancy with no room dimension less than 7 feet.
- (c) Client bedrooms shall have at least 35 square feet for each individual in multiple occupancy rooms with no room dimension less than 7 feet.

*History Note: Authority G.S. 143B-147;*

*Eff. August 1, 2000;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .4400 – SUBSTANCE ABUSE INTENSIVE OUTPATIENT PROGRAM**

### **10A NCAC 27G .4401 SCOPE**

- (a) A substance abuse intensive outpatient program (SAIOP) is one that provides structured individual and group addiction treatment and services that are provided in an outpatient setting designed to assist adults or adolescents with a primary substance-related diagnosis to begin recovery and learn skills for recovery maintenance.
- (b) Treatment support activities may be adapted or specifically designed for persons with physical disabilities, co-occurring disorders including mental illness or developmental disabilities, pregnant women, chronic relapse and other homogenous groups.
- (c) Each SAIOP shall have a structured program, which includes the following services:
- (1) individual counseling;
  - (2) group counseling;
  - (3) family counseling;
  - (4) strategies for relapse prevention, which incorporate community and social supports;
  - (5) life skills;
  - (6) crisis contingency planning;
  - (7) disease management;
  - (8) service coordination activities; and
  - (9) biochemical assays to identify recent drug use (e.g. urine drug screens).

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. April 1, 2006;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .4402 STAFF**

- (a) Each SAIOP shall be under the direction of a Licensed Clinical Addictions Specialist or a Certified Clinical Supervisor who is on site a minimum of 50% of the hours the program is in operation.
- (b) When a SAIOP serves adult clients there shall be at least one direct care staff who meets the requirements of a Qualified Professional as set forth in 10A NCAC 27G .0104 (18) for every 12 or fewer adult clients.
- (c) When a SAIOP serves adolescent clients there shall be at least one direct care staff who meets the requirements of a Qualified Professional as set forth in 10A NCAC 27G .0104 (18) for every 6 or fewer adolescent clients.
- (d) Each SAIOP shall have at least one direct care staff present in the program who is trained in the following areas:
- (1) alcohol and other drug withdrawal symptoms; and
  - (2) symptoms of secondary complications due to alcoholism and drug addiction.
- (e) Each direct care staff shall receive continuing education that includes the following:
- (1) understanding of the nature of addiction;
  - (2) the withdrawal syndrome;
  - (3) group therapy;
  - (4) family therapy;
  - (5) relapse prevention; and
  - (6) other treatment methodologies.
- (f) When a SAIOP serves adolescent clients each direct care staff shall receive training that includes the following:

- (1) adolescent development; and
- (2) therapeutic techniques for adolescents.

*History Note:* Authority G.S. 122C-26; 143B-147;  
Eff. April 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .4403 OPERATIONS**

- (a) A SAIOP shall operate in a setting separate from the client's residence.
- (b) Each SAIOP shall operate at least three hours per day, at least three days per week with a maximum of two days between offered services.
- (c) A SAIOP shall provide services a maximum of 19 hours for each client.
- (d) Each SAIOP shall provide services a minimum of nine hours per week for each client.
- (e) Group counseling shall be provided each day program services are offered.
- (f) Each SAIOP shall develop and implement written policies to carry out crisis response for their clients on a face to face and telephonic basis 24 hours a day, seven days a week, which shall include at a minimum the capacity for face to face emergency response within two hours.
- (g) Before discharge, the program shall complete a discharge plan and refer each client who has completed services to the level of treatment or rehabilitation as specified in the treatment plan.

*History Note:* Authority G.S. 122C-26; 143B-147;  
Eff. April 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

### **SECTION .4500 – SUBSTANCE ABUSE COMPREHENSIVE OUTPATIENT TREATMENT PROGRAM**

#### **10A NCAC 27G .4501 SCOPE**

- (a) A substance abuse comprehensive outpatient treatment program (SACOT) is one that provides a multi-faceted approach to treatment in an outpatient setting for adults with a primary substance-related diagnosis who require structure and support to achieve and sustain recovery.
- (b) Treatment support activities may be adapted or specifically designed for persons with physical disabilities, co-occurring disorders including mental illness or developmental disabilities, pregnant women, chronic relapse, and other homogenous groups.
- (c) SACOT shall have a structured program, which includes the following services:
  - (1) individual counseling;
  - (2) group counseling;
  - (3) family counseling;
  - (4) strategies for relapse prevention to include community and social support systems in treatment;
  - (5) life skills;
  - (6) crisis contingency planning;
  - (7) disease management;
  - (8) service coordination activities; and
  - (9) biochemical assays to identify recent drug use (e.g. urine drug screens).
- (d) The treatment activities specified in Paragraph (c) of this Rule shall emphasize the following:
  - (1) reduction in use and abuse of substances or continued abstinence;
  - (2) the understanding of addictive disease;
  - (3) development of social support network and necessary lifestyle changes;
  - (4) educational skills;
  - (5) vocational skills leading to work activity by reducing substance abuse as a barrier to employment;
  - (6) social and interpersonal skills;
  - (7) improved family functioning;
  - (8) the negative consequences of substance abuse; and
  - (9) continued commitment to recovery and maintenance program.

*History Note:* Authority G.S. 122C-26; 143B-147;



*Eff. April 1, 2006;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4502 STAFF**

- (a) The SACOT shall be under the direction of a Licensed Clinical Addictions Specialist or a Certified Clinical Supervisor who is on site a minimum of 90% of the hours the program is in operation.
- (b) For each SACOT there shall be at least one direct care staff who meets the requirements of a Qualified Professional as set forth in 10A NCAC 27G .0104 (18) for every 10 or fewer clients.
- (c) Each SACOT shall have at least one direct care staff present in the program who is trained in the following areas:
  - (1) alcohol and other drug withdrawal symptoms; and
  - (2) symptoms of secondary complications due to alcoholism and drug addiction.
- (d) Each direct care staff shall receive continuing education that includes the following:
  - (1) understanding of the nature of addiction;
  - (2) the withdrawal syndrome;
  - (3) group therapy;
  - (4) family therapy;
  - (5) relapse prevention; and
  - (6) other treatment methodologies.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. April 1, 2006;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .4503 OPERATIONS**

- (a) A SACOT shall operate in a setting separate from the client's residence.
- (b) Each SACOT shall provide services a minimum of 20 hours per week.
- (c) Each SACOT shall operate at least four hours per day, at least five days per week with a maximum of two days between offered services.
- (d) Each SACOT shall provide a structured program of services in the amounts, frequencies and intensities specified in each client's treatment plan.
- (e) Group counseling shall be provided each day program services are offered.
- (f) Each SACOT shall develop and implement written policies to carry out crisis response for their clients on a face to face and telephonic basis 24 hours a day, seven days a week, which shall include at a minimum the capacity for face to face emergency response within two hours.
- (g) Psychiatric consultation shall be available as needed.
- (h) Before discharge, the program shall complete a discharge plan and refer each client who has completed services to the level of treatment or rehabilitation as specified in the treatment plan.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. April 1, 2006;*

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#### **SECTION .4600 - RESERVED FOR FUTURE CODIFICATION**

#### **SECTION .4700 - RESERVED FOR FUTURE CODIFICATION**

#### **SECTION .4800 - RESERVED FOR FUTURE CODIFICATION**

#### **SECTION .4900 - RESERVED FOR FUTURE CODIFICATION**

### **SECTION .5000 - FACILITY BASED CRISIS SERVICE FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .5001 SCOPE**

- (a) A facility-based crisis service for individuals who have a mental illness, developmental disability or substance abuse disorder is a 24-hour residential facility which provides disability-specific care and treatment in a nonhospital setting for

individuals in crisis who need short-term intensive evaluation, or treatment intervention or behavioral management to stabilize acute or crisis situations.

(b) This facility is designed as a time-limited alternative to hospitalization for an individual in crisis.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5002 STAFF**

(a) Each facility shall maintain staff to client ratios that ensure the health and safety of clients served in the facility.

(b) Staff with training and experience in the provision of care to the needs of clients shall be present at all times when clients are in the facility.

(c) The facility shall have the capacity to bring additional staff on site to provide more intensive supervision, treatment, or management in response to the needs of individual clients.

(d) The treatment of each client shall be under the supervision of a physician, and a physician shall be on call on a 24-hour per day basis.

(e) Each direct care staff member shall have access at all times to qualified professionals who are qualified in the disability area(s) of the clients with whom the staff is working.

(f) Each direct care staff member shall be trained and have basic knowledge about mental illnesses and psychotropic medications and their side effects; mental retardation and other developmental disabilities and accompanying behaviors; the nature of addiction and recovery and the withdrawal syndrome; and treatment methodologies for adults and children in crisis.

(g) Staff supervision shall be provided by a qualified professional as appropriate to the client's needs.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5003 OPERATIONS**

(a) Each facility shall have protocols and procedures for assessment, treatment, monitoring, and discharge planning for adults and for children of each disability group served in the facility. Protocols and procedures shall be approved by the area program's medical director or the medical director's designee, as well as the director of the appropriate disability unit of the area program.

(b) Discharge Planning and Referral to Treatment/Rehabilitation Facility. Each facility shall complete a discharge plan for each client that summarizes the reason for admission, intervention provided, recommendations for follow-up, and referral to an outpatient or day program or residential treatment/rehabilitation facility.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .5100 - COMMUNITY RESPITE SERVICES FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .5101 SCOPE**

(a) Community respite is a service which provides periodic relief for a family or family substitute on a temporary basis. While overnight care is available, community respite services may be provided for periods of less than 24 hours on a day or evening basis. Respite care may be provided by the following models:

(1) Center-based respite - the individual is served at a designated facility. While an overnight capacity is generally a part of this service, a respite center may provide respite services to individuals for periods of less than 24 hours on a day or evening basis.

(2) Private home respite - the individual is served in the provider's home on an hourly or overnight basis.

(b) Private home respite services serving individuals are subject to licensure under G.S. 122C, Article 2 when:

(1) more than two individuals are served concurrently; or

(2) either one or two children, two adults, or any combination thereof are served for a cumulative period of time exceeding 240 hours per calendar month.

*History Note: Authority G.S. 122C-22(a)(8); 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5102 STAFF**

- (a) The Program Director shall be either:
- (1) a graduate of a college or university with a four-year degree in human service-related field; or
  - (2) a high school graduate or equivalent with at least three years of experience in human service programming.
- (b) It shall be the responsibility of the Program Director to determine the appropriate ages of staff to provide respite services.
- (c) The following minimum staff requirements apply to community center-based respites:
- (1) During waking hours, in a facility that serves four or more clients, a minimum of two staff members shall be on duty when five or fewer clients are in the facility. If more than five clients are being served, a minimum ratio of one staff member for every additional five or fewer clients shall be maintained.
  - (2) During waking hours, in a facility that serves three or fewer clients, a minimum of two staff members shall be on duty unless emergency backup procedures are sufficient to allow only one staff member on duty.
  - (3) During sleeping hours, a minimum of two staff members shall be available in the immediate area unless emergency backup procedures are sufficient to allow only one staff member on duty.
  - (4) On occasions when only one client is in the facility, a minimum of one staff member shall be on duty during waking and sleeping hours.
- (d) In a private home respite, at least one respite provider approved according to guidelines established by the governing body and who has a basic understanding of the client's disability shall supervise the client at all times.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5103 OPERATIONS**

- (a) The governing body shall maintain an application for each provider of private home respite which includes the following:
- (1) identifying information;
  - (2) preference of time when respite care can be provided;
  - (3) age and gender preference of respite clients.
- (b) Only the respite program director or his designee shall arrange respite care between the client's family and the respite provider.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5104 PHYSICAL PLANT**

In private home respite services:

- (1) A minimum of one ionized smoke detector wired into the house current shall be installed and centrally located. Additional smoke detectors that are not wired into the house current shall be checked at least monthly by the provider.
- (2) A dry powder or CO(2) type fire extinguisher shall be located in the kitchen and shall be checked at least annually by the local fire department. Each provider of respite care shall receive instruction in its use prior to the initiation of service.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .5200 - RESIDENTIAL THERAPEUTIC (HABILITATIVE) CAMPS FOR CHILDREN AND ADOLESCENTS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .5201 SCOPE**

- (a) A residential therapeutic (habilitative) camp is a residential treatment facility provided in a camping environment which is designed to help individuals develop behavior control, coping skills, self-esteem and interpersonal skills.
- (b) Services may include supervised peer interaction, provision of healthy adult role models, and supervised recreational, educational and therapeutic experiences.
- (c) Each facility shall be designed to serve children and adolescents six through 17 years of age who have mental illness, developmental disability or substance abuse disorders.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5202 STAFF**

- (a) Each facility shall have a program director who has:
  - (1) a minimum of two years' experience in child or adolescent services specific to the campers' needs; and
  - (2) who has camping experience, and who has educational preparation in administrative, education, social work, nursing, psychology or a related field.
- (b) A minimum of two staff members shall be on duty for every eight or fewer campers.
- (c) Emergency medical treatment shall be available within one hour of the facility.
- (d) Psychiatric consultation shall be available to the facility.
- (e) An emergency on-call staff shall be readily available by page and able to reach campers within one hour.
- (f) Staff assigned to the facility shall be trained to manage the children or adolescents individually and as a group.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5203 OPERATIONS**

- (a) Each facility shall develop and implement written policies and procedures on basic care and safety.
- (b) In accordance with the schedules developed by the Program Director, staff shall maintain the following distance from the campers:
  - (1) During waking hours, staff shall be within sight or voice range of the campers.
  - (2) During sleeping hours, staff shall be located within voice range of the campers.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5204 PHYSICAL PLANT**

- (a) All sleeping units shall provide at least the following space:
  - (1) 30 square feet per person;
  - (2) 30 inches between sides of beds.
- (b) A minimum of the following shall be provided:
  - (1) one shower head for each ten individuals;
  - (2) one flush toilet for each ten individuals; and
  - (3) one handwashing facility, adjacent to toilet facilities, for each 20 individuals.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .5300 – RESERVED FOR FUTURE CODIFICATION**

#### **10A NCAC 27G .5301 RESERVED FOR FUTURE CODIFICATION**

### **SECTION .5400 - DAY ACTIVITY FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .5401 SCOPE**

- (a) Day activity is a day/night facility that provides supervision and an organized program during a substantial part of the day in a group setting to individuals who are mentally ill, developmentally disabled or have substance abuse disorders.
- (b) Participation may be on a scheduled or drop-in basis.
- (c) The service is designed to support the individual's personal independence and promote social, physical and emotional well-being through activities such as social skills development, leisure activities, training in daily living skills, improvement of health status, and utilization of community resources.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5402 STAFF**

- (a) Each client admitted to a facility shall receive services from a designated qualified mental health, developmental disability or substance abuse professional, as appropriate, who has responsibility for the client's treatment, program or case management plan.
- (b) Each facility shall have at least one staff member on site at all times when clients are present in the facility.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5403 OPERATIONS**

Each day activity facility shall be available three or more hours a day on a regularly scheduled basis at least once a week.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .5500 - SHELTERED WORKSHOPS FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .5501 SCOPE**

- (a) A sheltered workshop is a day/night facility which provides work-oriented services including various combinations of evaluation, developmental skills training, vocational adjustment, job placement, and sheltered employment to individuals of all disability groups 16 years of age or over who have potential for gainful employment. Sheltered workshops also may be known as Community Rehabilitation Programs (CRPs).
- (b) This service is designed for individuals who have demonstrated that they do not require the intensive training and structure found in programs such as Adult Developmental and Vocational Programs (ADVP) but have not yet acquired the skills necessary for competitive employment. It provides the individual opportunity to acquire and maintain life skills including appropriate work habits, specific job skills, self-help skills, socialization skills, and communication skills.
- (c) This service focuses on productive work activities for individuals who have potential for gainful employment as determined by Vocational Rehabilitation Services or the ability to participate in a sheltered employment program. Sheltered workshops are subject to Department of Labor Federal Wage and Hour Guidelines for the Handicapped.
- (d) The Rules in this Section specify licensure requirements applicable to sheltered workshops which serve individuals who are primarily mentally retarded or otherwise developmentally disabled; however, individuals with mental illness, with substance abuse disorders and severely physically disabled individuals may also be served within a sheltered workshop.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5502 STAFF**

- (a) Each facility shall have a designated full-time program director who shall have a baccalaureate degree with one year of experience in developmental disability rehabilitation programming; be a high school graduate or equivalent with three years of

experience in developmental disability programming; or be a high school graduate or equivalent with three years of experience in business or personnel management.

(b) Each facility shall have a designated program coordinator who shall have a baccalaureate degree with one year of experience in developmental disability programming or be a high school graduate or equivalent with three years of experience in developmental disability programming.

(c) At least one staff member shall be designated as a client evaluator who shall have at least a high school diploma, and shall have completed a five day inservice training program in the evaluation component of a licensed ADVP or sheltered workshop or in another training program approved by DMH/DD/SAS.

(d) Each facility shall maintain an overall direct service ratio of at least one full-time or full-time equivalent direct care staff member for every ten or fewer clients.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5503 OPERATIONS**

(a) Hours. Each facility shall be available for client attendance at least six hours per day (exclusive of transportation time), five days per week.

(b) Business Practices:

- (1) Supplies, materials or tools, if provided by the sheltered workshop, shall be identified as a separate amount in the bid price.
- (2) Wages paid to clients shall be on a piece rate or hourly commensurate wage basis.
- (3) Each client involved in productive work shall receive a written statement for each pay period which indicates gross pay, hours worked and deductions.
- (4) Prices for goods produced in the facility shall be equal to or exceed the cost of production (including commensurate wages, overhead, tools and materials).
- (5) Clients shall be counseled concerning their rights and responsibilities in such matters as wages, hours, working conditions, social security, redress for injury and the consequences of their own tortious or unethical conduct.

(c) Safety Committee. A safety committee comprised of staff members and client representatives shall be appointed to review accident reports and to monitor the facility for safety. The committee shall meet at least quarterly. Minutes shall be kept of all meetings and submitted to the Program Director.

(d) Handbook. Each facility shall have a client handbook including, but not limited to, information about services and activities.

- (1) The client handbook shall be written in a manner comprehensible to clients and reflective of adult status.
- (2) Each client shall be given a handbook, and the handbook shall be reviewed with the client.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **SECTION .5600 - SUPERVISED LIVING FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

##### **10A NCAC 27G .5601 SCOPE**

(a) Supervised living is a 24-hour facility which provides residential services to individuals in a home environment where the primary purpose of these services is the care, habilitation or rehabilitation of individuals who have a mental illness, a developmental disability or disabilities, or a substance abuse disorder, and who require supervision when in the residence.

(b) A supervised living facility shall be licensed if the facility serves either:

- (1) one or more minor clients; or
- (2) two or more adult clients.

Minor and adult clients shall not reside in the same facility.

(c) Each supervised living facility shall be licensed to serve a specific population as designated below:

- (1) "A" designation means a facility which serves adults whose primary diagnosis is mental illness but may also have other diagnoses;

- (2) "B" designation means a facility which serves minors whose primary diagnosis is a developmental disability but may also have other diagnoses;
- (3) "C" designation means a facility which serves adults whose primary diagnosis is a developmental disability but may also have other diagnoses;
- (4) "D" designation means a facility which serves minors whose primary diagnosis is substance abuse dependency but may also have other diagnoses;
- (5) "E" designation means a facility which serves adults whose primary diagnosis is substance abuse dependency but may also have other diagnoses; or
- (6) "F" designation means a facility in a private residence, which serves no more than three adult clients whose primary diagnoses is mental illness but may also have other disabilities, or three adult clients or three minor clients whose primary diagnoses is developmental disabilities but may also have other disabilities who live with a family and the family provides the service. This facility shall be exempt from the following rules: 10A NCAC 27G .0201 (a)(1),(2),(3),(4),(5)(A)&(B); (6); (7)(A),(B),(E),(F),(G),(H); (8); (11); (13); (15); (16); (18) and (b); 10A NCAC 27G .0202(a),(d),(g)(1)(i); 10A NCAC 27G .0203; 10A NCAC 27G .0205 (a),(b); 10A NCAC 27G .0207 (b),(c); 10A NCAC 27G .0208 (b),(e); 10A NCAC 27G .0209[(c)(1) – non-prescription medications only] (d)(2),(4); (e)(1)(A),(D),(E);(f);(g); and 10A NCAC 27G .0304 (b)(2),(d)(4). This facility shall also be known as alternative family living or assisted family living (AFL).

*History Note:* Authority G.S. 143B-147;  
 Eff. May 1, 1996;  
 Temporary Amendment Eff. January 1, 2002;  
 Amended Eff. April 1, 2003;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .5602 STAFF**

- (a) Staff-client ratios above the minimum numbers specified in Paragraphs (b), (c) and (d) of this Rule shall be determined by the facility to enable staff to respond to individualized client needs.
- (b) A minimum of one staff member shall be present at all times when any adult client is on the premises, except when the client's treatment or habilitation plan documents that the client is capable of remaining in the home or community without supervision. The plan shall be reviewed as needed but not less than annually to ensure the client continues to be capable of remaining in the home or community without supervision for specified periods of time.
- (c) Staff shall be present in a facility in the following client-staff ratios when more than one child or adolescent client is present:
  - (1) children or adolescents with substance abuse disorders shall be served with a minimum of one staff present for every five or fewer minor clients present. However, only one staff need be present during sleeping hours if specified by the emergency back-up procedures determined by the governing body; or
  - (2) children or adolescents with developmental disabilities shall be served with one staff present for every one to three clients present and two staff present for every four or more clients present. However, only one staff need be present during sleeping hours if specified by the emergency back-up procedures determined by the governing body.
- (d) In facilities which serve clients whose primary diagnosis is substance abuse dependency:
  - (1) at least one staff member who is on duty shall be trained in alcohol and other drug withdrawal symptoms and symptoms of secondary complications to alcohol and other drug addiction; and
  - (2) the services of a certified substance abuse counselor shall be available on an as-needed basis for each client.

*History Note:* Authority G.S. 143B-147;  
 Eff. May 1, 1996;  
 Amended Eff. July 1, 1998;  
 Temporary Amendment Eff. January 1, 2002;  
 Amended Eff. April 1, 2003;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .5603 OPERATIONS**

(a) Capacity. A facility shall serve no more than six clients when the clients have mental illness or developmental disabilities. Any facility licensed on June 15, 2001, and providing services to more than six clients at that time, may continue to provide services at no more than the facility's licensed capacity.

(b) Service Coordination. Coordination shall be maintained between the facility operator and the qualified professionals who are responsible for treatment/habilitation or case management.

(c) Participation of the Family or Legally Responsible Person. Each client shall be provided the opportunity to maintain an ongoing relationship with her or his family through such means as visits to the facility and visits outside the facility. Reports shall be submitted at least annually to the parent of a minor resident, or the legally responsible person of an adult resident. Reports may be in writing or take the form of a conference and shall focus on the client's progress toward meeting individual goals.

(d) Program Activities. Each client shall have activity opportunities based on her/his choices, needs and the treatment/habilitation plan. Activities shall be designed to foster community inclusion. Choices may be limited when the court or legal system is involved or when health or safety issues become a primary concern.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Temporary Amendment Eff. January 1, 2002;  
Amended Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5604 REQUIREMENTS FOR STATE/COUNTY SPECIAL ASSISTANCE RECIPIENTS**

The following applies to facilities under Rule .5601 in Subparagraph (c)(1), (3) and (6) of this Section that admit clients who participate in the Special Assistance Program administered by the Division of Social Services:

- (1) the facility shall be in compliance with the rules of this Subchapter prior to admitting Special Assistance Program recipients and receiving payment through the Special Assistance Program;
- (2) forms required by the Secretary pursuant to these Rules which have been signed by a qualified professional shall be filed in the client's record and renewed annually; and
- (3) the facility shall submit a signed DSS-1464 (Civil Rights Compliance Form) upon request and comply with the legal requirements as set forth in the Civil Rights Act of 1964.

*History Note: Authority G.S. 143B-147;  
Temporary Adoption Eff. January 1, 2002;  
Eff. April 1, 2003;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .5700 - ASSERTIVE COMMUNITY TREATMENT SERVICE**

#### **10A NCAC 27G .5701 SCOPE**

(a) Assertive community treatment (ACT) services shall be provided to individuals with serious mental illness, developmental disabilities, or substance abuse diagnoses who:

- (1) may have a pattern of frequent use of crisis services, repeated hospitalizations or incarceration;
- (2) may have failed to remain engaged in or to respond to conventional services; or
- (3) have been determined to have unusual needs.

Such individuals require intervention by an Assertive Community Treatment Team (ACTT) in order to provide ongoing assertive treatment and services that are made available outside clinic settings in order to address their treatment needs effectively.

(b) The Assertive Community Treatment Team provides a service by an interdisciplinary team that ensures service availability 24 hours a day and is prepared to carry out a full range of treatment functions wherever and whenever needed. The objectives of the service include:

- (1) preventing or reducing symptoms or behaviors that may result in the need for recurrent use of inpatient services or incarceration; and
- (2) increasing the skills and behaviors that enhance the individual's ability to remain in the community.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;*



*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5702 STAFF**

(a) Team Composition. The team shall be interdisciplinary in order to carry out the varied activities needed to meet the complex needs of clients and shall include:

- (1) a qualified professional, appropriate to the diagnoses of the clients being served;
- (2) a Registered nurse;
- (3) an MD (at least .25 FTE per 50 clients); and
- (4) one or more paraprofessional staff trained to meet the needs presented by the facility's client population.

(b) Team Qualifications. Each member of the team shall be privileged and supervised based on their training, experience, and qualifications.

(c) Client To Staff Ratio. The client/staff ratio shall be based on the needs of the clients for whom the team is assigned responsibility. The usual and customary client/staff ratio shall be 10 to 1, and in no circumstance shall the ratio exceed 12 to 1.

(d) Organization And Operation Of The Team. The area program shall develop a program description and policies that address the following:

- (1) team composition consistent with staffing pattern based on anticipated client population and with the team composition, client/staff ratio, and staff qualifications described above;
- (2) training and supervision (including initial and ongoing cross-disability training if applicable);
- (3) communication between and among team members regarding clients' condition by assignment of daily staff responsibilities and regular, frequent staffing;
- (4) days and hours of operation;
- (5) after-hours plan including on-call coverage and linkages with appropriate after-hours emergency services;
- (6) client selection procedures and criteria consistent with this service definition;
- (7) description of service provision by ACTT and provisions for rapid access to consultation from other professionals as needed; and
- (8) policies regarding Quality Assurance and Quality Improvement including outcome measures.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5703 OPERATIONS**

(a) Objectives. The treatment objectives shall be addressed by activities designed to:

- (1) promote symptom stability and appropriate use of medication;
- (2) restore personal, community living and social skills;
- (3) promote and maintain physical health;
- (4) establish access to entitlements, housing, and work and social opportunities; and
- (5) promote and maintain the highest possible level of functioning in the community.

(b) Client Selection Criteria. Eligibility for ACT services shall be determined on the basis of a comprehensive assessment and shall meet criteria Subparagraphs (b)(1), (2), and (3) of this Rule:

- (1) A diagnosis of a serious mental illness, developmental disability or substance abuse;
- (2) Unusual needs that have required intensive service provision as evidenced by one or more of the following:
  - (A) an established pattern of frequent use of crisis services, emergency rooms or incarceration related to the diagnosed disorder;
  - (B) a history of multiple admissions to psychiatric or substance abuse inpatient treatment facilities or multiple emergency admissions to Mental Retardation Centers or respite facilities; or
  - (C) a history of frequent contacts or referral to protective service or the criminal justice system (including juvenile detention and training schools) secondary to severely dysfunctional or obviously dangerous behavior; and
- (3) Have symptoms and behaviors as evidenced by one or more of the following:
  - (A) a history of alcohol and drug abuse in combination with psychiatric symptoms or other serious medical or physical problems;
  - (B) a pattern of isolation with extremely poor or non-existent social or family support;
  - (C) a pattern of inability to provide for basic needs for food, clothing, and shelter;

- (D) a pattern of urgent and severe psychiatric and other concomitant medical difficulties; or
  - (E) have failed to remain engaged in or to respond to conventional services (such as case management, medication, outpatient treatment, or day programs).
- (c) Criteria For Continued Eligibility Of ACT Services:
- (1) If a client's needs can be adequately and appropriately addressed with an average of less than seven face-to-face contacts per month during any three-consecutive-month period, the treatment plan shall be reviewed to determine whether other less intensive service alternatives should be provided instead of ACT services.
  - (2) If it is determined that less intensive services could meet a client's needs over the long run, the reasons shall be documented, a plan for continuity of care established, and the client should no longer be eligible for ACT services.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .5800 - SUPPORTED EMPLOYMENT FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

### **10A NCAC 27G .5801 SCOPE**

- (a) A supported employment program is a service that provides periodic support services for individuals 16 years of age or older with developmental disability, mental illness or substance abuse disorders to prepare the individual to work as independently as possible. The service is typically planned and implemented in cooperation with the Division of Vocational Rehabilitation Services.
- (b) Supported employment encompasses a variety of services, which are implemented according to the employment needs of the individual as identified in the individual's service plan. These include vocational evaluation, job development, intensive training, job placement, and long-term support. Support services to clients' families and consultation with the clients' employers and other involved agencies may also be provided.
- (c) The Rules contained in this Section are applicable to two specific models of supported employment services:
  - (1) Supported Employment. All of the training activities in this model occur in a separate location in the community, not in a specialized facility maintained by the operator.
  - (2) Supported Employment - Long-Term Support. Clients served in this model have successfully completed the intensive initial training phase of supported employment sponsored by the Division for Vocational Rehabilitation Services, and now are receiving those long-term support services targeted towards maintenance in the job, which are the responsibility of DMH/DD/SAS:
    - (A) At a minimum these services provide monthly monitoring at the work site of each individual in supported employment in order to assess employment stability, unless the individualized written rehabilitation plan specifies a different monitoring schedule or off-site monitoring, which is based on client request.
    - (B) Examples of such long-term support services include "refresher" vocational training to ensure that existing job skills are not lost, training in new job performance expectations, and consultation to other employees, employers, and families, and residential program staff.

*History Note: Authority G.S. 122C-26; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .5802 STAFF**

- (a) Each supported employment program shall have a designated program director.
- (b) The Program Director shall be at least a high school graduate or equivalent with three years of experience in the appropriate disabilities programs.
- (c) Each program shall provide for client evaluation.
- (d) Any person providing evaluation of job performance services shall have a high school diploma.
- (e) In group supported employment models, such as the mobile crew or enclave, each supported employment shall maintain an overall direct service ratio of at least one full-time equivalent direct service staff member for each eight or fewer clients.
- (f) In individual placement models, such as job coach, the amount of staff contact time per client shall be individualized based on client needs and goals as identified in the service plan.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5803 OPERATIONS**

(a) Population Served. Each supported employment program shall be designed primarily to serve individuals who are 16 years of age or older.

(b) Business Practices:

- (1) For supported employment programs operated by an area program or its contract agency, if the supported employment program seeks or receives remuneration for goods or services provided to another individual, organization or business:
  - (A) Supplies, materials or tools, if provided by the supported employment program, shall be identified as a separate amount in the bid price;
  - (B) Wages paid to supported employment clients shall be on a piece rate or hourly commensurate wage basis;
  - (C) Each client involved in productive work shall receive a written statement for each pay period which indicates gross pay, hours worked and deductions; and
  - (D) Prices for goods produced in the supported employment shall be equal to or exceed the cost of production (including commensurate wages, overhead, tools and materials).
- (2) If the client is an employee of another individual, organization or business, the supported employment shall review client earnings information on at least an annual basis to ensure appropriateness of pay rates and amounts.
- (3) Clients shall be counseled concerning their rights and responsibilities in such matters as wages, hours, working conditions, social security, redress for injury and the consequences of their own tortious or unethical conduct.

(c) Handbook. For supported employment programs which provide a handbook to each individual served, the handbook shall contain information about programs and services:

- (1) The client handbook shall be written in a manner comprehensible to clients and reflective of adult status.
- (2) Each client shall be given a handbook, and the handbook shall be reviewed with the client.

(d) Safety Educational Program. Supported employment services shall include the teaching of accident prevention and occupational safety specific to the job duties of each vocational placement.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5804 CLIENT ELIGIBILITY AND ADMISSIONS**

(a) Eligibility. Clients served shall be individuals 16 years of age or older who have a mental illness, developmental disability, or substance abuse disorder.

(b) Admissions. Each supported employment facility shall have written admission policies and procedures.

- (1) A pre-admission staffing shall be held for each client considered for admission to the supported employment program. During the staffing, information shall be considered regarding the client's medical, psychological, social, and vocational histories.
- (2) Results of the pre-admission staffing shall be documented and forwarded to the referral or sponsoring agency. The client shall be notified of the results of the staffing.

*History Note: Authority G.S. 122C-26; 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .5900 - CASE MANAGEMENT FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .5901 SCOPE**

(a) Case management is a support service through which planning and coordination of services are carried out on behalf of the individual. It is designed to integrate multiple services needed or being received by the individual from the area program or from other agencies.

(b) Case management may include advocacy on behalf of the individual and monitoring the provision of services to the individual. Within this context, case management assists an individual in meeting his total needs by linking the individual to evaluation, treatment, educational, vocational, residential, health, financial, social, and any other needed services.

(c) The extent to which case management services are provided will vary according to the needs of the client. The area program may elect to provide case management through a variety of models such as:

- (1) primary therapist;
- (2) contract with a private agency;
- (3) disability-specific case managers; and
- (4) area operated case management units.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5902 STAFF**

When infants, toddlers and preschoolers are served, the case manager shall have demonstrated knowledge and understanding about:

- (1) infants and toddlers with or at risk for developmental delays or atypical development;
- (2) Part H of the Individuals with Disabilities Education Act, the federal regulations related to it and relevant state statutes and standards;
- (3) effective and appropriate help-giving behaviors; and
- (4) the nature and scope of the services available under the state's early intervention program, resources available for payment for services and other related information.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .5903 OPERATIONS**

(a) Provision Of Case Management. The case management process shall begin at the time the individual is accepted as a client and shall continue through the termination of the client/agency relationship.

(b) Case Management Activities:

- (1) Case management activities shall include:
  - (A) comprehensive assessment of the client's treatment/habilitation needs or problem areas;
  - (B) the allocation of responsibilities for implementation and monitoring of the treatment/habilitation plan;
  - (C) establishment of separate and joint responsibilities among staff and service agencies involved in helping the individual;
  - (D) planning for need or problem resolution through the identification or development of an appropriate service network inclusive of all available resources;
  - (E) assessment or determination of outcomes; and
  - (F) when minors are served, informing families of the availability of advocacy services.
- (2) When infants and toddlers are served, the following additional activities are included:
  - (A) developing transition plans in conjunction with the family related to entry into preschools which are the responsibility of the Department of Public Instruction or other involved public or private service providers;
  - (B) facilitating and participating in development, review and evaluation of individualized family service plans;
  - (C) coordinating with medical and health providers; and
  - (D) assisting parents of eligible children in gaining access to the early intervention services and other services identified in the individualized family services plan.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .6000 - INPATIENT HOSPITAL TREATMENT FOR INDIVIDUALS WHO HAVE MENTAL ILLNESS OR SUBSTANCE ABUSE DISORDERS**

### **10A NCAC 27G .6001 SCOPE**

(a) Inpatient hospital treatment involves the provision of 24-hour treatment in an inpatient hospital setting. This facility is designed to provide treatment for individuals who have acute psychiatric problems or substance abuse disorders and is the most intensive and restrictive type of facility for individuals. Services may include:

- (1) psychological and medical diagnostic procedures;
- (2) observation;
- (3) treatment modalities, including medication, psychotherapy, group therapy, occupational therapy, industrial therapy, vocational rehabilitation, and recreation therapy and milieu treatment;
- (4) medical care and treatment as needed;
- (5) supportive services including education; and
- (6) room and board.

(b) Psychiatric facilities shall be designed to serve individuals who require inpatient care for the evaluation, treatment, and amelioration of those acute psychiatric symptoms which impair or interfere with the client's ability to function in the community. Because inpatient care is the most restrictive service in the system of care for psychiatric patients, the goal of inpatient hospitalization is to stabilize symptoms so that the client can return to the community as soon as possible. An individual who, in addition to mental illness, has other disorders, such as mental retardation or substance abuse, shall be eligible for admission if the primary need of treatment is for mental illness.

(c) Substance abuse facilities that provide detoxification services shall comply with the applicable rules for detoxification.

(d) For those facilities that are both psychiatric and substance abuse facilities, the license shall identify the number of psychiatric beds and the number of substance abuse beds that the facility is authorized to operate pursuant to the Certificate of Need law as set forth in G.S. 131E, Article 9.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .6002 STAFF**

(a) Each facility shall delineate in writing the numbers and qualification of its personnel.

(b) Each facility shall have a designated director. The director shall be an individual who is a graduate of a college or university and who meets at least one of the following additional qualification criteria:

- (1) has an advanced degree in a human service field and two years of management or supervisory experience in inpatient mental health services; or
- (2) has a bachelor's degree in a human service field and four years of management or supervisory experience in inpatient mental health services; or
- (3) has an advanced degree in a field related to the management of health care facilities and two years of management experience in inpatient mental health services.

(c) Each facility shall have a designated medical director. In a substance abuse facility, the medical director shall be a physician with at least two years experience in the treatment of substance abuse.

(d) A physician shall be present in the facility or on call 24 hours per day.

(e) A physician shall supervise the treatment of each client.

(f) Staff coverage in a psychiatric facility shall include at least one of each of the following:

- (1) psychiatrist;
- (2) licensed practicing psychologist;
- (3) psychiatric social worker;
- (4) psychiatric nurse; and
- (5) the services of a qualified mental health professional readily available by telephone or page.

(g) Staff Coverage in a substance abuse facility shall include at a minimum:

- (1) one full-time certified alcoholism, drug abuse or substance abuse counselor for every 10 or fewer clients. If the facility falls below this prescribed ratio and is unable to employ an individual who is certified because of unavailability of certified persons in the facility's hiring area, then it may employ an uncertified person, provided that this employee meets the certification requirements within a maximum of 26 months from the date of his employment;
- (2) at least one registered nurse on duty during each shift;
- (3) at least two direct care staff members on duty at all times;
- (4) one direct care staff member for each 20 or fewer clients on duty at all times in facilities serving adults;
- (5) a minimum of one staff member for each five or fewer minor clients on duty during the hours 7:00 a.m. to 11:00 p.m.; and
- (6) at least one staff member on duty trained in substance abuse withdrawal and symptoms of secondary complications to substance abuse.

*History Note:* Authority G.S. 122C-26; 143B-147;  
 Eff. May 1, 1996;  
 Temporary Amendment Eff. January 3, 2001;  
 Amended Eff. August 1, 2002;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .6003 OPERATIONS**

Program Plan Description. Each facility shall specify:

- (1) a daily schedule of therapeutic activities;
- (2) a description of services offered for the family and significant others and how these individuals are involved in the treatment process;
- (3) a description of how the client and family members are linked in their home communities with support groups and referral sources; and
- (4) a description of how the facility will facilitate the continuity of care between inpatient and outpatient services.

*History Note:* Authority G.S. 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

### **SECTION .6100 - EMERGENCY SERVICES OR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .6101 SCOPE**

Each area program shall make provisions for emergency services on a 24-hour non-scheduled basis to individuals of all ages and disability groups and their families, for immediate screening or assessment of presenting problems including emotional or behavioral problems or problems resulting from the abuse of alcohol or other drugs.

*History Note:* Authority G.S. 143B-147;  
 Eff. May 1, 1996;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

#### **10A NCAC 27G .6102 STAFF**

- (a) At least one staff member shall be designated to coordinate and supervise activities of the emergency services network.
- (b) A qualified professional, as appropriate to the client's needs, shall be available for immediate consultation and for direct face-to-face contact with clients.
- (c) Prior to providing emergency services, each staff member or volunteer shall be trained in:
  - (1) available resources;
  - (2) interviewing techniques;
  - (3) characteristics of substance abuse disorders, developmental disabilities, and mental illness;
  - (4) crisis intervention;
  - (5) making referrals; and
  - (6) commitment procedures.

(d) Volunteers shall be supervised by a qualified professional.

*History Note: Authority G.S. 122C-117; 122C-121; 122C-154; 122C-155; 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6103 OPERATIONS**

(a) Emergency services shall include at least the following:

- (1) 24-hour access to personnel trained in emergency services;
- (2) 24-hour telephone coverage at no cost to the client;
- (3) provision for emergency hospital services; and
- (4) provision of emergency back-up or consultation by a qualified mental health professional and a qualified alcoholism, drug abuse or substance abuse professional.

(b) The emergency telephone number shall be listed separately in the local telephone directory and publicized in the community through such means as brochures, appointment cards and public service announcements.

(c) At least one designated staff member of the area program shall review emergency services records to assure that arrangements with treatment/habilitation staff are made for follow-up services.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .6200 - OUTPATIENT SERVICES FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .6201 SCOPE**

Each area program shall make provision for outpatient services which are provided to individuals of all ages and disabilities, families, or groups in a non-hospital setting through short visits for the purpose of treatment, habilitation, or rehabilitation.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6202 OPERATIONS**

(a) Availability Of Services. The area program shall provide at least one clinic that holds office hours no less than 40 hours per week in order to make available outpatient services. Clinics which are located at other sites in the catchment area, and which operate less than 40 hours per week, shall inform clients of the availability of the full-time clinic when part-time clinics are not open.

(b) Scheduling Appointments. The service shall establish and implement written procedures for scheduling appointments and providing services for individuals without appointments.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .6300 - COMPANION RESPITE SERVICES FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .6301 SCOPE**

Companion respite is a support service in which a trained respite provider is scheduled to care for the individual in a variety of settings, including the individual's own home or other location not subject to licensure.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6302 OPERATIONS**

- (a) Responsibilities Of Governing Body. Each governing body shall:
- (1) develop and implement written criteria for the approval of providers and the sites where services may be provided.
  - (2) attempt to match the client's needs with the provider's ability to provide respite services.
  - (3) make available to the provider instructions regarding duties and responsibilities which shall include, but need not be limited to:
    - (A) length of time for which service will be provided;
    - (B) administration of medications; and
    - (C) special dietary considerations.
  - (4) furnish written information to the provider, if the client is involved in a day program, regarding responsibilities for assuring that the client attends the program and for structuring activities to enhance objectives established by the developmental or occupational program.
- (b) Agreement With Providers. Unless represented in a written job description for providers or in written policies and procedures, each governing body shall have a written agreement signed by each provider of respite care. A signed copy of the agreement shall be maintained by the governing body, and a signed copy shall be given to the provider. The provisions of the agreement shall specify the responsibilities of the governing body and the provider including:
- (1) confidentiality requirements;
  - (2) procedures for securing emergency services;
  - (3) program activities to be implemented;
  - (4) responsibilities for supervising the respite client;
  - (5) procedures related to administration of medications;
  - (6) participation in respite training programs;
  - (7) terms of compensation;
  - (8) client rights; and
  - (9) adherence to agency policies and procedures.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .6400 - PERSONAL ASSISTANCE FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

### **10A NCAC 27G .6401 SCOPE**

(a) Personal assistance is a service which provides aid to a client who has mental illness, developmental disabilities or substance abuse disorders so that the client can engage in activities and interactions in which the client would otherwise be limited or from which the client would be excluded because of a disability or disabilities. The assistance includes:

- (1) assistance in personal or regular living activities in the client's home;
- (2) support in skill development; or
- (3) support and accompaniment of the client in regular community activities or in specialized treatment, habilitation or rehabilitation service programs.

(b) If these Rules are in conflict with Medicaid or Medicare rules regarding personal care, and Medicaid or Medicare is to be billed, then the Medicaid or Medicare rules shall prevail.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .6402 STAFF**

(a) Personal assistance shall be provided under the direction of a supervisor who is a qualified professional.

(b) When a specific client's disability is different than that for which the supervisor is trained, the personal assistance employee shall have access to consultation from a qualified professional who is trained in a discipline related to the client's needs.

(c) Individuals who are employed to provide personal assistance shall have:

- (1) at least a high-school diploma or its equivalent; and
- (2) training regarding the needs of the specific client for whom assistance will be provided.



(d) Individuals employed to provide personal assistance shall be specifically informed in each personal assistance arrangement regarding safety precautions and 24-hour emergency procedures.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6403 OPERATIONS**

Housing Review. When personal assistance for a client includes providing service in the client's home, one of the purposes of the service is to assess the safety and sanitation of the home with the client. If the safety or sanitation is in question, it shall be brought to the attention of the client and the professional responsible for the treatment/habilitation or case management of the client, so that the situation can be discussed as a part of the regular treatment/habilitation or case management planning process.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .6500 - EMPLOYEE ASSISTANCE PROGRAMS (EAP)**

#### **10A NCAC 27G .6501 SCOPE**

(a) An employee assistance program (EAP) is a worksite based program designed to assist in the identification and resolution of productivity problems in the workplace associated with employees impaired by personal concerns including, but not limited to, health, marital, family, financial, alcohol, drug, legal, emotional, stress, or other personal concerns which may adversely affect employee job performance.

(b) The service is offered in partnership with employers with whom the area program has a written agreement and provides employee education, supervisory training, referral, follow-up and program evaluation.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6502 STAFF**

The area program shall designate an individual who has the responsibility for planning and implementing employee assistance programs with employers from both the public and private sector.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6503 OPERATIONS**

(a) Population Served. Each EAP shall be designed to serve the organization (employer), its employees, and their family members by providing a comprehensive system from which employees can obtain assistance addressing personal problems which may affect their work performance.

(b) Written Agreement. The EAP shall implement, within the constraints placed on it by the employer firm, a written agreement with employers which incorporates the following:

- (1) a written formal policy statement promulgated by the employer which defines the intent of the program;
- (2) identification of a program administrator by the employer who will serve as liaison between the employer and the EAP;
- (3) written procedures to be used by the employer in implementing its EAP;
- (4) written procedures to be used by the EAP to carry out the screening and referral process; and
- (5) a statement assuring the employer that the EAP shall comply with applicable confidentiality regulations.

(c) Training. The EAP shall establish and make available a training program to be used in promoting the utilization of the program.

(d) Awareness Program. The EAP shall implement an ongoing employee awareness program to inform employees of the availability of services.

*History Note:* Authority G.S. 143B-147;

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .6600 - SPECIALIZED FOSTER CARE SERVICES**

### **10A NCAC 27G .6601 SCOPE**

Specialized foster care is a support service provided cooperatively by the area program and the local department of social services or other licensed child care agency for individuals with developmental disability or mental illness who are in the custody of or whose parents have entered into a boarding home agreement with the local Department of Social Services or other licensed child care agency. Individuals up to 21 years of age may be served if they are involved in an ongoing educational program provided by the public school system or an adult day service provided by an adult developmental activity program or community college system. Support activities include funding, monitoring and evaluation, program coordination, parent training, development and implementation of individual treatment or goal plans, and consultation and technical assistance. These services shall be designed to serve those individuals in whose behalf area program funds are directed to foster parents in exchange for the provision of individualized prescriptive programming.

*History Note:* Authority G.S. 131D, Article 1A; 143B-147; 143B-153;

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .6602 APPROVED FOSTER HOMES**

Each foster home shall be licensed by the Department of Human Resources and supervised by the county Department of Social Services or other licensed child care agency and shall meet the criteria for receipt of Title XX (P.L. 97-35) foster care special services funds as specified in 10 NCAC 41F and J. The criteria are available for review at each county Department of Social Services office.

*History Note:* Authority G.S. 131D-10.3; 143B-147;

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **10A NCAC 27G .6603 PLACEMENT CARE AGREEMENT**

(a) The area program shall negotiate a placement care agreement with the specialized foster care parents on behalf of each individual for whom the area program contracts for specialized foster care services.

(b) The agreement shall include provisions related to the following:

- (1) commitment by the foster parents to participate in needed treatment programs related to the foster placement;
- (2) commitment from the foster parents to participate with area program staff in the development and implementation of individualized treatment or goal plans;
- (3) commitment by the foster parents to receive consultation and technical assistance from the area program; and
- (4) commitment by the foster parents that any decision to terminate services shall be negotiated among the foster parents, the area program and county Department of Social Services consistent with the termination clause of the agreement.

*History Note:* Authority G.S. 122C-51; 143B-147;

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

## **SECTION .6700 - FORENSIC SCREENING AND EVALUATION SERVICES FOR INDIVIDUALS OF ALL DISABILITY GROUPS**

#### **10A NCAC 27G .6701 SCOPE**

Forensic services shall be designed to serve offenders and alleged offenders referred by the criminal justice system by court order.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6702 OPERATIONS**

When ordered by a court, forensic screening and evaluation to assess capacity to proceed to trial shall be provided by evaluators trained and certified in accordance with the provisions of 10A NCAC 27H .0201 through .0207.

*History Note: Authority G.S. 15A-1002; 143B-147;  
Eff. May 1, 1996;  
Amended Eff. June 1, 2018;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .6800 - PREVENTION SERVICES**

#### **10A NCAC 27G .6801 SCOPE**

Prevention services shall include information, consultation, education and instruction for the general population.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6802 STAFF**

The area program shall designate a director for prevention services.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .6900 - CONSULTATION AND EDUCATION SERVICES**

#### **10A NCAC 27G .6901 SCOPE**

(a) Consultation is a prevention or intervention service provided to other mental health, human service, and community planning and development organizations or individual practitioners of other organizations designed to both impart knowledge and assist recipients in developing insights and skills necessary to carry out their service responsibilities. The ultimate goal is to increase the quality of care available in the service delivery system.

(b) Education is a prevention or intervention service designed to impart knowledge to various target groups, including clients, families, schools, businesses, churches, industries, and civic and other community groups in the interest of increasing understanding of the nature of mental health, mental retardation, and substance abuse disorders, and the availability of various community resources. It also serves to improve the social functioning of recipients by increasing awareness of human behavior and providing alternative cognitive or behavioral responses to life situations.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6902 STAFF**

The consultation and education service shall have a designated director.

*History Note: Authority G.S. 143B-147;  
Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .6903 OPERATIONS**

- (a) Written Program Plan. Each area program shall develop annually a written plan for consultation and education services specifying populations that will be targeted and objectives to be obtained.
- (b) Coordination of Services. The consultation and education service shall be coordinated with other components of the area program to insure continuity of care.

*History Note: Authority G.S. 143B-147;*

*Eff. May 1, 1996;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

### **SECTION .7000 – LOCAL MANAGEMENT ENTITY RESPONSE TO COMPLAINTS**

#### **10A NCAC 27G .7001 SCOPE**

- (a) The rules in this Section govern the Local Management Entity responses to complaints received concerning the provision of public services pertaining to all provider categories in its catchment area.
- (b) The rules in this Section also govern the procedures for Local Management Entities when investigating providers according to 10A NCAC 27G .0606.

*History Note: Authority G.S. 122.C-112.1(a)(29);*

*Eff. July 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .7002 LOCAL MANAGEMENT ENTITY REQUIREMENTS CONCERNING COMPLAINTS**

- (a) A Local Management Entity shall respond to complaints received concerning the provision of public services pertaining to all provider categories, as defined in 10A NCAC 27G .0602, in its catchment area. This Rule does not govern complaints pertaining to utilization review decisions.
- (b) The Local Management Entity shall:
  - (1) establish a written notification procedure to inform each client of the complaint process concerning the provision of public services. The procedure shall include the provision of written information explaining the client's right to contact the Local Management Entity, the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, the Division of Health Service Regulation, the Division of Social Services and The North Carolina Protection and Advocacy system known as Disability Rights North Carolina;
  - (2) seek to resolve issues of concern through informal agreement between the client and the provider and document the attempts at resolution;
  - (3) develop and implement written policies including those safeguards and procedures listed below:
    - (A) safeguards for protecting the identity of the complainant;
    - (B) safeguards for protecting the complainant and any staff person from harassment or retaliation;
    - (C) procedures to receive and track complaints;
    - (D) procedures to assist a client in initiating the complaint process;
    - (E) procedures for encouraging the complainant to communicate with the provider to allow for resolution of the issue;
    - (F) methods to be used in investigating a complaint;
    - (G) procedures for responding to complaints and options to be considered in resolving a complaint, including corrective action and referral to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, the Division of Health Service Regulation, the Division of Social Services or other agencies as required;
    - (H) procedures governing complaints and appeals made by a provider and a complainant;
    - (I) procedures for notifying the home Local Management Entity, if different, of the complaint and actions taken; and
    - (J) procedures for the Local Management Entity Director to convene an ad hoc appeal review committee to review client and provider appeals. The client rights committee, as defined in 10A NCAC 27G .0504, shall approve policy and procedures regarding the formation of the appeal

- review committee including assurance of the review committee's lack of conflict of interest, composition, disability affiliation(s) and other experience or qualifications relevant to the issue(s) in the complaint. The committee's recommendations shall be by majority vote;
- (4) review the complaint and communicate to the complainant within five working days of receipt whether the complaint will be addressed informally or by conducting an investigation; and
  - (5) notify the complainant in writing of the results of the informal process in a letter dated within 15 working days from receipt of the complaint. If the need for an investigation is revealed during the informal process, the Local Management Entity shall begin the investigation or refer the matter to the appropriate State or local government agency. If the complainant is not satisfied with the informal process, the complainant may file an appeal in writing to the Local Management Entity Director. The appeal must be received within 15 working days from the date of the informal resolution letter. The Local Management Entity Director shall:
    - (A) convene an appeal review committee according to Part (b)(3)(J) of this Rule; and
    - (B) issue an independent decision after reviewing the appeal review committee's recommendation. The decision shall be dated and mailed to the appellant by the Local Management Entity within 20 working days from receipt of the appeal.
- (c) When the Local Management Entity refers the complaint to the State or local government agency responsible for the regulation and oversight of the provider, the Local Management Entity shall send a letter to the complainant informing him or her of the referral and the contact person at the agency where the referral was made. The Local Management Entity shall contact the State or local government agency where the referral was made within 80 working days of the date the Local Management Entity received the complaint to determine the actions the State or local government agency has taken in response to the complaint. The Local Management Entity shall communicate the status of the State or local government agency's response to the complainant and to the client's home Local Management Entity, if different.

*History Note: Authority G.S. 122C-112.1(a)(29);*

*Eff. July 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;*

*Amended Eff. September 1, 2021.*

## **10A NCAC 27G .7003 REQUIREMENTS FOR LOCAL MANAGEMENT ENTITY COMPLAINT INVESTIGATIONS**

(a) The Local Management Entity shall follow these procedures when investigating providers according to 10A NCAC 27G .0606:

- (1) The Local Management Entity shall make contact with the provider when investigating a complaint. The Local Management Entity shall state the purpose of the contact and inform the provider that the Local Management Entity is in receipt of a complaint concerning the provider and the general nature of the complaint.
- (2) The Local Management Entity shall complete the complaint investigation within 30 calendar days of the date of the receipt of the complaint.
- (3) Upon completion of the complaint investigation, the Local Management Entity shall submit a report of investigation findings to the complainant, the provider and client's home Local Management Entity, if different. The report shall be submitted within 15 calendar days of the date of completion of the investigation. The complaint investigation report shall include:
  - (A) statements of the allegations or complaints lodged;
  - (B) steps taken and information reviewed to reach conclusions about each allegation or complaint;
  - (C) conclusions reached regarding each allegation or complaint;
  - (D) citations of statutes and rules pertinent to each allegation or complaint; and
  - (E) required action regarding each allegation or complaint.
- (4) The provider shall submit a plan of correction to the Local Management Entity for each issue requiring correction identified in the report in a letter dated 15 calendar days from the date the provider receives the complaint investigation report.
- (5) The Local Management Entity shall review and respond in writing to the provider's plan of correction with approval or a description of additional required information. The Local Management Entity shall respond to the provider in a letter dated 15 calendar days of receipt of the plan of correction.
- (6) The provider shall implement a plan of correction within 60 calendar days from the date of the complaint investigation report.

- (7) The complainant or provider who disagrees with the results of the Local Management Entity actions may file an appeal regarding the investigation that is received by the Local Management Entity within 21 calendar days from the receipt of the Local Management Entity investigation report. The Local Management Entity shall provide notification of the appeal to the complainant or provider to inform them of this appeal. The appeal is limited to items identified in the original complaint record and the investigation report.
- (8) The Local Management Entity shall convene a review committee to review the appeal as specified in 10A NCAC 27G .7002(b)(3)(J).
- (9) The Local Management Entity Director shall issue a written decision based on the appeal committee's decision to uphold or overturn the findings of the investigation. The decision letter shall be dated within 28 calendar days from receipt of the appeal.
- (10) The Local Management Entity shall follow-up on issues requiring correction in the investigation report no later than 60 calendar days from the date the plan of correction is approved.
- (11) When a complaint investigation involving a category B provider identifies an issue which if substantiated by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services could result in a revocation or suspension of the provider's funding pursuant to 10A NCAC 26C .0501 through .0504, the LME shall document the issue or issues creating the concern and notify the Division of Mental Health, Developmental Disabilities and Substance Abuse Services of the issue within 24 hours. The Division of Mental Health, Developmental Disabilities and Substance Abuse Services shall consult with the Local Management Entity and then shall determine which agency will lead the investigation and which agencies need to be involved. Separate complaint investigations shall not be performed.
- (12) Local Management Entity shall provide information regarding the disposition of the complaint to the complainant and the client's home Local Management Entity, if different, as soon as the investigation is concluded.

(b) The Local Management Entity shall maintain copies of complaint investigations, resolutions and follow-up reports for providers for review by the Department of Health and Human Services.

*History Note:* Authority G.S. 122C-112.1(a)(29);

*Eff. July 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.*

#### **10A NCAC 27G .7004 APPEALS REGARDING UTILIZATION REVIEW DECISIONS FOR NON-MEDICAID SERVICES**

(a) This Rule governs appeals by a client, or the client's legally responsible person, to the Local Management Entity-Managed Care Organization (LME-MCO), area authority or county program Director of Utilization Review (UR) decisions made by the agency to deny, reduce, suspend or terminate a client's non-Medicaid funded services.

(b) The LME-MCO, area authority or county program shall:

- (1) send to the client, or the client's legally responsible person, notification letters regarding utilization review decisions for non-Medicaid funded services.
- (2) date and mail the notification letter no later than the next business day following the UR decision to deny, reduce, suspend, or terminate a non-Medicaid state funded service.
- (3) separately notify the provider regarding the service authorization.

(c) The letter shall include information regarding the reason for the UR decision and any available service options while the appeal is under review.

(d) Only the client, or the client's legally responsible person, may file an appeal of the non-Medicaid UR decision. The appeal must be in writing and received by the LME-MCO, area authority or county program within 15 business days of the date of the notification letter. The LME-MCO, area authority or county program shall provide help to a client who requests assistance in filing the appeal.

(e) The LME-MCO, area authority or county program shall acknowledge receipt of the appeal in writing in a letter to the client, or the client's legally responsible person, dated the next business day after receipt of the appeal.

(f) The LME-MCO, area authority or county program may authorize interim services until the final review decision, as set forth in 10A NCAC 27I .0609, is reached. The decision to authorize interim services shall be based upon medical necessity criteria as set forth in State-funded Service Definitions. State-funded service definitions are available via this link: <https://www.ncdhhs.gov/providers/provider-information/mental-health-development-disabilities-and-substance-use-services/service-definitions>. The decision shall also be in compliance with G.S. 122C-2.

- (g) The LME-MCO, area authority or county program Director shall assign staff to conduct a clinical review of the UR decision.
- (h) The clinical review shall be conducted by an employee(s) or contractor(s) of the LME-MCO, area authority or county program not involved in the UR decision that is the subject of the appeal. The clinical reviewer(s) clinical credentials shall be at least comparable to those of the person who rendered the initial UR decision.
- (i) The clinical reviewer(s) shall issue a written decision to uphold or overturn the original UR decision.
- (j) The LME-MCO, area authority or county program shall notify the client, or the client's legally responsible person, of the clinical review decision in a letter dated and mailed within seven business days from receipt of the appeal request and shall separately notify the provider regarding the service authorization.
- (k) If the clinical review overturns the initial UR decision, the decision letter shall state the date on which the denied service shall be authorized or the date on which the suspended, reduced or terminated service shall be reinstated.
- (l) In cases in which the clinical review decision upholds the original UR decision, the LME-MCO, area authority or county program shall inform the client, or the client's legally responsible person, in writing of the opportunity to appeal the clinical review decision to the Division of Mental Health, Developmental Disabilities and Substance Use Services pursuant to Rules 10A NCAC 27I .0601-.0609.

*History Note:* Authority G.S. 122C-112.1(a)(29); 143B-147;  
Eff. July 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019;  
Amended Eff. May 1, 2024.

## **SECTION .7100 – TARGET POPULATION**

### **10A NCAC 27G .7101 SCOPE**

- (a) The rules in this Section apply to target populations that are groups of people considered most in need of services available considering resources within the public system and who are given service priority.

*History Note:* Authority G.S. 122C-112.1;  
Eff. August 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20, 2019.

## **SUBCHAPTER 27H – MISCELLANEOUS RULES**

### **SECTION .0100 – ADMISSION PROCEDURES FOR MINORS OR INCOMPETENT PERSONS TO NONRESTRICTIVE TREATMENT FACILITIES**

#### **10A NCAC 27H .0101 SCOPE**

- (a) Rules .0101 through .0108 of this Section apply to any residential treatment facility operated by an area program or under contract with an area program or any private residential treatment facility licensed under G.S. 122C-23 for the care and treatment of the mentally ill or intoxicated where clients will not be subjected to restrictions on their freedom of movement similar to the restrictions in:

- (1) division-owned and operated psychiatric hospitals;
- (2) other public or private psychiatric hospitals;
- (3) North Carolina Memorial Hospital at Chapel Hill;
- (4) Whitaker School at Butner, North Carolina; or
- (5) other facilities which provide locked time-out or seclusion rooms, use physical restraints, or are licensed by the Division of Health Service Regulation as locked facilities.

- (b) Treatment facilities where clients are subjected to restrictions similar to those in facilities specified in (a)(1) through (5) of this Rule shall follow the procedures for a district court hearing and judicial determination according to G.S. 122C-223, 122C-224, 122C-232 and 122C-233.

*History Note:* Authority G.S. 122C-223; 122C-224; 122C-232; 122C-233; 143B-147;  
Eff. April 1, 1984;

*Amended Eff. June 1, 1990; March 1, 1990;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0102 DEFINITIONS**

For the purposes of the rules in this Section the following terms shall have the meanings indicated:

- (1) "Intoxicated" means the condition specified in G.S. 122C-3(18) and includes addiction to narcotic or other habit-forming drugs or alcohol.
- (2) "Mental Illness" means a mental condition as defined in G.S. 122C-3.
- (3) "Minor" means a person under the age of 18.
- (4) "Qualified Developmental Disabilities Professional" means a professional as defined in 10A NCAC 27G .0104(c).
- (5) "Qualified Mental Retardation Professional" means a professional as defined in 10A NCAC 27G .0104(c).
- (6) "Qualified Substance Abuse, Alcohol or Drug Abuse Professional" means a professional as defined in 10A NCAC 27G .0104(c).
- (7) "Residential Treatment Facility" means a facility which provides 24-hour service in a nonhospital setting where room, board and supervised living are an integral part of the treatment, habilitation or rehabilitation provided to the individual.
- (8) "Treatment Facility" means any hospital or institution operated by the State of North Carolina and designated for the admission of any person in need of care and treatment due to mental illness or intoxication, any area mental health facility operated pursuant to Article 2F of G.S. Chapter 122C, and any private hospital for the mentally disordered as described in G.S. 122C-23.

*History Note: Authority G.S. 122-56.7; 122C-3; 122C-23; 143B-147;*

*Eff. April 1, 1984;*

*Amended Eff. March 1, 1990;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0103 APPLICATION FOR ADMISSION**

A parent, guardian, or person standing in loco parentis shall sign the application for admission of a minor to the residential treatment facility. A guardian shall sign the application for admission of a person adjudicated incompetent. In an emergency situation, a minor may be admitted to a treatment facility upon his own written application in accordance with G.S. 122C-221, if such admission is otherwise considered appropriate.

*History Note: Authority G.S. 122C-221; 122C-223; 122C-231; 122C-232; 143B-147;*

*Eff. April 1, 1984;*

*Amended Eff. March 1, 1990;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0104 PROCEDURE FOR ADMISSION**

(a) Any person voluntarily seeking admission to a residential treatment facility shall be examined and evaluated by a qualified physician within 24 hours of presenting himself for admission. In determining the appropriateness of the admission, the qualified physician shall consult with a qualified mental health professional (in programs for the mentally ill) or a qualified substance abuse, alcohol or drug abuse professional (in programs for intoxication). Such consultation shall not be required if the qualified physician comes within the definition of a qualified mental health, substance abuse, alcohol, or drug abuse professional as appropriate.

(b) The qualified physician shall evaluate the client's condition, strengths, needs, and the resources to meet those needs in determining the appropriateness of the admission.

(c) Should the minor or person adjudicated incompetent be diagnosed as mentally retarded as well as mentally ill or intoxicated, the qualified physician shall secure the consultation of a qualified mental retardation professional in determining the appropriateness of admission and evaluating the client's condition.

(d) The residential treatment facility shall have written admission procedures which shall include at least an agreement between the residential facility and parents, guardians or persons standing in loco parentis, as appropriate, or guardians of persons adjudicated incompetent which shall delineate the responsibilities of all parties for the provision of medical and dental services, education and other needs.

(e) These procedures shall delineate the standardized information required which at a minimum shall include:



- (1) the present condition of the applicant reported in objective, behavioral terms, and where possible a description of the applicant's condition by significant others;
- (2) social, educational and medical histories; and, if appropriate, vocational, developmental, psychological, psychiatric, legal and nutritional histories; and
- (3) determination of, and request for, additional referrals for special diagnostic tests, assessments or evaluations, if needed.

(f) The residential treatment facility shall specify in writing any routine diagnostic tests, assessments and evaluations or medical examinations, as well as timeframes for their completion, which shall be completed for each client.

(g) Client diagnoses shall be established using DSM-III-R or ICD-9-CM as required in Division Publication APSM 35-1, 07/01/89 (STANDARDS FOR AREA PROGRAMS AND THEIR CONTRACT AGENCIES) adopted pursuant to G.S. 150B-14(c).

*History Note: Authority G.S. 122C-211; 122C-212; 122C-223; 143B-147;  
Eff. April 1, 1984;  
Amended Eff. March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0105 CRITERIA FOR ADMISSION**

(a) The client shall be admitted when the qualified physician determines that:

- (1) the client has a diagnosed mental illness or is intoxicated;
- (2) the client is in need of treatment or further evaluation at the facility; and
- (3) treatment at the facility is the most appropriate and least restrictive.

(b) If the evaluating physician determines that the client is not in need of treatment or further evaluation at the facility or will not benefit from treatment available at the facility, the client shall not be admitted.

*History Note: Authority G.S. 122C-211; 122C-212; 122C-223; 143B-147;  
Eff. April 1, 1984;  
Amended Eff. March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0106 INDIVIDUAL TREATMENT/PROGRAM PLAN**

The individual treatment plan for each client shall be consistent with the diagnosis and shall be documented in the client record as follows:

- (1) the preliminary treatment plan shall be initiated within 24 hours of admission and shall be based upon information gathered during the admission assessment;
- (2) the comprehensive treatment plan shall be implemented within 30 days of admission and shall be based upon information gathered during the evaluation process;
- (3) progress notes shall be written to reflect progress towards the goals, as delineated in the comprehensive treatment plan; and
- (4) the comprehensive treatment plan shall be revised whenever it is medically or clinically indicated.

*History Note: Authority G.S. 122C-223; 122C-224; 122C-232; 122C-233; 143B-147;  
Eff. April 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0107 REVIEW OF CONTINUED TREATMENT**

A thorough review of the appropriateness of continued treatment at the treatment facility shall be carried out within 30 days, documented in the treatment plan, and repeated at least every three months. This review shall be completed by a committee of at least three qualified professionals in the areas relevant to the client's treatment needs. If the committee finds that continued treatment is not appropriate at that treatment facility, the client shall be discharged.

*History Note: Authority G.S. 122C-223; 122C-224; 122C-232; 122C-233; 143B-147;  
Eff. April 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0108 DISCHARGE PLAN**

When it is determined, following the review specified in Rule .0107 of this Section, that treatment at the treatment facility is no longer necessary or no longer meets the conditions of most appropriate and least restrictive, a discharge plan shall be developed which contains a written summary of the client's admission findings, treatment/habilitation, condition on discharge and recommendations for further programming including responsibilities of the treatment facility, if any, following discharge. The discharge plan shall be put into effect within 30 days following the decision of the committee to discharge the client.

*History Note: Authority G.S. 122C-223; 122C-224; 122C-232; 122C-233; 143B-147;  
Eff. April 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

### **SECTION .0200 – TRAINING AND CERTIFICATION OF FORENSIC EVALUATORS**

#### **10A NCAC 27H .0201 SCOPE**

(a) The purpose of Rules .0201 through .0207 of this Section is to specify the requirements that shall be met to be certified as a local certified forensic evaluator by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.

(b) The provisions of Rules .0201 through .0207 of this Section apply to any Licensed Clinician, as defined in Rule 10A NCAC 27G .0104, seeking certification as a local certified forensic evaluator by the Division.

*History Note: Authority G.S. 15A-1002; 143B-147;  
Eff. July 1, 1982;  
Amended Eff. June 1, 2018; January 1, 1996; May 1, 1990.*

#### **10A NCAC 27H .0202 DEFINITIONS**

For the purposes of Rules .0201 through .0207 of this Section, when a capacity evaluation is ordered by a Court to be conducted through the Local Management Entity-Managed Care Organization LME-MCO, the following terms shall have the meanings indicated:

- (1) "Forensic Evaluation" means an examination ordered by the court through the LME-MCO to determine the defendant's current mental state and whether the defendant has the capacity to proceed to trial.
- (2) "Licensed Clinician" means the same as defined in Rule 10A NCAC 27G .0104.
- (3) "Local Certified Forensic Evaluator" means a Licensed Clinician who:
  - (a) has completed the training for certification and annual training seminars described in Rule .0204 of this Section;
  - (b) is employed by an LME-MCO, if permitted pursuant to 122C-141(a), or under contract with, an LME-MCO as a Forensic Evaluator; and
  - (c) is paid by the LME-MCO with public funds.
- (4) "Pre-Trial Evaluation Center" means the Forensic Services Unit located at Central Regional Hospital.

*History Note: Authority G.S. 15A-1002; 122C-54; 122C-115.4(a); 122C-191(b); 143B-147;  
Eff. July 1, 1982;  
Amended Eff. January 1, 1996; May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017;  
Amended Eff. June 1, 2018.*

#### **10A NCAC 27H .0203 ELIGIBILITY FOR TRAINING**

To be eligible for training as a local certified forensic evaluator the individual shall:

- (1) be a Licensed Clinician;
- (2) be an employee of the LME-MCO, if permitted pursuant to G.S. 122C-141(a), or work under contract with, an LME-MCO;
- (3) provide documentation of current licensure status to the LME-MCO;
- (4) provide documentation of training and expertise with the mental health, developmental disabilities, or substance abuse (mh/dd/sa) services population; and

- (5) have his or her name submitted to the Pre-Trial Evaluation Center for the training and certification program by the LME-MCO director.

*History Note:* Authority G.S. 15A-1002; 122C-114; 122C-115.4(a); 122C-141; 122C-191(b); 143B-147; Eff. July 1, 1982;  
Amended Eff. October 1, 2017; January 1, 1996; May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017;  
Amended Eff. June 1, 2018.

#### **10A NCAC 27H .0204 TRAINING AND CERTIFICATION**

- (a) The individual seeking certification as a forensic evaluator shall complete six hours of initial training provided by the Division in order to be certified as a local certified forensic evaluator. The initial training shall include:
  - (1) current laws and practices including the role of the local certified forensic evaluator in the capacity to proceed evaluation process;
  - (2) procedures for conducting interviews including evaluation for the presence of mh/dd/sa disorders, or other relevant conditions;
  - (3) procedures for completing reports required by Rule .0207 of this Section;
  - (4) process for reporting findings to the court; and
  - (5) an examination at the conclusion of the training which assesses comprehension of the training material and an understanding of the duties of a local certified forensic evaluator.
- (b) Each local certified forensic evaluator shall complete four hours of continuing education seminars provided by the Pre-Trial Evaluation Center by December 31 of each calendar year.
- (c) Continuing education seminar topics may include:
  - (1) evaluation skills training to enhance skills acquired through the initial local certified forensic evaluator training;
  - (2) changes in existing laws and current practices; and
  - (3) evaluation of mh/dd/sa populations.
- (d) Local certified forensic evaluators shall be exempt from the continuing education requirement in the calendar year in which they are first certified.

*History Note:* Authority G.S. 15A-1002; 122C-54; 122C-115.4(a); 122C-191; 143B-147; Eff. July 1, 1982;  
Amended Eff. May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017;  
Amended Eff. June 1, 2018.

#### **10A NCAC 27H .0205 LME-MCO OVERSIGHT OF FORENSIC EVALUATOR PROGRAM**

- (a) Within available resources, the LME-MCO shall ensure there are local certified forensic evaluators to conduct forensic evaluations to meet the demand for forensic evaluations, based in part upon population served and the number of forensic evaluations ordered by the Court, in its catchment area.
- (b) Each LME-MCO shall maintain a list of local certified forensic evaluators who are employed by or contracted by the LME-MCO that includes the mh/dd/sa populations for which each evaluator has reported having expertise, based upon their knowledge, skills, and abilities, to conduct forensic evaluations.
- (c) The LME-MCO shall verify that each local certified forensic evaluator meets the requirements set forth in Rule .0203 of this Section.
- (d) The LME-MCO shall notify the Pre-Trial Evaluation Center of any changes that would result in termination of certification per Rule .0206 of this Section.
- (e) The LME-MCO shall maintain a list, including the number of local forensic evaluations done in each county within its catchment area, the forensic evaluator's name and capacity opinion, the date of the evaluation, the defendant's name, gender, and criminal charge, and provide that list to the Pre-Trial Evaluation Center on a monthly basis.
- (f) The LME-MCO shall establish a mechanism to ensure a quality management process is included in the LME-MCO's Quality Improvement System for monitoring the provision of forensic evaluator services conducted by the local certified forensic evaluators in its catchment area. For purposes of this Rule, monitoring consists of the interaction between the LME-MCO and local certified forensic evaluator(s) regarding the completion of forensic evaluations ordered by the Court that includes:

- (1) identifying an individual who is a local certified forensic evaluator who will monitor the overall quality and outcomes of the reports of forensic evaluations completed by other local forensic evaluators;
- (2) establishing a procedure for responding to questions or concerns related to the quality of reports of forensic evaluations completed by local certified forensic evaluators in its catchment area; and
- (3) reviewing documentation to ensure compliance with G.S. 15A-1002, 10A NCAC .6700, and the rules of this Section.

*History Note:* Authority G.S. 15A 1002; 122C-114; 122C-115.4(a); 122C-141; 122C-191(b); 143B-147;  
 Eff. July 1, 1982;  
 Amended Eff. May 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017;  
 Amended Eff. June 1, 2018.

#### **10A NCAC 27H .0206 TERMINATION OF CERTIFICATION**

- (a) The LME-MCO shall notify the Division in the following circumstances:
- (1) the evaluator notifies the LME-MCO in writing that he or she no longer wishes to be certified;
  - (2) the evaluator no longer meets the eligibility requirements set forth in Rule .0203(a) of this Section;
  - (3) the Pre-Trial Evaluation Center has notified the LME-MCO the evaluator failed to complete annual continuing education seminars as set forth in Rule .0204 of this Section;
  - (4) the evaluator fails to perform any of the duties described in Rule .0207 of this Section; or
  - (5) the Forensic Evaluator notifies the LME-MCO that he or she is no longer a Licensed Clinician.
- (b) The Pre-Trial Evaluation Center shall notify the Division when a local certified forensic evaluator no longer contracts with any LME-MCO.
- (c) The Division shall declare a forensic evaluator certification void upon receipt of the information contained in Paragraphs (a) and (b) of this Rule.

*History Note:* Authority G.S. 15A 1002; 122C-114; 122C-115.4(a); 122C-141; 122C-191(b); 143B-147;  
 Eff. July 1, 1982;  
 Amended Eff. May 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017;  
 Amended Eff. June 1, 2018.

#### **10A NCAC 27H .0207 DUTIES OF A CERTIFIED FORENSIC EVALUATOR**

When a capacity evaluation is ordered by the court, to be conducted through the LME-MCO, the local certified forensic evaluator shall conduct a forensic evaluation or examination of the defendant and shall submit a report to the court that addresses the following:

- (1) the defendant's current mental state, his or her capacity to proceed to trial, a treatment recommendation, if any, and if the defendant lacks capacity to proceed, the likelihood that the defendant will gain the capacity to proceed; or
- (2) the need for further evaluation of the defendant at the Pre-Trial Evaluation Center if the certified forensic evaluator is unable to reach a conclusion as to the defendant's capacity to proceed to trial.

*History Note:* Authority G.S. 15A 1002; 122C-54; 122C-115.4(a); 143B-147;  
 Eff. July 1, 1982;  
 Amended Eff. May 1, 1990;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017;  
 Amended Eff. June 1, 2018.

### **SECTION .0300 – HEPATITIS B SCREENING AND VACCINATION OF RESIDENTS AND VACCINATION OF DIRECT CARE EMPLOYEES IN GROUP HOMES FOR DEVELOPMENTALLY DISABLED PERSONS**

#### **10A NCAC 27H .0301 SCOPE**

- (a) The purpose of Rules .0301 through .0309 of this Section is to specify the procedures that must be followed in group homes for mentally retarded adults to reduce the risk of hepatitis B transmission to residents and direct care employees.

(b) Rules .0301 through .0309 of this Section apply to group homes for mentally retarded adults that are operated by area programs or contract agencies of area programs.

*History Note: Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0302 DEFINITIONS**

For the purposes of Rules .0301 through .0309 of this Section the following terms shall have the meanings indicated:

- (1) "Direct care employee" means an individual who provides care or habilitation services to residents on a continuous and regularly scheduled basis.
- (2) "Group home" means a small community program for mentally retarded or otherwise developmentally disabled adults. Residents of these homes receive services provided on a developmental model designed to promote independence. A group home may be licensed as a family care home, group home for developmentally disabled adults, mental health facility or as a similar facility.
- (3) "Hepatitis B carrier" means a person who has been infected with the hepatitis B virus, does not develop immunity (antibodies) to the disease but, instead, continues to be a source of the virus particles (as indicated by hepatitis B surface antigen detectable in the blood) and is potentially infectious to others.
- (4) "Screening" means the taking and analyzing of a person's blood sample for the presence or absence of hepatitis B antibodies (indication of immunity) or surface antigen (indication of carrier state).

*History Note: Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Amended Eff. March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0303 CURRENT RESIDENTS AND EMPLOYEES**

(a) In accordance with the OSHA Bloodborne Pathogens Standard 29 CFR 1910.1030, even if no resident tests positive for hepatitis B, all current group home employees (including part-time and temporary employees) who provide direct care to clients shall be:

- (1) screened for the presence of the hepatitis B virus; and
- (2) offered hepatitis B vaccine, at employer expense.

(b) All group home residents shall be screened for the presence of the hepatitis B virus.

(c) If the screening indicates any resident or employee is a hepatitis B carrier, the following procedures shall be followed:

- (1) Current residents and direct care employees without antibodies (who are not immune) shall be vaccinated with hepatitis B vaccine as required by 10A NCAC 41A .0203(b)(2).
- (2) Written informed consent or refusal to be vaccinated shall be obtained from the resident (or guardian) and documented in the resident's record.
- (3) Written informed consent or refusal to be vaccinated shall be obtained from the employee and shall be documented in the employee's personnel record.
- (4) The hepatitis B vaccination series shall be started within 10 working days following receipt of the screening results for non-immune current residents and direct care employees.
- (5) During the three-dose, six-month immunization process, if a non-immune resident or employee is exposed to the blood or other potentially infectious body fluids of a hepatitis B carrier, the procedure as outlined in 10A NCAC 41A .0203 CONTROL MEASURES-HEPATITIS B shall be followed.

*History Note: Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Amended Eff. July 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0304 PROSPECTIVE RESIDENTS AND EMPLOYEES**

(a) Prospective residents and employees of the group home shall be informed that a hepatitis B carrier is, or may at a future time be, residing in the home.

(b) The group home shall screen prospective residents, who have been accepted for admission, for hepatitis B infection prior to admission; and screen and offer hepatitis B vaccine to all persons accepted for employment within the first 10 days of employment.

(c) An applicant for admission to a group home shall not be admitted during the period of time that the applicant is a hepatitis B carrier:

- (1) and currently exhibits behaviors, such as biting, scratching or gouging, which may cause breaks in the skin of self or others; or
- (2) has special medical problems, such as eczema or other dermatological conditions that increase the risk of others being exposed to the blood or potentially infectious body fluids.

(d) If a new resident or a new employee is determined to be a hepatitis B carrier and no hepatitis B carriers have previously been placed in, or are employed by, the group home, the procedures in Rule .0303 of this Section shall be followed.

(e) If a current resident or employee is a hepatitis B carrier, new residents and new employees without antibodies (who are not immune) shall begin the hepatitis B vaccine series before entering the home.

(f) The procedures in Rule .0303 of this Section for current residents and employees shall be followed for new residents and employees.

*History Note:* Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Amended Eff. July 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.

#### **10A NCAC 27H .0305 COST FOR HEPATITIS B PROTECTION**

The screening and vaccination described in Rules .0303 and .0304 of this Section shall be provided by the employer at no cost to the resident or direct care employee.

*History Note:* Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Amended Eff. July 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.

#### **10A NCAC 27H .0306 RECORDS**

Records of all residents and direct care employees shall be up-to-date regarding hepatitis B immunologic status. The record shall also contain information regarding screening, consent or refusal to be vaccinated, vaccination, and booster shots (if indicated).

*History Note:* Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Amended Eff. July 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.

#### **10A NCAC 27H .0307 PROTECTIONS DURING PREGNANCY**

(a) Non-immune direct care employees or non-immune residents who are known to be pregnant shall be informed of the risk to the fetus of being exposed to a hepatitis B carrier.

(b) Residents and employees shall be provided information regarding the risk during pregnancy including, but not limited to, the following information:

- (1) Risk of transmission of hepatitis B to the fetus appears to be most likely in the last three months of pregnancy.
- (2) Infants born to mothers who have acute hepatitis B during the last three months of pregnancy or who are hepatitis B carriers at the time of delivery may become infected before birth (while in the uterus) or at the time of birth.

*History Note:* Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Amended Eff. March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.

#### **10A NCAC 27H .0308 PERSONAL HYGIENE/ENVIRONMENTAL PRECAUTIONS: STAFF TRAINING**

(a) A group home for developmentally disabled persons must provide a safe living environment for residents, as well as a safe working environment for all employees.

(b) Policy and procedures shall be developed in accordance with federal OSHA Bloodborne Pathogens Standard 29 CFR 1910.1030, and shall include, but not be limited to:

- (1) safe work practices;
- (2) engineering controls which decrease the chance of occupational exposure to hepatitis B and other bloodborne pathogens; and
- (3) employee training, which shall include but not be limited to:
  - (A) causes and symptoms;
  - (B) methods of prevention;
  - (C) personal hygiene (including the monitoring and training of the resident in safe personal hygiene); and
  - (D) environmental precautions necessary to assure a safe home.

(c) The policy and procedures shall be incorporated in an "Exposure Control Plan" and maintained by the home.

*History Note: Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Amended Eff. July 1, 1993; March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0309 DOCUMENTATION OF COMPLIANCE**

(a) The area program shall monitor group homes for developmentally disabled persons operated by its contract agencies for compliance with Rules .0301 through .0308 of this Section.

(b) To assure that the contract agency's group homes qualify for the exception regarding admissions specified in 10A NCAC 13G .0701(b)(5) of the licensure rules for group homes for developmentally disabled adults of the Commission for Social Services, the area program shall furnish documentation of compliance to the appropriate county department of social services.

(c) Documentation of compliance with Rule .0303 and .0304 shall indicate that screening for residents has been performed and that other requirements for vaccination either have been met or are scheduled to meet the time frames specified in the rules.

(d) The documentation shall be submitted to the county department of social services at least 45 days prior to the expected initial licensure date or 45 days prior to the licensure renewal date.

*History Note: Authority G.S. 143B-147;  
Eff. November 1, 1985;  
Amended Eff. July 1, 1993;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

### **SECTION .0400 - CLIENT ELIGIBILITY**

#### **10A NCAC 27H .0401 SCOPE**

The standards in this Section apply to each component of the area program and its contract agencies.

*History Note: Authority G.S. 143B-147;  
Eff. July 1, 1984;  
Amended Eff. March 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0402 SCREENING**

(a) The governing body of each component shall develop written policies establishing a systematic means of screening each individual at initial contact by interviewing the individual to determine the individual's need for services.

(b) The policy shall designate who is deemed qualified to make screening determinations.

*History Note: Authority G.S. 143B-147;*

*Eff. July 1, 1984;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0403 SERVICE PURPOSE AND ELIGIBILITY REQUIREMENTS**

The governing body shall develop and implement written policies that address the purpose for each service provided and the client eligibility requirements.

*History Note: Authority G.S. 143B-147;*

*Eff. July 1, 1984;*

*Amended Eff. November 1, 1991;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0404 CROSS-REFERENCE TO CLIENT FEE FOR SERVICE**

The governing body of each component not subject to licensure under G.S. 122C, Article 2 shall comply with the provisions of 10A NCAC 27G .0201.

*History Note: Authority G.S. 122C-146; 143B-147;*

*Eff. July 1, 1984;*

*Amended Eff. July 1, 1989; October 1, 1988;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0405 GEOGRAPHICAL AREA**

The governing body of each component shall develop written policies specifying the geographical areas from which individuals will be admitted.

*History Note: Authority G.S. 143B-147;*

*Eff. July 1, 1984;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0406 WAITING LISTS**

The governing body of each component shall develop written policies concerning waiting lists.

*History Note: Authority G.S. 143B-147;*

*Eff. July 1, 1984;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0407 EXPLANATION OF PROGRAM RULES AND POLICIES**

Each component shall make its client eligibility rules and policies available for review by potential clients, families or other interested individuals or agencies.

*History Note: Authority G.S. 143B-147;*

*Eff. July 1, 1984;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

### **SECTION .0500 - SURROGATE PARENTS FOR INFANTS AND TODDLERS IN EARLY INTERVENTION SERVICES**

#### **10A NCAC 27H .0501 CIRCUMSTANCES REQUIRING SURROGATE PARENTS**

#### **10A NCAC 27H .0502 IDENTIFYING NEED FOR AND SELECTION OF A SURROGATE PARENT**

#### **10A NCAC 27H .0503 RESPONSIBILITIES OF A SURROGATE PARENT**

#### **10A NCAC 27H .0504 PRIORITIES FOR SELECTION OF A SURROGATE PARENT**

#### **10A NCAC 27H .0505 CRITERIA FOR SELECTION PROCESS**

#### **10A NCAC 27H .0506 TRAINING REQUIREMENTS FOR A SURROGATE PARENT**

*History Note: Authority G.S. 143B-147; 20 U.S.C. Sections 1401 et. seq., 1471 et. seq;*



*Eff. March 1, 1995;*  
*Expired Eff. April 1, 2017 pursuant to G.S. 150B-21.3A.*

## **SECTION .0600 – CONTINUITY OF CARE**

### **10A NCAC 27H .0601 SCOPE**

The rules in this Subchapter apply to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, and to area mental health, mental retardation and substance abuse authorities as relates to their activities in behalf of a person with mental retardation who seeks residential placement in an alternative facility if the person is in need of placement and if the original facility can no longer provide care or treatment.

*History Note: Authority G.S. 122C-54; 122C-132; 122C-143; 122C-147; 122C-207;*  
*143B-147;*  
*Eff. October 1, 1983;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

### **10A NCAC 27H .0602 EXPLANATION OF TERMS**

For the rules contained in this Subchapter, the following terms apply:

- (1) "Area Authority" means the governing unit authorized by the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services and by the Division and delegated the authority to serve as the comprehensive planning, budgeting, implementing and monitoring body for community-based mental health, mental retardation and substance abuse programs.
- (2) "Continuity of Care" means the provision or arrangement of an alternative residential placement for a person with mental retardation.
- (3) "Continuity of Care Client" means a person with mental retardation who seeks alternative residential placement when the original residential care or treatment facility can no longer provide care or treatment and who is in need of residential placement.
- (4) "Division" means the Division of Mental Health, Developmental Disabilities and Substance Abuse Services of the Department of Human Resources.
- (5) "In Need of Residential Placement" means a determination of client need resulting from a client assessment. In determining the need for residential placement, the assessment shall consider the request for residential service by the parent or guardian of a continuity of care client who is a minor or an adjudicated incompetent adult or by the continuity of care client if he is a competent adult.
- (6) "Mental Retardation" means significantly subaverage (i.e. two or more standard deviations below the mean) general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period (i.e., before age 18).
- (7) "Original Residential Care or Treatment Facility" means a 24-hour residential facility, operated under the authority of Chapter 122C of the General Statutes of North Carolina and supported all or in part by state appropriated funds, which most recently admitted the continuity of care client for residential care or treatment other than respite or emergency care.

*History Note: Authority G.S. 122C-63; 122C-132; 122C-143; 122C-147; 143B-147;*  
*Eff. October 1, 1983;*  
*Amended Eff. May 1, 1990;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

### **10A NCAC 27H .0603 GENERAL RESPONSIBILITIES OF AREA AUTHORITY AND DIVISION**

The assurance of continuity of care is a joint responsibility of the Division and the area authority serving the continuity of care client. Procedural implementation of continuity of care shall be consistent with the annual plan and budget of the area authority and procedures and regulations of the Division, including, but need not be limited to:

- (1) "Rules for Mental Health, Developmental Disabilities and Substance Abuse Facilities and Services" as codified in 10A NCAC 27G (division publication APSM 30-1); and
- (2) the Division's accounting rules as codified in 10A NCAC 27A Sections .0100 and .0200 and 10A NCAC 27A .0221 (division publication APSM 75-1).

*History Note: Authority G.S. 122C-63; 122C-132; 122C-143; 122C-147; 143B-147;  
Eff. October 1, 1983;  
Amended Eff. May 1, 1990;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0604 PROGRAMMATIC RESPONSIBILITIES**

(a) The area authority shall be responsible for coordinating the provision or arrangement of an alternative residential placement for a continuity of care client. Its programmatic responsibilities shall be as follows:

- (1) The area authority which serves the county of residence of the continuity of care client shall be responsible for coordinating the provision or arrangement of an alternative residential placement for the continuity of care client.
- (2) When staff of the area authority has knowledge that a potential continuity of care client's placement will be terminated, the area authority shall conduct or secure a client assessment indicating the continued need of the client for residential placement. This assessment shall be conducted within ten working days from the date that staff of the area authority has knowledge that placement will be terminated. If the assessment indicates that the client is in need of residential placement for the purpose of care, treatment or habilitation, the area authority shall provide or arrange such residential placement.
- (3) When an alternative residential placement is needed for a continuity of care client, the area authority shall make referrals to and process applications for admission to alternative residential facilities, including residential facilities operated or contracted by the area authority, facilities in other locations, and state-operated facilities.
- (4) As needed, the area authority shall request the assistance of the Division in the identification of potential residential placements for the continuity of care client.

(b) The Division shall be responsible for coordinative assistance to the area authority in assuring continuity of care for a person with mental retardation. Its programmatic responsibilities shall be as follows:

- (1) When requested by the area authority, the Division shall provide assistance to the area authority in its procurement of an assessment of the continuity of care client. Such assistance shall include recommendations regarding individuals or agencies who are available to conduct the assessment and the delegation of qualified professionals of the Division staff to assist in or conduct the assessment.
- (2) If for any reason the Division feels a separate or additional client assessment other than the assessment of the area authority is needed, the Division shall be responsible for conducting or securing such an assessment.
- (3) Upon request from the area authority, the Division shall assist the area authority in the identification of potential residential placements for the continuity of care client. Such recommendations shall be made to the area authority which shall have the continued responsibility for making referral and processing applications for admission to the alternative residential facility. Such assistance shall also include a recommendation from the Division regarding the appropriateness of placement in a division-operated regional mental retardation center.

*History Note: Authority G.S. 122C-63; 143B-147;  
Eff. October 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.*

#### **10A NCAC 27H .0605 BUDGETARY RESPONSIBILITIES**

(a) The area authority shall be responsible for coordinating the provision or arrangement of an alternative residential placement for a continuity of care client. Its budgetary responsibilities shall be as follows:

- (1) Prior to the adoption of the area program's annual plan and budget, the area authority shall assess if any proposed budget action will potentially result in discontinuation of an area operated or contracted residential placement for a mentally retarded person.
- (2) When the proposed area annual plan and budget, other budgetary actions of the area authority, or circumstances not within the control of an area authority actually or potentially result in the discontinuation of a residential placement for a person with mental retardation, the area authority shall ascertain its ability to provide financial resources to maintain the operation of the original facility or to effect an alternative residential placement for the continuity of care client. If such financial resources are available, the area authority shall allocate such financial resources in accordance with its existing policies and practices.

- (3) When the area authority ascertains that it does not have financial resources within its budgetary control to maintain the operation of the original facility or to effect an alternative residential placement, the area authority shall request financial assistance for such purposes from the Division. The request shall identify alternative placements that have been attempted, indicate that financial resources for the support of the residential placement are not available within the area authority's budget, and specify the amount of financial assistance requested.
- (b) The Division shall be responsible for financial assistance to the area authority in assuring continuity of care for a person with mental retardation. Its budgetary responsibilities shall be as follows:
- (1) During its review and approval of the area authority's proposed annual plan and budget, the Division shall assess if any proposed budget action will result in discontinuation of an area operated or contracted residential placement for a mentally retarded person. If such action is potentially a result, the Division shall request from the area authority its plan for assurance of continuity of care. Based on such information, if the Division approves the area plan and budget and concurs that funds are not available within the budgetary resources of the area authority for the continuation of the residential placement or for provision of an alternative placement, the Division shall assume responsibility for the provision of an alternative placement or the provision of the funding necessary for the area authority to provide or secure an alternative placement, as delineated in (b)(4) of this Rule.
  - (2) In its allocation of state funds to the area authority, the Division shall assure that any allocation, including reallocation, discontinuation or reduction of funds within its control, does not result in the discontinuation of a residential placement for a continuity of care client, unless an alternative residential placement for the client has been secured.
  - (3) When budgetary actions of the area authority which are approved by the Division, or circumstances not within the control of an area authority result in the discontinuation of a residential placement for a continuity of care client, the Division, upon verification by division staff that the area authority does not have budgetary resources to effect continuity of care, shall assume responsibility for the provision of an alternative placement or the provision of the funding assistance necessary for the area authority to provide or secure an alternative placement.
  - (4) The responsibility of the Division in providing financial assistance to the area authority for assurance of continuity of care shall be limited to allocation and reallocation of available funds within the Division's control, requests to the Office of State Budget and Management for reallocation of available state funds, and requests for the funds in its expansion budget request to the Department of Health and Human Services.

*History Note:* Authority G.S. 122C-54; 122C-132; 122C-143; 122C-147; 122C-207;  
 Eff. October 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.

#### **10A NCAC 27H .0606 DOCUMENTATION**

The Division and area authority shall clearly document in writing all programmatic and budgetary actions related to a continuity of care client.

*History Note:* Authority G.S. 122C-54; 122C-132; 122C-143; 122C-147; 122C-207; 143B-147;  
 Eff. October 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.

#### **10A NCAC 27H .0607 APPEALS**

Appeals from the area authority related to the Division's implementation of continuity of care shall be made in accordance with provisions of 10A NCAC 26A .0200; CONTESTED CASES (division publication APSR 10-2).

*History Note:* Authority G.S. 122C-54; 122C-132; 122C-143; 122C-147; 122C-207; 143B-147;  
 Eff. October 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 26, 2017.

### **SUBCHAPTER 27I – AREA AUTHORITY OR COUNTY PROGRAM REQUIREMENTS**

**SECTION .0100 – (RESERVED)**

**10A NCAC 27I .0101      RESERVED FOR FUTURE CODIFICATION**

**SECTION .0200 – (RESERVED)**

**10A NCAC 27I .0201 – RESERVED FOR FUTURE CODIFICATION**

**SECTION .0300 – (RESERVED)**

**10A NCAC 27I .0301 – RESERVED FOR FUTURE CODIFICATION**

**SECTION .0400 - SECRETARY APPROVAL OF LME SERVICE DELIVERY**

**10A NCAC 27I .0401      SCOPE**

(a) This Section governs the procedures for Local Management Entities (LME) to seek approval from the Secretary to directly deliver mental health, developmental disabilities and substance abuse services.

(b) These Rules are applicable to all LMEs seeking approval to directly deliver any of the services set forth in the Division of Medical Assistance (DMA) Clinical Policy Numbers 8A, 8C, 8D1 and 8D2 including subsequent amendments and editions, services under the CAP-MR/DD waiver as approved by the Centers for Medicare and Medicaid Services, and state funded only services. Copies of Clinical Policy Numbers 8A, 8C, 8D1 and 8D2 are available at no cost from the DMA website at <http://www.ncdhhs.gov/dma/>. Copies of the CAP-MR/DD waiver and the service definitions for state funded only services are available at no cost from the Division of Mental Health, Developmental Disabilities and Substance Abuse Services website at <http://www.ncdhhs.gov/dmhdssas/>.

*History Note: Authority G.S. 122C-112.1(a)(26);*

*Eff. July 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.*

**10A NCAC 27I .0402      DEFINITIONS**

As used in the rules of this Section, the following terms have the meanings specified:

- (1) "Local Management Entity (LME)" means the same as defined in G.S. 122C-3(20b).
- (2) "Request for Application (RFA)" means a procurement strategy through which a LME solicits applications from public and private providers of mental health, developmental disabilities, and substance abuse services to provide one or more specific service(s) to clients in the LME's catchment area.
- (3) "Request for Information (RFI)" means a procurement strategy through which a LME solicits information from public and private providers of mental health, developmental disabilities and substance abuse services regarding the providers' interest in providing one or more specific services to clients in the LME's catchment area.
- (4) "Request for Proposal (RFP)" means a procurement strategy through which a LME solicits proposals from public and private providers of mental health, developmental disabilities and substance abuse services interested in providing one or more specific services to clients in the LME's catchment area.

*History Note: Authority G.S. 122C-112.1(a)(26);*

*Eff. July 1, 2008;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.*

**10A NCAC 27I .0403      INFORMATION INCLUDED IN REQUEST**

A LME seeking approval from the Secretary to directly deliver services in accordance with the rules of this section shall submit the following information:

- (1) the name(s) of the service(s) for which approval is sought;
- (2) the period of time for which approval is sought;
- (3) the number of existing providers in the catchment area, by service, and the number of clients existing providers have the capacity to serve, for any service for which approval is sought;

- (4) the estimated number of clients in the catchment area or relevant geographic territory, if the LME is requesting to deliver services in only a portion of the catchment area, in need of the service for which approval is sought and the estimated number of clients to be served directly by the LME and the estimated number of clients to be served by the providers;
- (5) information on the actions the LME has taken to seek to attract sufficient numbers of providers for the service for which approval is sought to the catchment area such that it is not necessary for the LME to directly deliver services, including copies of Request for Application (RFA), Request for Information (RFI) and Request for Proposals (RFP), copies of all applications, information and proposals received in response to such activities, and the number of providers attracted through such efforts;
- (6) a description of the LME's organizational structure detailing how service delivery staff and staff performing LME functions are separately managed;
- (7) a description of how clients will be given a choice of service provider for the service(s) for which approval is sought;
- (8) documentation that the LME Board has approved the LME's request to deliver services; and
- (9) documentation that the local Consumer and Family Advisory Committee (CFAC) has approved the LME's request to deliver services.

*History Note: Authority G.S. 122C-112.1(a)(26);  
Eff. July 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.*

#### **10A NCAC 27I .0404 PROCESS**

- (a) A LME seeking approval to directly deliver services shall submit a request in writing containing all required information at least 60 days in advance of the date on which the LME wishes to begin service delivery or the expiration date of a previous approval if the LME wishes to continue service delivery.
- (b) The request shall be submitted to the Division of Mental Health, Developmental Disabilities and Substance Abuse Services (DMH/DD/SAS), 3001 Mail Service Center, Raleigh, NC 27699-3001.
- (c) The Director of DMH/DD/SAS or designee shall review the submitted documentation and request additional information, if necessary. If the service the LME wishes to deliver is a Medicaid payable service, DMH/DD/SAS shall also consult with the Division of Medical Assistance.
- (d) The Secretary shall make a decision regarding the request within 15 business days of receipt of the recommendation from the Director of DMH/DD/SAS or designee.
- (e) The Secretary's decision shall be based upon the following:
  - (1) access;
  - (2) availability of qualified public or private providers;
  - (3) client choice; and
  - (4) fair competition.
- (f) The Director of DMH/DD/SAS or his designee shall communicate the Secretary's decision to the LME in writing within 15 business days of the decision.
- (g) In the event that a LME requests to deliver services on a temporary basis as a result of an unanticipated closure of a private or public provider in the LME catchment area, the LME may request an expedited review of its service delivery request.

*History Note: Authority G.S. 122C-112.1(a)(26);  
Eff. July 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.*

### **SECTION .0500 – CONTENT, FORMAT, SUBMISSION, REVIEW AND APPROVAL OF LOCAL MANAGEMENT ENTITY BUSINESS PLAN**

- |                           |  |
|---------------------------|--|
| <b>10A NCAC 27I .0501</b> | <b>SCOPE</b>   |
| <b>10A NCAC 27I .0502</b> | <b>LME BUSINESS PLAN CONTENT AND FORMAT REQUIREMENTS</b> |
| <b>10A NCAC 27I .0503</b> | <b>LME BUSINESS PLAN SIGNATURE REQUIREMENTS</b>          |
| <b>10A NCAC 27I .0504</b> | <b>PLAN OF CORRECTION</b>                                |

*History Note:* Authority G.S. 122C-112.1(a)(4)(5); 122C-115.2;  
Eff. July 1, 2008;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;  
Repealed Eff. October 3, 2023 pursuant to G.S. 150B-21.7.

## **SECTION .0600 - NON-MEDICAID APPEAL PROCESS**

### **10A NCAC 27I .0601 SCOPE**

- (a) The rules of this Section shall govern appeals made to the Division of decisions made by an area authority or county program affecting a non-Medicaid eligible client.
- (b) A non-Medicaid eligible client, or the client's legally responsible person, may appeal to the Division Director the clinical review decision of an LME-MCO, area authority or county program to deny, reduce, suspend, or terminate a non-Medicaid state funded service.
- (c) Nothing in these Rules shall be interpreted as granting a non-Medicaid eligible client the right to appeal decisions of third party payers to the Division.
- (d) Non-Medicaid services shall be provided in accordance with G.S. 122C-2. As set forth in G.S. 143B-147(a)(9), nothing in these Rules shall be interpreted as granting a non-Medicaid eligible client the right to appeal the findings of the Division by requesting a contested case hearing pursuant to G.S. 150B.
- (e) There shall be no reprisal or retaliation to anyone who is a party to an appeal.
- (f) The LME-MCO, area authority or county program may authorize interim services until the final written decision as set forth in Rule .0609 of this Section is reached.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;  
Amended Eff. May 1, 2024.

### **10A NCAC 27I .0602 DEFINITIONS**

As used in the rules in this Section, the following terms shall have the meanings specified:

- (1) "Director" means the Director of the Division of Mental Health, Developmental Disabilities and Substance Use Services.
- (2) "Division" means the Division of Mental Health, Developmental Disabilities and Substance Use Services.
- (3) "Legally Responsible Person" means the same as defined in G.S. 122C-3.
- (4) "Within Available Resources" means the same as defined in G.S. 122C-2.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;  
Amended Eff. May 1, 2024.

### **10A NCAC 27I .0603 FILING REQUIREMENTS**

- (a) An appeal shall be filed with the Division no later than 11 calendar days from the date of the area authority or county program written review decision.
- (b) The appeal shall include a copy of the area authority or county program review decision and a request for appeal on a form provided by the Division.
- (c) A verbal appeal shall not be accepted.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

### **10A NCAC 27I .0604 CHANGE IN CLIENT CONDITION**

If the client's medical condition changes relative to the service under appeal, the appeal shall be returned to the area authority or county program for review.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

#### **10A NCAC 27I .0605 DIVISION'S INITIAL RESPONSE TO A NON-MEDICAID APPEAL**

- (a) The Director shall screen the request for appeal to the Division to determine:
- (1) if the appeal was reviewed by the LME-MCO, area authority or county program according to the area authority or county program policy and procedures;
  - (2) if the appeal includes the denial, reduction, suspension or termination of a non-Medicaid state funded service;
  - (3) if the appeal falls within the scope of Rule .0601 of this Section; and
  - (4) if the appeal was filed in accordance with the requirements of Rule .0603 of this Section.
- (b) The Director shall send an acknowledgement letter to the client, or the client's legally responsible person, and the LME-MCO, area authority or county program within 5 business days of receipt of the request for appeal to the Division.
- (c) The acknowledgement letter shall specify whether the appeal has been accepted or not. The Division shall accept an appeal if it meets the standards as set forth in Paragraph (a) of this Rule.
- (d) The Director shall notify the LME-MCO, area authority or county program and the client, or the client's legally responsible person, whose appeal is accepted for review, to submit all documentation considered during the LME-MCO, area authority or county program review to the Division no later than 10 calendar days from the date of the acknowledgement letter. Documentation shall be submitted to the DMHDDSUS Hearing Office, 3001 Mail Service Center, Raleigh, NC 27699-3001 or via fax at (984) 777-9264. The acknowledgment letter shall advise the parties that a Hearing Officer will conduct a hearing.
- (e) An appeal that does not meet the criteria as set forth in Paragraph (a) of this Rule shall be returned to the client as denied with an explanation of the basis for denial.
- (f) If the appeal is denied on the basis of Subparagraph (a)(1) of this Rule, the LME-MCO, area authority or county program shall review the appeal in accordance with the requirements of Rule 10A NCAC 27G .7004.
- (g) The client, or the client's legally responsible person, shall have 11 calendar days from the date of the LME-MCO, area authority or county program clinical review decision to resubmit the appeal to the Division.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;  
Amended Eff. May 1, 2024.

#### **10A NCAC 27I .0606 HEARING SCHEDULE**

- (a) The Director shall ensure the Hearing Officer conducts an appeal that is accepted in accordance with the requirements of Rule .0605 of this Section.
- (b) The Hearing Officer shall be an employee of the Division.
- (c) The Director shall forward the record on appeal and all supplemental documentation to the Hearing Officer within five calendar days of receipt thereof.
- (d) The Director shall provide a copy of applicable law and rules to the Hearing Officer.
- (e) The Hearing Officer shall schedule a hearing including designation of a time and place.
- (f) The Hearing Officer shall notify the client, or the client's legally responsible person, and the area authority or county program of the time and place no less than 15 calendar days prior to the date of the hearing.
- (g) The hearing may be conducted in person or virtually taking into account reasonable accommodations, including but not limited to, the following:
- (1) compliance with HIPAA requirements;
  - (2) accommodation needs of the client; and
  - (3) State mandated travel restrictions.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;  
Amended Eff. May 1, 2024.

#### **10A NCAC 27I .0607 HEARING PROCEDURES**

- (a) The Hearing Officer:
  - (1) shall convene the hearing at the prearranged time and place;
  - (2) may afford the opportunity for rebuttal and summary comments to either of the presenting parties; and
  - (3) shall conduct proceedings in an orderly manner.
- (b) The Hearing Officer:
  - (1) may limit the total number of persons presenting for the client and area authority or county program; and
  - (2) may impose time limits for presentations.
- (c) Either party may be represented by a person or attorney of their choice.
- (d) Prior to the hearing, the client, or the client's legally responsible person, and the area authority or county program shall:
  - (1) specify by name and position all individuals who will be present for the hearing;
  - (2) provide the Hearing Officer with requested information; and
  - (3) when applicable, ensure that representatives of the parties shall be present at the hearing.
- (e) The Hearing Officer may address questions to either party.
- (f) The Hearing Officer may obtain any form of technical assistance or consultation relevant to the appeal.
- (g) No transcript shall be made and no party shall be allowed to record the proceeding. The Hearing Officer may choose to record the proceeding for his or her own use. A tape so made shall be destroyed after the Hearing Officer issues the Hearing decision.
- (h) Witnesses shall not be sworn before testifying.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;  
Amended Eff. May 1, 2024.

#### **10A NCAC 27I .0608 HEARING OFFICER FINDINGS AND DECISION**

- (a) The Hearing Officer's findings and decisions are based on the record and any new evidence that would be material to the issues on appeal.
- (b) The standard of review for the Hearing Officer is whether the decision of the LME-MCO, area authority or county program is supported by the evidence presented.
- (c) The Hearing Officer shall consider all issues under appeal.
- (d) Any decision may be rescheduled for a subsequent meeting if the Hearing Officer determines that he or she lacks sufficient information to render a decision at the initial hearing.
- (e) The Hearing Officer's findings and decisions shall be reached and sent in writing to the client, or the client's legally responsible person, and to the LME-MCO, area authority or county program Director within 60 calendar days of the written request for an appeal.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;  
Amended Eff. May 1, 2024.

#### **10A NCAC 27I .0609 FINAL WRITTEN DECISION**

- (a) Upon receipt of the Hearing Officer's findings and decisions, the LME-MCO, area authority or county program shall issue a final decision based on those findings within 10 business days of receipt of the Hearing Officer's findings and decisions.
- (b) Neither the Hearing Officer's findings and decisions nor the LME-MCO, area authority or county program final decision shall be interpreted as an agency decision granting a non-Medicaid eligible client the right to appeal by requesting a contested case hearing pursuant to G.S. 150B.
- (c) The Division shall report annually to the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services the number of appeals filed and conducted.

*History Note:* Authority G.S. 143B-147;  
Eff. October 1, 2006;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;  
Amended Eff. May 1, 2024.



