CHAPTER 28 – MENTAL HEALTH: STATE OPERATED FACILITIES AND SERVICES

SUBCHAPTER 28A - COMMITTEES AND PROCEDURES

SECTION .0100 – SCOPE AND DEFINITIONS

10A NCAC 28A .0101 SCOPE

(a) The purpose of the rules in Subchapters 28A, 28B, 28C and 28D of this Chapter is to set forth regulations governing human rights for clients in state facilities. The state facilities governed by these Rules are the regional psychiatric hospitals, mental retardation centers, alcohol and drug abuse treatment centers, Wright School, the North Carolina Special Care Center at Wilson, Whitaker School and any other like state owned and operated institutions, hospitals, centers or schools that may be established under the administration of the Division. In addition to these Rules, each state facility shall follow the North Carolina General Statutes regarding client rights which are specified in Article 3 of Chapter 122C.

(b) A state 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 28A, 28B, 28C and 28D of this Chapter, with the exceptions of 28A .0102; 28D .0203; .0206; .0207; .0208; .0209 and .0210. A state 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 Subparagraph .0102 (b)(32) of this Section;

(2) documentation requirements as specified in Rules .0203; .0206; .0207; .0208; .0209 and .0210 of Subchapter 28D;

(3) debriefing requirements as specified in Rule .0206 of Subchapter 28D; and

(4) training requirements as specified in Rules .0209 and .0210 of Subchapter 28D.

History Note: *Authority G.S. 122C-51; 143B-17; 143B-147;*
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10A NCAC 28A .0102 DEFINITIONS

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

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

(1) "Abuse" means the infliction of physical or mental 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 and 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) "Associate Professional (AP)" within the mental health, developmental disabilities and substance abuse services (mh/dd/sas) system of care means an individual who is a:

(A) graduate of a college or university with a Masters degree in a human service field with less than one year of full-time, post-graduate degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than one year of full-time, post-graduate degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and supervision shall be provided by a qualified professional with the population served until the individual meets one year of experience; or

(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-accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than two years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and

reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets two years of experience; or

(C) graduate of a college or university with a bachelor's degree in a field other than human services with less than four years of full-time, post bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional with less than four years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon hiring, an individualized supervision plan shall be developed and reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience; or

(D) registered nurse who is licensed to practice in the State of North Carolina by the North Carolina Board of Nursing with less than four years of full-time accumulated experience in mh/dd/sa with the population served. Upon hiring, an individualized supervision plan shall be developed and reviewed annually. Supervision shall be provided by a qualified professional with the population served until the individual meets four years of experience.

(3) "Basic necessities" mean the essential items or substances needed to support life and health which include, but are not limited to, a nutritionally sound diet balanced during three meals per day, access to water and bathroom facilities at frequent intervals, seasonable clothing, medications to control seizures, diabetes and other like physical health conditions, and frequent access to social contacts.

(4) "Certified clinical supervisor (CCS)" means an individual who is certified as such by the North Carolina Substance Abuse Professional Certification Board.

(5) "Certified substance abuse counselor (CSAC)" means an individual who is certified as such by the North Carolina Substance Abuse Professional Certification Board.

(6) "Client record" means any record made of confidential information.

(7) "Clinical Director" means Medical Director, Director of Medical Services or such person acting in the position of Clinical Director, or his designee.

(8) "Clinically competent" means authorization by the State Facility Director for a qualified professional to provide specific treatment/habilitation services to clients based on the professional's education, training, experience, competence and judgment.

(9) "Consent" means concurrence by a client or his legally responsible person following receipt of information from the qualified professional who will administer the proposed treatment or procedure. Informed consent implies that the client or his legally responsible person was provided with information concerning proposed treatment, including both benefits and risks, in order to make an educated decision with regard to such treatment.

(10) "Dangerous articles or substances" mean, but are not limited to, any weapon or potential weapon, heavy blunt object, sharp objects, potentially harmful chemicals, or drugs of any sort, including alcohol.

(11) "Division Director" means the Director of the Division or his designee.

(12) "Emergency" means a situation in a state facility in which a client is in imminent danger of causing abuse or injury to self or others, or when substantial property damage is occurring as a result of unexpected and severe forms of inappropriate behavior, and rapid intervention by the staff is needed. [See Subparagraph (b)(25) of this Rule for definition of medical emergency].

(13) "Emergency surgery" means an operation or surgery performed in a medical emergency [as defined in Subparagraph (b)(25) of this Rule] where informed consent cannot be obtained from an authorized person, as specified in G.S. 90-21.13, because the delay would seriously worsen the physical condition or endanger the life of the client.

(14) "Exclusionary time-out" means the removal of a client to a separate area or room from which exit is not barred for the purpose of modifying behavior.

(15) "Exploitation" means the use of a client or her/his resources including borrowing, taking or using personal property with or without her/his permission for another person's profit, business or advantage.

(16) "Forensic Division" means the unit at Dorothea Dix Hospital which serves clients who are:

(A) admitted for the purpose of evaluation for capacity to proceed to trial;

(B) found not guilty by reason of insanity;

(C) determined incapable of proceeding to trial; or

(D) deemed to require a more secure environment to protect the health, safety and welfare of clients, staff and the general public.

(17) "Grievance" means a verbal or written complaint by or on behalf of a client concerning a situation within the jurisdiction of the state facility. A grievance does not include complaints that can be resolved without delay by staff present. A complaint that is not resolved shall be filed and processed in accordance with the requirements of 10A NCAC 28B .0203.

(18) "Human Rights Committee" means a committee, appointed by the Secretary, to act in a capacity regarding the protection of client rights.

(19) "Independent psychiatric consultant" means a licensed psychiatrist not on the staff of the state facility in which the client is being treated. The psychiatrist may be in private practice, or be employed by another state facility, or be employed by a facility other than a state facility as defined in G.S. 122C-3(14).

(20) "Interpreter services" means specialized communication services provided for the hearing impaired by interpreters certified by the National Registry of Interpreters for the Deaf or the National Association of the Deaf.

(21) "Involuntary client" means a person admitted to any regional psychiatric hospital or alcoholic rehabilitation center under the provisions of Article 5, Parts 7, 8 or 9 of G.S. 122C and includes but it is not limited to clients detained pending a district court hearing and clients involuntarily committed after a district court hearing. This term shall also include individuals who are defendants in criminal actions and are being evaluated in a state facility for mental responsibility or mental competency as a part of such criminal proceedings as specified in G.S. 15A-1002 unless a valid order providing otherwise is issued from a court of competent jurisdiction and the civil commitment of defendants found not guilty by reason of insanity as specified in G.S. 15A-1321.

(22) "Isolation time-out" means the removal of a client to a separate room from which exit is barred but which is not locked and where there is continuous supervision by staff for the purpose of modifying behavior.

(23) "Licensed professional counselor (LPC)" means a counselor who is licensed as such by the North Carolina Board of Licensed Professional Counselors.

(24) "Major physical injury" means damage caused to the body resulting in profuse bleeding or contusion of tissues; fracture of a bone; damage to internal organs; loss of consciousness; loss of normal neurological function (inability to move or coordinate movement); or any other painful condition caused by such injury.

(25) "Medical emergency" means a situation where the client is unconscious, ill, or injured, and the reasonably apparent circumstances require prompt decisions and actions in medical or other health care, and the necessity of immediate health care treatment is so reasonably apparent that any delay in the rendering of the treatment would seriously worsen the physical condition or endanger the life of the client.

(26) "Minimal risk research" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

(27) "Minor client" 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.

(28) "Neglect" means the failure to provide care or services necessary to maintain the mental and physical health of the client.

(29) "Normalization" means the principle of helping the client to obtain an existence as close to normal as possible, taking into consideration the client's disabilities and potential, by making available to him patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

(30) "Paraprofessional" within the mh/dd/sa system of care means an individual who, with the exception of staff providing respite services or personal care services, has a GED or high school diploma; or no GED or high school diploma, employed prior to November 1, 2001 to provide a mh/dd/sa service. Upon hiring, an individualized supervision plan shall be developed and supervision shall be provided by a qualified professional or associate professional with the population served.

(31) "Person standing in loco parentis" means one who has put himself in the place of a lawful parent by assuming the rights and obligations of a parent without formal adoption.

(32) "Physical Restraint" means the application or use of any manual method of restraint that restricts freedom of movement, or the application or use of any physical or mechanical device that restricts freedom of movement or normal access to one's body, including material or equipment attached or adjacent to the client's body that he or she cannot easily remove. Holding a client in a therapeutic hold or any other manner that restricts his or her movement constitutes manual restraint for that client. Mechanical devices may restrain a client to a bed or chair, or may be used as ambulatory restraints. Examples of mechanical devices include cuffs, ankle straps, sheets or restraining shirts, arm splints, mittens and helmets. Excluded from this definition of physical restraint are physical guidance, gentle physical prompting techniques, escorting and therapeutic holds used solely for the purpose of escorting a client who is walking, soft ties used solely to prevent a medically ill client from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar medical devices, and prosthetic devices or assistive technology which are designed and used to increase client adaptive skills. Escorting means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a client to walk to a safe location.

(33) "Protective devices" means an intervention which provides support for weak and feeble clients or enhances the safety of behaviorally disordered clients. Such devices may include posey vests, geri-chairs or table top chairs to provide support and safety for clients with physical handicaps; devices such as helmets and mittens for self-injurious behaviors; or devices such as soft ties used to prevent medically ill clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar medical devices. As provided in Rule .0207 of Subchapter 28D, the use of a protective device for behavioral control shall comply with the requirements specified in Rule .0203 of Subchapter 28D.

(34) "Psychotropic medication" means medication with the primary function of treating mental illness, personality or behavior disorders. It includes, but is not limited to, antipsychotics, antidepressants, antianxiety agents and mood stabilizers.

(35) "Qualified professional" means, within the mh/dd/sas system of care, an individual who is:

(A) an individual who holds a license, provisional license, certificate, registration or permit issued by the governing board regulating a human service profession, except 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; or

(B) 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 mh/dd/sa experience with the population served, or a substance abuse professional who has one-year of full-time, post-graduate degree accumulated supervised experience in alcoholism and drug abuse counseling; or

(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, post-bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional who has two years of full-time, 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, post-bachelor's degree accumulated mh/dd/sa experience with the population served, or a substance abuse professional who has four years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism and drug abuse counseling.

(36) "Regional alcohol and drug abuse treatment center" means a state facility for substance abusers as specified in G.S. 122C-181(a)(3).

(37) "Regional mental retardation center" means a state facility for the mentally retarded as specified in G.S. 122C-181(a)(2).

(38) "Regional psychiatric hospital" means a state facility for the mentally ill as specified in G.S. 122C-181(a)(1).

(39) "Representative payee" means the person, group, or facility designated by a funding source, such as Supplemental Security Income (SSI), to receive and handle funds according to the guidelines of the source on behalf of a client.

(40) "Research" means inquiry involving a trial or special observation made under conditions determined by the investigator to confirm or disprove an hypothesis or to explicate some principle or effect.

(41) "Respite client" means a client admitted to a mental retardation center for a short-term period, normally not to exceed 30 days. The primary purpose of such admission is to provide a temporary interval of rest or relief for the client's regular caretaker.

(42) "Responsible professional" shall have the meaning as specified in G.S. 122C-3 except the "responsible professional" shall also be a qualified professional as defined in Subparagraph (b)(35) of this Rule.

(43) "Seclusion" means isolating a client in a separate locked room for the purpose of controlling a client's behavior. In the Forensic Service, Pretrial Evaluation Unit and the Forensic Treatment Program Maximum Security Ward in the Spruill Building at Dorothea Dix Hospital, the use of locked rooms is not considered seclusion for clients with criminal charges who are:

(A) undergoing pretrial evaluations ordered by a criminal court;

(B) in treatment for restoration of capacity to proceed;

(C) in treatment to reduce violence risk; or

(D) considered to be an escape risk.

(44) "State Facility Director" means the chief administrative officer or manager of a state facility or his designee.

(45) "Strike" means, but is not limited to, hitting, kicking, slapping or beating whether done with a part of one's body or with an object.

(46) "Timeout" means the removal of a client from other clients to another space within the same activity area for the purpose of modifying behavior.

(47) "Treatment" means the act, method, or manner of habilitating or rehabilitating, caring for or managing a client's physical or mental problems.

(48) "Treatment plan" means a written individual plan of treatment or habilitation for each client to be undertaken by the treatment team and includes any documentation of restriction of client's rights.

(49) "Treatment team" means an interdisciplinary group of qualified professionals sufficient in number and variety by discipline to adequately assess and address the identified needs of the client.

(50) "Unit" means an integral component of a state facility distinctly established for the delivery of one or more elements of service to which specific staff and space are assigned, and for which responsibility has been assigned to a director, supervisor, administrator, or manager.

(51) "Voluntary client" means a person admitted to a state facility under the provisions of Article 5, Parts 2, 3, 4 or 5 of G.S. 122C.

History Note: *Authority G.S. 122C-3; 122C-4; 122C-51; 122C-53(f); 143B-147;*
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Temporary Amendment Eff. January 1, 1998;
Amended Eff. April 1, 1999;
Temporary Amendment Eff. January 1, 2001;
Temporary Amendment Expired October 13, 2001;
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Temporary Amendment Expired Eff. December 10, 2019.

SECTION .0200 - HUMAN RIGHTS COMMITTEES

10A NCAC 28A .0201 PURPOSE OF HUMAN RIGHTS COMMITTEES

A human rights committee shall be established at each state facility to provide an additional safeguard for protecting the human, civil, legal and treatment rights of clients who, due to impairments resulting from mental retardation, mental illness or substance abuse, may be less able to articulate and exercise their legal entitlements than those not impaired.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
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10A NCAC 28A .0202 MEMBERSHIP

(a) Members of human rights committees shall be appointed by the Secretary.

(b) Recommendations for committee appointments and the appointment process shall be as follows:

(1) The State Facility Director shall maintain a schedule of the terms of appointment for committee members and shall request names of possible appointees from voluntary groups serving the mentally ill, mentally retarded or substance abusers, as appropriate, as well as from the Chairperson of the State Facility Human Rights Committee six months prior to the expiration of a committee member's term. The State Facility Director shall submit these nominations, as well as any additional nominations, to the appropriate deputy director in the Division five months prior to the expiration of the Committee member's term.

(2) Within two weeks following receipt of the nominations, the Deputy Director shall submit the Committee and voluntary group recommendations for nominations, as well as any other nominations supported by the Deputy Director, to the Division Director.

(3) The Division Director shall submit the committee and voluntary group recommendations, as well as any other nominations he supports, to the Secretary four months prior to the expiration of the Committee member's term of office.

(4) The Secretary shall contact his choices for potential appointees, explain committee member responsibilities and confirm appointments in writing.

(5) The Secretary shall notify the Division Director and the committee chairperson of confirmed committee appointments and the term of office for appointees two months prior to the expiration of the Committee member's term.

(6) The Division Director shall notify the State Facility Director of the appointment.

(c) Appointments shall be made with an effort to consider the geographic distribution, race and sex composition of the Human Rights Committees.

(d) Members shall represent only one of the organizations or professional groups indicated in Paragraphs (e), (f), (g), (h) and (i) of this Rule during any single term in their capacity as human rights committee members.

(e) Each regional psychiatric hospital shall have a committee consisting of ten members, none of whom shall be currently employed by the Division or attorney general's office.

(1) All members shall be knowledgeable about mental health and mental illness issues as evidenced by interest, experience or education.

(2) Appointments shall be made with an effort to consider representation of the needs and characteristics of the state facility clients.

(3) Appointees shall include one member from the North Carolina Mental Health Association; one member from the North Carolina Alliance for the Mentally Ill; and one member from the North Carolina Association for Retarded Citizens.

(4) Four members shall be appointed at large.

(5) At least one member shall be a client and at least one member shall be a family member.

(6) One member shall be a licensed attorney.

(f) Each regional mental retardation center shall have a committee consisting of ten members, none of whom shall be currently employed by the Division.

(1) Four of the Committee members shall include the legally responsible person of persons with mental retardation who may or may not reside in a state facility, persons with mental retardation, and at least one client of a regional mental retardation center.

(2) Three members shall be professionals from three different associated fields such as social work, education, psychology or medicine.

(3) One member shall be a licensed attorney.
(4) Two members shall be selected at large.

(g) Each regional alcoholic rehabilitation center shall have a committee consisting of five members, none of whom shall be currently employed by the Division.

(1) Two persons shall be members of voluntary groups representing the interests of persons having substance abuse problems.
(2) One person shall be a client or family member of a client of an alcoholic rehabilitation center.
(3) Two members shall be selected at large.

(h) Wright School, Whitaker School and any other like state facility established and administered by the Division to serve emotionally disturbed children and adolescents each shall have a committee consisting of five members, none of whom shall be currently employed by the Division.

(1) Two persons shall be members of voluntary groups representing the interest of children and adolescents with special needs.
(2) One person shall be the legally responsible person of a client of a state facility for emotionally disturbed children.
(3) Two members shall be selected at large.

(i) North Carolina Special Care Center at Wilson and any other like state facility established and administered by the Division shall have a committee consisting of five members, none of whom shall be currently employed by the Division.

(1) All members shall be knowledgeable about mental health and nursing care issues as evidenced by interest, experience or education.
(2) Four members shall be appointed at large.
(3) At least one member shall be a client or family member of a client.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-10; 143B-147;*
Eff. October 1, 1984;
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10A NCAC 28A .0203 EX OFFICIO MEMBERSHIP

(a) An internal client advocate may serve as a non-voting member of each human rights committee.

(b) In addition to the members appointed by the Secretary, the Chairperson may designate other non-voting ex officio members to assist the Committee. Ex officio members may be employees of the Division.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-147;*
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Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0204 TERMS OF OFFICE

(a) All members shall be appointed to serve three year terms except for the initial terms at state facilities which did not have human rights committees established upon the original effective date of these rules.

(b) Initial appointments for each of the Committees established under Paragraph (a) of this Rule shall be as follows:

(1) One member shall serve a four-year term, expiring June 30.
(2) Two members shall serve a three-year term, expiring June 30.
(3) One member shall serve a two-year term, expiring June 30.
(4) One member shall serve a one-year term, expiring June 30.

(c) Members may be appointed for no more than two consecutive three-year terms.

(d) If a vacancy occurs due to death, resignation or disqualification, the Human Rights Committee Chairperson shall notify the State Facility Director who shall initiate procedures to fill the vacancy in accordance with Rule .0202(b) in this Section. Members appointed in this manner shall serve out the term of the member who created the vacancy and shall represent the category of membership represented by the member whose place they are selected to fill.

(e) Human rights committee members whose appointment terms have expired may continue to serve on the Committee until such time that the Committee member is notified by the State Facility Director that another appointment has been made and the Committee member's term of appointment has officially expired.
(f) If a member misses three consecutive meetings without being excused by the Chairperson, the Chairperson shall notify the Secretary. Missing three consecutive meetings without being excused by the Chairperson shall constitute good cause for being removed from the Committee.
(g) The Secretary shall have the authority to remove any member of a human rights committee from office for good cause.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-10; 143B-147;*
Eff. October 1, 1984;
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10A NCAC 28A .0205 OFFICERS
(a) Each human rights committee shall elect by a majority a chairperson to serve for a period of two years. No person shall serve more than two consecutive terms as chairperson. The chairperson shall be a committee member who does not work directly with clients at the state facility.
(b) Other officers may be elected as needed based on a majority vote of the Committee.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0206 MEETINGS
(a) Each human rights committee shall meet at least monthly unless an alternative schedule is approved by the Secretary but in no case less than six times per year. Committees may meet more often as necessary at the call of the Chairperson. The chairperson shall call a meeting of the committee at any time such is requested by four or more members of a ten-member committee or two or more members of a five-member committee.
(b) A majority of each committee shall constitute a quorum for the transaction of business.
(c) Human rights committees as public bodies are subject to open meetings as specified in G.S. 143-318.9 through 143-318.12. Due to the nature of the deliberations of human rights committees, it is anticipated that some of the issues would be discussed in executive session in accordance with G.S. 143-318.11(a)(7) and (a)(12). The chairperson shall file a schedule of regular meetings with the Secretary of State as specified in G.S. 143-318.12.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-10; 143B-147;*
Eff. October 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0207 DUTIES
(a) The duties of the Human Rights Committees are as follows:
(1) review of compliance with laws in G.S. 122C, Article 3, dealing with the rights of clients, and reviewing the state facility's compliance with the human rights rules in this Subchapter and Subchapter 28B through 28D of this Chapter;
(2) reviewing and assessing the efficiency of existing and proposed methods and procedures for protecting the rights of clients of their respective state facilities;
(3) serving as an independent review body to hear and make recommendations concerning alleged violations of the rights of individuals and groups brought by clients, client advocates, parents, guardians, state facility employees, or others, in compliance with Rule .0209 of this Section for any necessary review of the client record;
(4) reviewing programs and services that deal with the legal and human rights of clients;

(5) reviewing cases of alleged abuse, neglect or exploitation or failure to provide services of whatever nature brought by clients, client advocates, parents, guardians, state facility employees, or others, in compliance with Rule .0209 of this Section for any necessary review of the client record;

(6) reviewing cases brought by clients, client advocates, parents, guardians, state facility employees, or others regarding the use of seclusion, physical or mechanical restraint, intrusive or aversive procedures, electroconvulsive therapy, medication prescribed above recommended dosages as specified in 10A NCAC 28I .0300 or any procedures carried out against the will of the client. The Committee may determine the extent of the review, including but not limited to statistical review and individual case review involving a review in compliance with Rule .0209 of this Section of the client record;

(7) reviewing complaints, grievances or other client rights issues of concern brought by clients, client advocates, parents, guardians, state facility employees, or others in compliance with Rule .0209 of this Section for any necessary review of the client record; and

(8) reviewing any issues of concern brought by the State Facility Director, Division Director, a Deputy Director, or the Secretary.

(b) The duties listed in Paragraph (a) of this Rule shall not be interpreted to allow human rights committees to concern themselves with the management of the respective state facilities except where there is an issue of violation of a client's rights.

(c) Annually, by September 1, each committee shall submit, through the Division Director to the Secretary, a report of its activities, accomplishments, and recommendations for the previous year, July 1 through June 30.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-10; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0208 PROCEDURES

(a) There shall be a written agreement governing the relationship and responsibilities of the State Facility Director, Human Rights Committee and client advocate. Such agreement may be superseded by any written agreements between the Division and the Governor's Advocacy Council for Persons with Disabilities.

(b) If the majority of the Human Rights Committee feels that an issue requires action, the Chairperson of the Committee shall submit a written statement regarding the issue to the State Facility Director and indicate a desired response date. The issue shall be brought to the attention of the State Facility Director. If the Committee is not satisfied with the actions of the State Facility Director, the issue shall be brought to the attention of the Division Director and the appropriate deputy director simultaneously. If the Committee is not satisfied with the action of the Division Director or the Deputy Director involved, the issue shall be brought to the attention of the Secretary.

(c) If the majority of the Committee votes that an issue does not require action, but two or more members feel strongly that some action is necessary, these members may submit a minority report to the State Facility Director, the Division Director and Deputy Director, and the Secretary in the same manner as a majority decision.

(d) In cases deemed appropriate by the Committee, steps in the communications procedure as outlined in Paragraph (b) of this Rule may be omitted, provided that the person in authority in each omitted step is notified in writing.

(e) The Committee may also seek help in solving problems from the Governor's Advocacy Council for Persons With Disabilities, Governor's Advocacy Council on Children and Youth, the Commission for Mental Health, Developmental Disabilities and Substance Abuse Services, and the Council on Developmental Disabilities. In these cases, persons in authority at each step of the prescribed communications procedure as outlined in Paragraph (b) of this Rule shall be notified in writing. Minority report procedures, as outlined in Paragraph (c) of this Rule, shall be applicable in this procedure as well.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0209 CONFIDENTIALITY

(a) Committee members shall have access to the records of clients only upon written consent of the client or legally responsible person as specified in 10A NCAC 26B .0209 "Confidentiality Rules", division publication APSM 45-1. This document is available for inspection in each state facility or in the Publications Office of the Division. This right of access is granted so that the Committees may perform their duties of overseeing and monitoring the action of the state facility.
(b) Committee members shall treat the client record as confidential information as specified in 10A NCAC 26B .0108.

History Note: *Authority G.S. 122C-53(a); 122C-64; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0210 LIMITATIONS ON REPRESENTATION
In order for a professional to be a member of a human rights committee he must agree not to accept a client of the state facility as a private client for remuneration for professional services on the client's behalf during the member's term. If a professional, while a member of the Committee, accepts such a client, then he becomes disqualified to serve on the Committee.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0211 STATE FACILITY RESPONSIBILITY
(a) The State Facility Director shall provide necessary clerical and support services to the Human Rights Committee.
(b) The State Facility Director shall provide an orientation to the state facility for new members of the Committee at the Chairperson's request.
(c) The State Facility Director shall assure that the facility's Staff Development Services shall implement the Division's annual plan of training for human rights committee members.
(d) The State Facility Director shall be responsible for the reimbursement of mileage expenses for members of the Committee who request financial assistance to attend regularly scheduled meetings.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0212 DIVISION RESPONSIBILITY
(a) The Division Director shall serve as the point of contact between the Committees and the Secretary.
(b) The Division's Training Office, in conjunction with the Governor's Advocacy Council for Persons with Disabilities (GACPD), shall develop an annual plan of training for human rights committee members.
(c) The Division Director shall provide collaboration opportunities for each state facility human rights committee and shall assure an opportunity for committee chairpersons to meet at least annually.
(d) The Division Director shall provide written orientation materials for all new members. Written training materials shall cover at a minimum the structure and role of the Division; the role of State Facility Human Rights Committees; state statutes; and rules codified in the North Carolina Administrative Code regarding human rights and related areas of concern. Such materials shall be available in the Quality Assurance Section of the Division.

History Note: *Authority G.S. 122C-64; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

SECTION .0300 - INFORMING CLIENTS AND STATE FACILITY EMPLOYEES OF RIGHTS

10A NCAC 28A .0301 INFORMING CLIENTS OF RIGHTS

(a) The State Facility Director shall assure that all clients and legally responsible persons are informed of the client's rights at the time of admission or not more than 24 hours after admission [with the exceptions specifically provided for in Paragraph (b) of this Rule]. The state facility shall develop a policy which includes, but is not limited to, the following:

(1) specifying who is responsible for informing the client;
(2) providing a written copy of rights to clients who can read and explaining the rights to all clients;
(3) documenting in the client record that rights have been explained to the client;
(4) posting copies of rights and the person or office to contact for information regarding rights in areas accessible to the client.
(5) describing the role of the Human Rights Committee and internal client advocate and how to utilize their services;
(6) informing the legally responsible person of a minor or incompetent adult client that he may request notification after any occurrence of the use of an intervention procedure as specified in 10A NCAC 28D .0203, .0204 and .0205; and
(7) informing the competent adult client that he may designate an individual to receive notification, in accordance with G.S. 122C-53(a), after any occurrence of the use of an intervention procedure as specified in 10A NCAC 28D .0203, .0204 and .0205.

(b) If the client cannot be informed of his rights within 24 hours after admission because of his condition or if the legally responsible person cannot be notified within 24 hours after admission, then this exception and any alternative means of implementing this right shall be documented. However, the state facility may delay notifying the legally responsible person of client rights for up to 72 hours when necessary for week-end admissions.

History Note: *Authority G.S. 122C-51; 122C-53; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0302 INFORMING STATE FACILITY EMPLOYEES

The State Facility Director shall assure that all state facility employees are informed of the rights of clients and shall develop a policy which includes but is not limited to the following:

(1) specifying who is responsible for informing new and existing state facility employees;
(2) distributing written copies of client rights as specified in Article 3 of Chapter 122C to all state facility employees and obtaining documentation that state facility employees have read and understand the client rights;
(3) obtaining documentation that qualified professionals on staff have read and understand client rights as specified in Article 3 of Chapter 122C of the N.C. General Statutes and regulations as specified in 10A NCAC 28A through 28D;
(4) establishing a procedure for training or updating state facility employees' awareness of client rights as specified in Article 3 of Chapter 122C of the N.C. General Statutes, 10A NCAC 28A, 28B, 28C, and 28D, and through state facility policy at least annually and whenever changes occur. Such education shall be documented; and
(5) identifying individuals who can be contacted to answer questions regarding rights.

History Note: *Authority G.S. 122C-51; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0303 NOTIFICATION ON GUARDIANSHIP

(a) The client shall be informed of the different aspects and policies concerning guardianship when the use of guardianship becomes an issue.

(b) The client shall be permitted to participate as fully as possible in all decisions that will affect him. State facility employees shall seek to preserve for the incompetent adult client the opportunity to exercise those rights that are within his comprehension as specified in G.S. 35A-1201(a)(4) and (5).

(c) The State Facility Director shall assure that incompetency proceedings are pursued for adult clients when the treatment team determines that the client is unable to make or communicate important decisions about his life. To the extent possible statutory proceedings for limited guardianship rather than full guardianship should be pursued.

History Note: *Authority G.S. 122C-51; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0304 INFORMING CLIENTS OF POLICIES

The State Facility Director shall assure that each client and the legally responsible person are informed of the following:

(1) the state facility policy on reimbursement or criminal liability for personal or property damage caused by the client to the state facility, other clients, employees, visitors or their property;

(2) the state facility policy on charges for treatment or habilitation services as consistent with 10A NCAC 28C .0310;

(3) the state facility rules and regulations that the client is expected to follow and possible penalties for violations;

(4) the state facility grievance procedure;

(5) the state facility's authority to initiate, when appropriate, involuntary commitment procedures for a voluntary client; and

(6) the state facility policy on search and seizure.

History Note: *Authority G.S. 122C-51; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0305 RESEARCH

The State Facility Director shall assure that all research involving human subjects is conducted in accordance with accepted research practices and is reviewed according to 10A NCAC 26C .0200. Research that places human subjects at risk, except minimal risk research, shall be subject to the Department of Health and Human Services policy for the protection of human research subjects as codified in 45 C.F.R. 46, adopted pursuant to G.S. 150B-14(c).

History Note: *Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

10A NCAC 28A .0306 CONSENT TO PARTICIPATE IN RESEARCH

(a) The State Facility Director shall assure that all clients who participate in research, except minimal risk research, elect to do so after having received a full explanation of the purpose, potential benefits and risks of participation.

(b) Informed written consent shall be obtained from the client or legally responsible person for each new research project. Whenever a client is adjudicated incompetent and is a ward of the state, or whenever a client adjudicated incompetent or a minor client objects to participation in a research project, the client shall not participate in the research project. Consent shall be documented in the client record and shall include:

(1) client or legally responsible person's signature and date;
(2) brief description of the research project;
(3) length of consent, which shall not exceed six months without renewal;
(4) notification that consent may be withdrawn at any time without penalty;
(5) explanation of any potential risks and plans to reduce or address such risks;
(6) signature and title of the investigator and date;
(7) disclosure of any established alternative procedures that would probably achieve similar therapeutic goals as those anticipated through the research; and
(8) a provision that the client or legally responsible person will be given notification of any significant changes in the research procedures which directly affect the client.

History Note: *Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017.

SUBCHAPTER 28B – CIVIL AND LEGAL RIGHTS

SECTION .0100 – GENERAL RIGHTS

10A NCAC 28B .0101 COMPETENCY OF ADULT CLIENTS

Each adult client has the right to be considered legally competent unless adjudicated incompetent under the provisions of Chapter 35A of the General Statutes; and each incompetent adult client has the right to be restored to legal competency as specified in Chapter 35A of the General Statutes.

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

10A NCAC 28B .0102 BASIC RIGHTS

(a) Each client in a state facility has the right to exercise basic human rights as specified in G.S. 122C-51, 122C-52(c), 122C-54(e), 122C-57, 122C-58, 122C-61, and 122C-62.
(b) Only those rights specified in G.S. 122C-62(b) and 122C-62(d) may be restricted by the state facility. Such restrictions shall be in accordance with G.S. 122C-62(e).

History Note: *Authority G.S. 122C-51; 122C-52; 122C-54; 122C-57; 122C-58; 122C-61; 122C-62; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28B .0103 RELIGIOUS RIGHTS

(a) Each client has the right to participate in religious worship as specified in G.S. 122C-62(b)(7) and 122C-62(d)(7).
(b) Participation shall be voluntary, but worship opportunities, services, religious education programs, pastoral counseling, or pastoral visitation shall be accessible for those who choose to participate.
(c) Clients shall be permitted to participate in religious services in the community unless otherwise limited in the treatment or habilitation plan.
(d) Suitable space for religious worship shall be made available by the state facility.

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

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

SECTION .0200 - LEGAL RIGHTS

10A NCAC 28B .0201 ACCESS TO LEGAL SERVICES

(a) All clients have the right to contact and consult with legal counsel of their choice according to the provisions of G.S. 122C-62(a)(2) and 122C-62(c)(2).
(b) Information regarding the availability of legal services shall be given to all clients and shall be posted in areas accessible to the clients. Information provided by legal assistance programs concerning the availability of their services for indigent clients shall be posted in areas accessible to the clients. Each State Facility Director shall ensure that all state facility employees are informed of the availability of legal services for clients in a manner deemed appropriate by the State Facility Director, including the right of clients to communicate and consult with attorneys.
(c) Each State Facility Director shall designate locations where clients and attorneys may conduct their interviews in privacy.

History Note: *Authority G.S. 122C-51; 122C-58; 122C-62; 122C-111; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28B .0202 NONPROFIT LEGAL SERVICES ORGANIZATIONS

Each State Facility Director shall designate an interview room where clients may, at regularly scheduled hours, privately communicate and consult with an attorney employed by or affiliated with a nonprofit legal services organization. During these scheduled hours, any client who desires to consult with an attorney may do so without an appointment. Upon written request by a nonprofit legal services organization, such an interview room shall be made available in each building occupied by clients. The frequency of making such an interview room available and the hours it shall be available shall be at the discretion of the State Facility Director; however, such interview room shall be available at least twice per month. Information regarding the time and date when such legal services will be available and the specific location of such interview room shall be posted in areas accessible to the client in the buildings involved.

History Note: *Authority G.S. 122C-51; 122C-58; 122C-62; 122C-111; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28B .0203 STATE FACILITY GRIEVANCE PROCEDURE AND REPORTS

(a) Each state facility shall have a written procedure to process clients' formal grievances in a fair, timely, and impartial manner. The grievance procedure shall specify that it is not intended to cover informal verbal expressions of dissatisfaction or discontent which can be resolved informally.
(b) The grievance procedure shall include the following:
(1) a provision stating that grievances may be filed on behalf of a client by:
(A) the client;
(B) the legally responsible person of a minor client or incompetent adult client;
(C) the internal client advocate; or
(D) any other competent adult, including a state facility employee, who has been designated by the client and given written consent to bring a grievance on his behalf;
(2) a provision requiring grievances to be filed in writing and a copy sent to the internal client advocate;
(3) a provision specifying the progressive steps of the grievance process and state facility employees by position responsible for hearing the grievance at each step. Such provision shall state whether

the State Facility's Human Rights Committee shall be included in the progression. (The absence of such a provision shall in no way prevent clients from presenting their concerns to the Human Rights Committee at any time. Such a provision would simply include it in the routine progression.) The progression should begin at a level closest to the client such as the client's responsible professional and, if unresolved, progress through the organizational structure of the state facility. The treatment team and the State Facility Director shall be included in the progression;

(4) a provision specifying the number of days for action to be taken at each level;

(5) a provision specifying required written documentation for the grievance including, at a minimum, a description of the grievance, all parties involved, dates and actions taken at each step and specifying state facility employees responsible for such documentation and where in administrative files the record of documentation shall be filed; and

(6) a provision stating that the State Facility Director shall make a final decision regarding the grievance before the client may request review of the decision by the Division according to Rule .0204 of this Section.

(c) All final decisions relative to grievances filed on behalf of clients shall be reviewed by the Human Rights Committee whenever such review is in accordance with 10A NCAC 28A .0209.

(d) The State Facility Director shall submit a written report at least annually to the Human Rights Committee and internal client advocates which documents the number, nature, and resolution of grievances at the state facility for the previous year.

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

10A NCAC 28B .0204 DIVISION DIRECTOR'S REVIEW OF GRIEVANCES

(a) If a client or client's representative as specified in Rule .0203(b)(1)(D) of this Section is dissatisfied with the State Facility Director's decision in a grievance, the client or client's representative may request a review of the State Facility Director's decision by the Division.

(b) The client or client's representative shall submit a written request for review of the decision to the appropriate deputy director of the Division (as indicated by the State Facility Director). The request shall indicate:

(1) a description of the grievance;

(2) action taken by the State Facility Director; and

(3) preferred action of the client.

(c) The Deputy Director receiving the request for review of the decision shall notify the Division Director, Division's Assistant Director for quality assurance and any other deputy or assistant director whose responsibilities overlap in the area of the grievance.

(d) The Deputy Director receiving the request shall collect information on the issue and make a determination in consultation with any other deputy or assistant director involved.

(e) The Deputy Director shall make a recommendation to the Division Director within 10 working days from the date of the receipt of the request.

(f) The Division Director, after appropriate consultation, shall issue a written decision to the requesting party within 20 working days from the original date of the receipt of the request by the Deputy Director.

(g) The client or his legally responsible person may appeal the Division Director's decision by petitioning for a contested case hearing pursuant to Article 3 of G.S. 150B.

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

10A NCAC 28B .0205 DEPARTMENT REVIEW OF GRIEVANCE

(a) The client or client's representative as specified in Rule .0203(b)(1)(D) of this Section may pursue further review by the Department by submitting a written request to the Secretary. Such written request shall indicate:

(1) a description of the grievance;
(2) action taken by the State Facility Director and Division Director; and
(3) preferred action of the client.

(b) The Secretary shall conduct a review of the grievance and submit his decision in writing to the client or client's representative at least 30 days following receipt of the request. The client or his legally responsible person may appeal the Secretary's decision by petitioning for a contested case hearing pursuant to Article 3 of G.S. 150B.

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

10A NCAC 28B .0206 ACCESS TO INTERNAL CLIENT ADVOCATE

The State Facility Director shall assure each client access to an internal client advocate in accordance with G.S. 122C-62(a)(3) and 122C-62(c)(3).

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

10A NCAC 28B .0207 CLIENT ADVOCATE ACCESS TO CONFIDENTIAL INFORMATION

(a) Client advocate access to confidential information shall be in accordance with G.S. 122C-53(e), (f) and (g).

(b) Whenever a minor client is admitted to a regional psychiatric hospital which provides educational services, the client advocate may have access to the educational records in accordance with G.S. 122C-53(a). The State Facility Director shall establish policies and procedures for obtaining consent upon admission of the minor client to the state facility, which allows the client advocate access to the educational records.

History Note: *Authority G.S. 122C-53; 122C-62; 143B-10; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28B .0208 DEATHS AND AUTOPSIES

(a) The State Facility Director shall adopt a written policy, available to the client upon request, specifying procedures to be taken upon the death of a client which shall provide for:

(1) a physician's certification of the death as soon as possible;
(2) making reasonable efforts to locate the client's next of kin;
(3) notification of the State Facility Director and the internal client advocate;
(4) notification of the County Medical Examiner when the attending physician or State Facility Director (at the time of the client's death) determines that the death falls under the jurisdiction of the County Medical Examiner as specified in G.S. 130A-383 and 130A-389; and documentation of the Medical Examiner's report in the client record; and
(5) disposition of the body when no next of kin or interested individuals can be located and no funeral arrangements have been made, including notification of the Commission of Anatomy as specified in G.S. 130A-415.

(b) A competent client, or incompetent adult client or minor client through his legally responsible person, has the right to prearrange his funeral at no expense to the state.

(c) No autopsy shall be performed on the body of a deceased client unless permission has been given for the autopsy by the appropriate person as specified in G.S. 130A-398 or unless such autopsy is otherwise required or permitted by law as specified in G.S. 130A-389, 130A-399 or 130A-400.

History Note: *Authority G.S. 130A-383; 130A-389; 130A-398 through 130A-400; 130A-415; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .0300 - LABOR RIGHTS

10A NCAC 28B .0301 EMPLOYMENT CONDITIONS

(a) Each client who performs work which is of economic value to the state facility shall receive compensation for such work.

(b) A state facility may allow the client to work for the facility only under the following conditions:

(1) if the work is part of the client's individual treatment or habilitation plan;

(2) if the work is performed voluntarily;

(3) if the client is paid wages commensurate with the economic value of the work on the open market (except as specifically explained in Rule .0302 of this Section); and

(4) if the work project complies with local, state and federal laws and regulations.

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

10A NCAC 28B .0302 VOLUNTARY NON-COMPENSATED WORK

The state facility may establish a policy allowing clients, upon their request, to do voluntary non-compensated work. The policy shall:

(1) provide for protecting the client from abuse or exploitation;

(2) provide for the work to be time limited and part of the client's treatment or habilitation plan;

(3) provide that voluntary work performed by clients consists of tasks appropriate to the age or developmental level of the client;

(4) provide for review by the legally responsible person of an incompetent adult or minor client or internal client advocate in all other cases of client volunteer work before the work is begun; and

(5) prohibit substitution of voluntary non-compensated work for other more appropriate treatment or habilitation opportunities.

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

10A NCAC 28B .0303 PERSONAL HOUSEKEEPING

Limited housekeeping tasks in the client's personal living space may be required of each client without compensation.

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

SECTION .0400 - NONDISCRIMINATION

10A NCAC 28B .0401 TITLE VI CIVIL RIGHTS ACT 1964

The State Facility Director shall assure that the services of the state facility are provided in compliance with the requirements specified in Title VI of the Civil Rights Act of 1964 and 45 C.F.R. 80 and other applicable laws regarding the prohibition of discrimination based on race, color, national origin, sex, or handicap.

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

10A NCAC 28B .0402 DHHS DIRECTIVE - INTERPRETER SERVICES

The State Facility Director shall assure that the services of the state facility are provided in compliance with the requirements specified in the Department of Health and Human Services Directive, Subject: Provision of Interpreter Services for the Deaf, Number 37, Effective Date: June 1, 1987, adopted pursuant to G.S. 150B-14(c), establishing the provision of interpreter services for the deaf and hearing impaired.

History Note: *Authority G.S. 122C-51; 143B-10; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

10A NCAC 28B .0403 STATE AND FEDERAL REGULATIONS

The State Facility Director shall assure that the services of the state facility are provided in compliance with all applicable state and federal statutes and regulations regarding non-discrimination, including but not limited to discrimination against a handicapped person as specified in G.S. 168-1 through 168-23, G.S. 168A and Section 504 of the Rehabilitation Act (29 U.S.C.).

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

SUBCHAPTER 28C - DIGNITY AND RESPECT

SECTION .0100 - SAFE ENVIRONMENT

10A NCAC 28C .0101 PROTECTION FROM HARM

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

to or from a client except through established state facility policy. The state facility shall provide safeguards for protecting the client from this type of exploitation and abuse.
(f) State facility employees shall exercise all due precaution to protect each client from physical or mental abuse by other clients.
(g) The State Facility Director shall establish policies to protect the client from exploitation by other clients by discouraging the loaning or borrowing of money and possessions between clients and by discouraging the selling and buying of goods or services between clients.

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

10A NCAC 28C .0102 CORPORAL PUNISHMENT
Corporal punishment is prohibited, as specified in G.S. 122C-59.

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

10A NCAC 28C .0103 REPORTING ABUSE, NEGLECT OR EXPLOITATION
(a) The State Facility Director shall develop a written policy specifying procedures for reporting and investigating all cases of alleged or suspected abuse, neglect or exploitation occurring when the client is under the supervision of the state facility. The policy shall be in accordance with G.S. 122C-66 and shall include at least the following provisions:

(1) specifications of the progressive steps in the reporting and investigation process for all cases of alleged or suspected abuse, neglect or exploitation, staff positions responsible for investigation, and time periods to be observed for each step;
(2) a requirement for immediate intervention by any state facility employee witnessing abuse, neglect or exploitation;
(3) a system of immediate reporting of any suspected abuse, neglect or exploitation which includes but is not limited to the internal client advocate and appropriate state facility employees and provisions for confidential reporting;
(4) the arrangement for immediate medical evaluation where major physical injury is involved or suspected;
(5) the designation of a state facility employee or position to conduct a preliminary investigation, including the review of written reports by all state facility employees involved;
(6) in the event that a complete investigation is indicated, the notification of the State Facility Director, the legally responsible person of a minor or incompetent adult client, and the internal client advocate. The Human Rights Committee may be notified that there is a complete investigation indicated; however, Human Rights Committee involvement shall be in accordance with 10 NCAC 16G .0209.
(7) a requirement for immediate reporting of any alleged or suspected abuse, neglect or exploitation whenever there is a reasonable cause to believe that the client is in need of protective services (as defined in G.S. Chapter 108A, Article 6 and G.S. Chapter 7A, Article 44) to the county department of social services by the State Facility Director or designee as specified in G.S. Chapter 108A, Article 6 or G.S. Chapter 7A, Article 44;
(8) a provision to allow an independent investigation by the internal client advocate and Human Rights Committee, when in accordance with 10A NCAC 28A .0209, reporting directly to the State Facility Director; and
(9) a provision to ensure that all state facility employees remain aware of the procedures and are aware of their rights and responsibilities if they are witness to, or aware of, or accused of abuse, neglect or exploitation.

(b) Cases of suspected abuse, neglect or exploitation occurring when the client is not under the direct or immediate supervision of the state facility shall be reported to the county department of social services by any state facility employee suspecting the abuse, neglect or exploitation as specified in G.S. Chapter 108A, Article 6 or G.S. Chapter 7A, Article 44.

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

10A NCAC 28C .0104 SAFE BUILDINGS AND GROUNDS

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

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

10A NCAC 28C .0105 MEALS

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

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

10A NCAC 28C .0106 REPORTING CLIENT INJURIES

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

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

SECTION .0200 – ESTHETIC AND HUMANE ENVIRONMENT

10A NCAC 28C .0201 STATE FACILITY ENVIRONMENT

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

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

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

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

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

10A NCAC 28C .0202 ACTIVITIES

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

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

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

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

10A NCAC 28C .0203 PERSONAL LIVING SPACE

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

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

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

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

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

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

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

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

SECTION .0300 - PRIVACY AND PERSONAL FREEDOM

10A NCAC 28C .0301 COMMUNICATION RIGHTS

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

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

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

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

(1) Each state forensic facility may establish a policy limiting visitations by:
  (A) precluding visits for up to the first three days;
  (B) imposing a visit duration limit; and
  (C) limiting the number of visitors, as long as criteria are established making such limitations on an individual basis in order to promote the health, safety and welfare of the clients.
(2) The client shall prepare a list of visitors whom he desires to see. Only those visitors specified by the client will be permitted to visit with the client. Clients shall be informed whenever a visitor arrives at the state facility who is not on the list of visitors designated by the client, and the client shall have the option to add the visitor to the list.
(3) All visitors shall present proper identification upon request.
(4) Visitors, other than the client's immediate family, clergyman and attorney, shall be approved for visitation by the client's responsible professional.
(5) To ensure that no contraband is carried into the unit where the client is located, no purses, handbags or other items capable of concealing contraband will be permitted in the unit and visitors may be subject to routine searches.

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

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

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

10A NCAC 28C .0302 PERSONAL CLOTHING

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

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

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

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

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

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

10A NCAC 28C .0303 PERSONAL POSSESSIONS

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

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

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

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

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

(1) advising the client, upon admission, to deposit jewelry and other valuable articles with the state facility for safe-keeping;

(2) providing individual locked storage space for the client's own use in accordance with G.S. 122C-62(b)(10) and G.S. 122C-62(d)(8) which will hold a reasonable amount of clothing and other personal possessions. Staff assistance shall be available if the client is unable due to physical or mental inability to manipulate the locking mechanism, except when such storage space is determined to be inappropriate to the treatment regimen by the responsible professional and the reason for that determination is documented in accordance with G.S. 122C-62(e);

(3) developing an inventory of each client's clothing and personal possessions upon admission and reviewing and updating it annually; and

(4) discretely marking personal clothing items and, for clients being provided long term care, discretely marking clothing items provided by the state facility with the client's name. Clients who

elect to launder their own clothing shall not be required to have clothing marked but shall be informed that they thereby assume the risk of possible loss.

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

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

10A NCAC 28C .0305 SOCIAL INTERACTION

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

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

10A NCAC 28C .0306 CONFIDENTIALITY

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

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

10A NCAC 28C .0307 SEARCH AND SEIZURE

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

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

(1) State facility employees may search the client and the client's possessions at the time of the client's admission to the state facility. At the time of admission, the client may place personal items in a storage area which is secure. The state facility employees shall record in the personal property inventory the items placed in storage which shall be counter-signed by the client. The original of the personal property inventory shall be maintained by the state facility, and a copy shall be given to the client or his legally responsible person.

(2) State facility employees may search a client and the client's possessions when the client is returning to the state facility from an off-campus visit or after the client has received visitors, when it is reasonable to believe a client may have items in his possession that are dangerous, illegal or otherwise prohibited by the state facility.

(3) State facility employees may search a client, the client's possessions or the client's living area if the state facility employees have good, substantial and reliable cause to believe that the client has been drinking or using drugs or has dangerous or stolen articles or substances. Situations justifying such a search may include, but are not necessarily limited to, the following:

(A) when drinking, drug abuse or possession of dangerous articles or substances has been witnessed by state facility employees, reported by another client or another reliable informant, or is clearly indicated by surrounding circumstances;

(B) when inappropriate changes in the client's behavior are observed or reported, such as slurred speech, ataxia, odor of alcohol, and disruptive behaviors, excluding expected changes due to prescribed psychotropic medication;

(C) when a breathalyzer test or urine drug screen results in a positive reading [A breathalyzer test or drug screen will be administered by nursing staff when appropriate as indicated by the circumstances in Subparagraphs (b)(3)(A) and (B) of this Rule or ordered by a licensed physician.]; or

(D) when a stolen item has been witnessed by state facility employees, reported by another client or other reliable informant or is clearly indicated by surrounding circumstances and no criminal charges are anticipated.

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

(1) Searches by state facility employees shall be conducted only on the state facility premises and may include searching a client, a private or semi-private room and any surrounding area, closet, bed, chest of drawers, ceiling and personal effects of the client.

(2) Searches by state facility employees may include state facility buildings and grounds.

(3) Only physicians may perform body cavity searches if it is determined that there is probable cause to do so. Such a search shall be performed in the presence of a member of the nursing staff. The physician or member of the nursing staff shall be of the same sex as the client.

(d) Search Procedure.

(1) All searches shall be authorized in writing by the State Facility Director or state facility employee in charge of the state facility at the time of the incident except:

(A) searches conducted pursuant to Subparagraph (b)(1) or (2) of this Rule; or

(B) searches performed when state facility employees have a reasonable suspicion that a client has in his possession a weapon or instrument making the client presently dangerous to himself or others, and this danger is imminent as to render prior written authorization impracticable.

(2) At least two state facility employees shall be present during a search. An internal client advocate may be present during a search. A state facility employee of the same sex as the client shall be present during a search.

(3) A client affected by a proposed search, other than those specified in Subparagraphs (b)(1) and (2) of this Rule, shall be notified before the search is conducted and shall be given the opportunity to be present during the search. Individual locked storage spaces shall only be searched when the client is present unless there is an immediate danger of personal injury.

(4) Searches conducted in accordance with this Rule shall be documented in the client record.

(e) Disposition of Seized Property.

(1) If personal property seized in a search includes fire-arms or ammunition, the state facility employees shall contact the local law enforcement agency for advice regarding disposition of the property. The State Facility Director shall notify the appropriate deputy director regarding disposition of the personal property.

(2) If personal property seized in a search includes controlled substances illegally possessed (contraband), the substances shall be sent to the state facility pharmacy to be held for destruction under the supervision of the Department of Justice.

(3) If personal property seized in a search includes any alcoholic beverages, the beverages shall be sent to the State Facility Director for proper disposition.

(4) If personal property seized during a search includes prescription drugs in properly labeled containers; over-the-counter medications; dangerous items such as knives, scissors, razors, or glue; grooming aids that contain alcohol; or other items prohibited by the state facility, such items may be stored and returned to the client at the time of discharge. Such stored items shall be listed on the personal property inventory. A copy of the personal property inventory shall be given to the client or his legally responsible person.

(5) Items belonging to the minor client or minor's legally responsible person which are seized during a search of the minor or the minor's possessions, with the exception of the items specified in Subparagraph (e)(2) of this Rule, shall be given to the legally responsible person if he or she so desires.

(f) Use of the search procedure specified in this Rule shall be subject to review by the Human Rights Committee.

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

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

(a) The entire unit, ward or parts of the unit, ward and building may be searched by state facility employees if there is good, substantial and reliable cause to believe that a threatening situation exists that may be dangerous to the client or state facility employee. At the forensic unit at Dorothea Dix Hospital, routine searches may be conducted periodically in accordance with the provisions of Paragraphs (b) through (f) of this Rule.

(b) The appropriate unit or ward director or designated supervisory staff on duty shall give written authorization (based on facts of justification and what they expect to find from the search) for a search to be conducted. Written authorization will include scope of search.

(c) Clients affected by a proposed search shall be notified at the time of search and shall be given the opportunity to be present during the search of the immediate area, unless this is not practical due to the dangerousness of the situation or because the client is not on the state facility premises. Individual locked storage spaces shall only be searched when the client is present unless there is an immediate danger of personal injury. Clients not present when a search is conducted shall be informed that a search took place when they return to their unit or ward.

(d) The search must be conducted by no less than two state facility employees. Reasonable efforts shall be made to notify an internal client advocate prior to the search unless there exists an imminent danger which does not permit time for such notification. In all cases, an internal client advocate shall be notified of the search.

(e) When confiscated items can be attributed to a particular client, written justification and authorization for the search shall be entered in an incident report filed with the State Facility Director's office. The search and findings shall be documented in the client record.

(f) An inventory of confiscated items shall be made and kept on file with a copy of the inventory given to the client or his legally responsible person if ownership is determined.

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

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

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

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

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

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

(a) Where the state facility has been designated as representative payee or when the client is a Medicaid recipient, provisions in Paragraphs (b) through (g) of this Rule shall be interpreted in accordance with any requirements of the funding source.
(b) In accordance with G.S. 122C-62(b)(8) and G.S. 122C-62(d)(9), the maximum amount of money clients will be allowed to have and spend will be determined by the treatment/habilitation team or will be determined by each unit in a state facility based upon the needs and abilities of the client population. Client requests to retain money above the maximum allowable amount shall be reviewed by the client treatment/habilitation team and the decision shall be documented in the client record. Any imposed limitation or restriction by the responsible professional on the client's right to have and spend the sum of money determined to be reasonable shall be documented in accordance with G.S. 122C-62(e).
(c) The state facility shall develop written policies and procedures which:

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

(d) Where the client, due to his physical or mental condition, is unable to manage his own funds, the legally responsible person may request that the State Facility Director provide for the handling of a portion of funds in the personal fund account for a personal needs allowance of the client. If the State Facility Director provides for the handling of these funds, proper accounting must be maintained for such monies. The funds must be kept separate from any operating funds of the state facility.
(e) The state facility may not deduct from a personal fund account any amount owed or alleged to be owed to the state facility or a state facility employee or visitor to the state facility or other client of the state facility for damages done or alleged to have been done by the client to the state facility, property of the state facility, state facility employee, visitor or other client, unless the client or his legally responsible person authorizes the deduction.
(f) The state facility may not deduct from a personal fund account any amount owed or alleged to be owed to the state facility for treatment or habilitation services unless the client or legally responsible person authorizes the deduction. The state facility may develop a policy for deduction from personal fund accounts for treatment or habilitation services which provides for this authorization by the client or legally responsible person upon or subsequent to admission of the client.
(g) Competent adult clients may maintain or invest their money in other than personal fund accounts at the state facility. This shall include, but not be limited to, investment of funds in interest bearing accounts.

History Note: *Authority G.S. 122C-51; 122C-58; 122C-62; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
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SUBCHAPTER 28D - TREATMENT OR HABILITATION RIGHTS

SECTION .0100 - RIGHT TO TREATMENT OR HABILITATION

10A NCAC 28D .0101 APPROPRIATE EVALUATION AND TREATMENT OR HABILITATION

(a) Each client except day clients shall receive a prompt and comprehensive physical and brief mental status examination, including laboratory evaluation where appropriate, within 24 hours after admission to the state facility. Comprehensive psychological or developmental evaluations shall be performed when needed, as determined by the treatment/habilitation team. The type and dates of all examinations shall be documented in the client record. There must be a physical examination of the client before ordering medication except in an emergency.
(b) In addition to the treatment rights specified in G.S. 122C-57(a), all handicapped clients have a right to habilitation and rehabilitation as specified in G.S. 168-8.

(c) Each client shall receive evaluation and treatment/habilitation in accordance with G.S. 122C-57(b), G.S. 122C-60 and G.S. 122C-61. Evaluation and treatment/habilitation shall be provided in the least restrictive environment.

History Note: *Authority G.S. 122C-51; 122C-57; 122C-60; 122C-61; 122C-211; 122C-221; 122C-231; 122C-241; 122C-266; 122C-285; 131E-67; 143B-147; 168-8;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0102 MEDICAL AND DENTAL CARE

(a) The State Facility Director shall assure access to prompt, adequate and necessary medical and dental care and treatment to the client for physical and mental ailments and injuries and for the prevention of illness or disability as specified in G.S. 122C-61(1). "Necessary" may be determined in light of the client's length of stay and condition. Short term clients shall be apprised of other medical and dental conditions and informed of appropriate medical and dental care.

(b) All medical and dental care and treatment shall be consistent with accepted standards of medical and dental practice. The medical care shall be performed under appropriate supervision of licensed physicians and the dental care shall be performed under appropriate supervision of licensed dentists.

(c) Each client shall receive physical and dental examinations at least annually.

(d) In cases of medical emergency or necessity:

(1) if the necessary equipment or expertise is not available at the state facility, the attending physician shall arrange treatment at an appropriate medical facility;

(2) if the client is at an unreasonable distance from his home facility, he shall be taken to a nearer appropriate hospital or clinic; and

(3) if the events in Subparagraphs (d)(1) or (2) of this Rule occur, the State Facility Director shall assure that those persons specified in G.S. 122C-206(e) are notified.

History Note: *Authority G.S. 122C-57; 122C-61; 122C-206; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0103 INDIVIDUALIZED TREATMENT OR HABILITATION PLAN

(a) The state facility shall provide qualified professionals to formulate and supervise implementation of the treatment/habilitation plan in accordance with G.S. 122C-57(a).

(b) Each client shall be encouraged and helped to attend the treatment/habilitation team meeting and to actively and meaningfully participate in the formulation of his treatment or habilitation plan. The legally responsible person of a minor or incompetent adult client shall also be encouraged to attend. The amount of participation by the client or legally responsible person shall be documented in the client record. The internal client advocate shall be allowed to attend the treatment/habilitation team meeting in accordance with G.S. 122C-53(g).

(c) Each client may, upon request, have an in-house review of his individual treatment or habilitation plan or request the opinion of another person at no cost to the state.

(d) The client's treatment or habilitation plan shall be reviewed at least quarterly by the treatment/habilitation team.

(e) A discharge plan shall be formulated in accordance with Rule .0105 of this Section.

(f) Upon request, a copy of the client's treatment or habilitation plan or an interpretive letter shall be furnished to the legally responsible person of an incompetent adult client or legally responsible person of a minor client except for minor clients in alcohol or drug rehabilitation programs as specified in 42 C.F.R. Part 2 or when minors are receiving treatment upon their own consent in accordance with G.S. 90-21.5.

(g) The treatment/habilitation team shall inform the client of the availability of his treatment/habilitation plan and shall provide the client with a copy of his treatment/habilitation plan upon request by the client when filed in accordance with G.S. 122C-53(c).

History Note: *Authority G.S. 90-21.5; 122C-51; 122C-53; 122C-57; 122C-61; 122C-62; 131E-67; 143B-147;*

Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0104 TRANSFER

When transferring clients, the State Facility Director shall follow the procedures specified in G.S. 122C-206 and division publication "Transfer of Clients Between State Facilities, APSM 45-1", adopted pursuant to G.S. 150B-14(c). The Division publication is available for inspection in each state facility or in the Publications Office of the Division.

History Note: *Authority G.S. 122C-206; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0105 DISCHARGE

(a) When a state facility discharges a client, each client shall have a discharge plan as specified in G.S. 122C-61(2) unless the client:

(1) is receiving respite services;
(2) escapes or breaches the conditions of a conditional release;
(3) is unanticipatedly discharged by the court following district court hearing; or
(4) is immediately discharged upon request of the client or legally responsible person.

(b) The discharge plan shall:

(1) be formulated by qualified professionals;
(2) inform the client of where and how to receive treatment or habilitation services in the community;
(3) identify continuing treatment or habilitation needs, and address issues such as food, housing, and employment;
(4) involve the appropriate area program, with consent of the client or his legally responsible person or in accordance with G.S. 122C-55(a) or G.S. 122C-63; and
(5) be provided to the client or legally responsible person as specified in G.S. 122C-61(2).

(c) When the client is unexpectedly discharged by the court in hearing subsequent to the initial hearing, the client's discharge plan shall contain at least the following:

(1) address and phone number of the agency in the community where follow-up services can be provided, including name of contact person in Department of Social Services if food and housing are issues;
(2) current medications, if applicable; and
(3) recommendations for continued care in anticipated problem areas.

(d) With the exception of the State Hospital Director who shall follow the provisions of 10A NCAC 28F .0113, the State Facility Director in each of the other state facilities shall establish written policies and procedures to ensure that reasonable efforts are made to assist the client in obtaining needed services in the community upon discharge or placement. The policy shall include the designation of qualified professional staff to assist clients in establishing contact with the appropriate area program and furnishing information to the area program with the client or legally responsible person's consent or as permitted by G.S. 122C-55(a).

History Note: *Authority G.S. 122C-55; 122C-61; 122C-63; 122C-132; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0106 CONSENT

(a) Consents required in Sections .0200, .0300 and .0400 in this Subchapter shall be obtained in writing or verbally over the telephone.

(b) Written consent of the client or his legally responsible person shall be obtained whenever possible. Information which is necessary to adequately inform the client shall be documented in the client record and shall include the following:

(1) name of the procedure or treatment and its purpose expressed in laymen's terms;
(2) evidence that the benefits, risks, possible complications and possible alternative methods of treatment have been explained to the client or his legally responsible person;
(3) notification that the consent may be withdrawn at any time without reprisal;
(4) specific length of time for which consent is valid;
(5) when anesthesia is indicated, permission to administer a specified type of anesthesia;
(6) permission to perform the procedure or treatment;
(7) when applicable, authorization for the examination and disposal of any tissue or body parts that may be removed; and
(8) signature of the client or his legally responsible person on written authorizations.

(c) Whenever written consent cannot be obtained in a timely manner, verbal (telephone) consent may be obtained from the legally responsible person. The legally responsible person shall be asked to sign a written authorization and return it to the state facility but the treatment or procedure may be administered in accordance with the verbal consent. Verbal consent shall be witnessed by two staff members and documented in the client record. The client record shall also include documentation specifying the reason why written consent could not be obtained.

History Note: *Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;*
Eff. July 1, 1989;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0200 – PROTECTIONS REGARDING CERTAIN PROCEDURES

10A NCAC 28D .0201 LEAST RESTRICTIVE ALTERNATIVE AND PROHIBITED PROCEDURES

(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 engagements skills that are alternatives to injurious behavior towards self or others;
(3) providing choices of activities meaningful to the clients serviced/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.

(c) Each state facility shall develop policies relative to prohibited interventions. Such policies shall specify:

(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; and
    (F) psychosurgery; and
(2) those interventions specified in this Subchapter determined by the state facility director to be unacceptable for use in the state facility. Such policies shall specify interventions prohibited by funding sources including the use of seclusion or the emergency use of isolation time out in an ICF/MR facility.

(d) In addition to the procedures prohibited in Paragraph (c) of this Rule, the state facility director may specify other procedures which shall be prohibited.

History Note: *Authority G.S. 122C-51; 122C-57; 122C-59; 143B-147;*
Eff. October 1, 1984;
Amended Eff. November 1, 1993; July 1, 1989;

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.

10A NCAC 28D .0202 ELECTROCONVULSIVE THERAPY

(a) The treatment/habilitation team may recommend the use of electroconvulsive therapy.

(b) Before electroconvulsive therapy can be utilized two licensed physicians, one of whom shall be clinically privileged to perform electroconvulsive therapy, shall approve a written plan, which includes indication of need, specific goals to be achieved, methods for measuring treatment efficacy, and indications for discontinuation of treatment. In addition, electroconvulsive therapy shall not be administered to any client under age 18 unless, prior to the treatment, two independent psychiatric consultants with training or experience in the treatment of adolescents have examined the client, consulted with the responsible state facility psychiatrist and have written and signed reports which document concurrence with the use of such treatment. For clients under the age of 13, such reviews shall be conducted by child psychiatrists.

(c) The internal client advocate shall be informed at the time of the decision to utilize electroconvulsive therapy whenever the legally competent client requests such notification or when proposed for use with minor clients or adults adjudicated incompetent.

(d) Electroconvulsive therapy shall not be initiated without prior consent in accordance with G.S. 122C-57(f).

(e) If the adult client is determined to be de facto incompetent by the treatment/habilitation team and is determined to need electroconvulsive therapy, legal guardianship procedures shall be initiated and consent requirements of Paragraph (d) of this Rule shall be met.

(f) All electroconvulsive therapy shall be administered in accordance with generally accepted medical practice and shall be documented in the client record.

(g) The State Facility Director shall maintain a statistical record of the use of electroconvulsive therapy which shall include, but not be limited to, the number of treatments by client, unit or like grouping, responsible physician, and client characteristics. The statistical record shall be made available to the Division Director on a monthly basis.

History Note: *Authority G.S. 122C-51; 122C-56; 122C-57; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0203 GENERAL POLICIES REGARDING INTERVENTIVE PROCEDURES

(a) This Rule governs the policies and requirements regarding the use of the following interventions:

(1) seclusion;
(2) physical restraint including:
  (A) mechanical restraint; or
  (B) manual restraint;
(3) isolation time-out;
(4) exclusionary time-out for more than 15 minutes;
(5) time-out for more than one hour;
(6) protective devices when used for behavioral control;
(7) contingent withdrawal or delay of access to personal possessions or goods to which the client would ordinarily be entitled;
(8) consistent deprivation of items or cessation of an activity which the client is scheduled to receive (other than basic necessities); and
(9) overcorrection which the client resists.

(b) The state facility director shall develop policies and procedures for those interventions determined to be acceptable for use in the state facility. Such policies and procedures shall include that:

(1) positive alternatives and less restrictive alternatives are considered and used whenever possible prior to the use of seclusion, physical restraint or isolation time-out; 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 of the client's physical and psychological well-being by an individual trained in the use of cardiopulmonary resuscitation during the use of manual restraint; and

(D) continued monitoring of the client's physical and psychological well-being by an individual trained in the use of cardiopulmonary resuscitation for a minimum of 30 minutes subsequent to the termination of a restrictive intervention;

(3) procedures for ensuring that the competent adult client or legally responsible person of a minor client or incompetent adult client is informed in a manner he or she can understand:

(A) of the general types of intrusive interventions that are authorized for use by the state facility; and

(B) that the legally responsible person can request notification of each use of an intervention as specified in this Rule, in addition to those situations required by G.S. 122C-62;

(4) provisions for humane, secure and safe conditions in areas used for the intervention, such as ventilation, light and a room temperature consistent with the rest of the state facility;

(5) attention paid to the need for fluid intake and the provision of regular meals, bathing and the use of the toilet. Such attention shall be documented in the client record; and

(6) procedures for assuring that when an intervention as specified in this Rule has been used with a client three or more times in a calendar month, the following requirements are met:

(A) A treatment/habilitation plan shall be developed within 10 working days of the third intervention. The treatment/habilitation plan shall include, but not be limited to:

(i) indication of need;

(ii) specific description of problem behavior;

(iii) specific goals to be achieved and estimated duration of procedures;

(iv) specific early interventions to prevent tension from escalating to the point of loss of control whenever possible;

(v) consideration, whenever possible, for client's preference for the type of physical restraint to be used;

(vi) specific procedure(s) to be employed;

(vii) specific methodology of the intervention;

(viii) methods for measuring treatment efficacy;

(ix) guidelines for discontinuation of the procedure;

(x) the accompanying positive treatment or habilitation methods which shall be at least as strong as the negative aspects of the plan;

(xi) description and frequency of debriefing, if determined to be clinically necessary;

(xii) specific limitations on approved uses of the intervention per episode, per day and requirements for on-site assessments by the responsible professional; and

(xiii) description of any requirements in Rule .0206 of this Section to be incorporated into the plan;

(B) In emergency situations, with the approval of the state facility director, the treatment/habilitation team may continue to use the intervention until the planned intervention is addressed in the treatment/habilitation plan;

(C) The treatment/habilitation team shall explain the intervention and the reason for the intervention to the client and the legally responsible person, if applicable, and document such explanation in the client record;

(D) Before implementation of the planned intervention, the treatment/habilitation team, with the participation of the client and legally responsible person if applicable, shall approve

the treatment/habilitation plan and consent shall be obtained as specified in Rule .0210(e) in this Section;

(E) The use of the intervention shall be reviewed at least monthly by the treatment/habilitation team and at least quarterly, if still in effect, by a designee of the state facility director. The designee of the state facility director may not be a member of the client's treatment/habilitation team. Reviews shall be documented in the client record;

(F) Treatment/habilitation plans which include these interventions shall be subject to review by the Human Rights Committee in compliance with confidentiality rules as specified in 10A NCAC 28A;

(G) Each treatment/habilitation team shall maintain a record of the use of the intervention. Such records or reports shall be available to the Human Rights Committee and internal client advocate within the constraints of 10A NCAC 26B .0209 and G.S. 122C-53(g);

(H) The state facility director shall follow the Right to Refuse Treatment Procedures as specified in Section .0300 of this Subchapter; and

(I) The interventions specified in this Rule shall never be the sole treatment modality designed to eliminate the target behavior. The interventions are to be used consistently and shall always be accompanied by positive treatment or habilitation methods.

(c) Whenever the interventions specified in this Subchapter other than seclusion, physical restraint or isolation time-out result in the restriction of a right specified in G.S. 122C-62(b) and (d), the procedures specified in G.S. 122C-62(e) shall be followed. The requirements for restriction of rights associated with the use of seclusion, physical restraint or isolation time-out are specified in Paragraph (f) of Rule .0206 of this Section.

(d) The state facility director shall assure by documentation in the personnel records that state facility employees who authorize interventions shall be qualified professionals and state facility employees who implement interventions shall be trained and shall demonstrate competence in the area of such interventions, as well as in the use of alternative approaches.

(e) The state facility director shall maintain a statistical record that reflects the frequency and duration of the individual uses of interventions specified in this Rule. This statistical record shall be made available to the Human Rights Committee and the Division at least quarterly.

History Note: *Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. November 1, 1993; July 1, 1989;
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 28D .0204 INDICATIONS FOR USE OF SECLUSION AND ISOLATION TIME-OUT

Seclusion and isolation time-out shall be used only:

(1) in those situations specified in G.S. 122C-60;

(2) after less restrictive measures have been attempted and have proven ineffective. Less restrictive measures that shall be considered include:

(a) counseling;

(b) environmental changes;

(c) education techniques; and

(d) interruptive or re-direction techniques; and

(3) after consideration of the client's physical and psychological well-being as specified in Rule .0203(b) of this Section.

History Note: *Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 143B-147;*
Eff. October 1, 1984;
Amended Eff. November 1, 1993; April 1, 1990; July 1, 1989;
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.

10A NCAC 28D .0205 INDICATIONS FOR USE OF PHYSICAL RESTRAINTS

Physical restraints shall be used only:

(1) in those situations specified in G.S. 122C-60;

(2) after consideration of the client's physical and psychological well-being as specified in Rule .0203(b) of this Section; and

(3) after a less restrictive alternative has been attempted or has been determined and documented to be clinically inappropriate or inadequate to avoid injury. Less restrictive alternatives that shall be considered include but are not limited to:

(a) counseling;

(b) environmental changes;

(c) education techniques; and

(d) interruptive or re-direction techniques.

History Note: *Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 143B-147;*
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Amended Eff. November 1, 1993; April 1, 1990; July 1, 1989;
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Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0206 PROCEDURES: SECLUSION, PHYSICAL RESTRAINTS, OR ISOLATION TIME OUT

(a) This Rule delineates the procedures to be followed for use of seclusion, physical restraint or isolation time-out in addition to the procedures specified in Rule .0203 of this Section.

(b) This Rule governs the use of physical or behavioral interventions which are used to terminate a behavior or action in which a client is in imminent danger of 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 which are used as a measure of therapeutic treatment. Such interventions include seclusion, physical restraint and isolation time-out.

(c) If determined to be acceptable for use within the state facility, the state facility director shall establish written policies and procedures that govern the use of seclusion, physical restraint or isolation time-out which shall include the following:

(1) techniques for seclusion, physical restraint or isolation time-out;

(2) provision for required debriefing for emergency use of seclusion, physical restraint or isolation time-out;

(3) provision, to both new clinical and habilitation staff as part of in-service training, and as a condition of continued employment, for those authorized to use or apply intrusive interventions which shall include, but not be limited to:

(A) competency-based training and periodic reviews on the use of seclusion, physical restraint or isolation time-out; and

(B) skills for less intrusive interventions specified in Rules .0203 and .0204 of this Section;

(4) process for identifying, training and assessing the competence of state facility employees who are authorized to use such interventions;

(5) provisions that a responsible professional shall:

(A) meet with the client and review the use of the intervention as soon as possible but at least within one hour after the initiation of its use;

(B) verify the inadequacy of positive alternatives and less restrictive intervention techniques;

(C) document in the client record evidence of approval or disapproval of continued use; and

(D) inspect to ensure that any devices to be used are in good repair and free of tears and protrusions;

(6) procedures for documenting the intervention which occurred to include, but not be limited to:

(A) consideration that was given to the physical and psychological well-being of the client prior to the use of the restrictive intervention;

(B) the rationale for the use of the intervention which addresses attempts at and inadequacy of positive alternatives and less restrictive intervention techniques; this shall contain a description of the specific behaviors justifying the use of seclusion, physical restraint or isolation time-out;

(C) notation of the frequency, intensity and duration of the behavior and any precipitating circumstances contributing to the onset of the behavior;

(D) description of the intervention and the date, time and duration of its use;

(E) estimated amount of additional time needed in seclusion, physical restraint or isolation time-out;

(F) signature and title of the state facility employee responsible for the use of the intervention;

(G) the time the responsible professional met with the client; and

(H) description of the debriefing and planning with the client and the legally responsible person, if applicable, as specified in Subparagraph (c)(2) of this Rule, or Subpart (b)(6)(A)(xi) of Rule .0203 of this Section, to eliminate or reduce the probability of the future use of restrictive interventions; and

(7) procedures for the notification of others to include:

(A) those to be notified as soon as possible but no more than one working day after the behavior has been controlled to include:

(i) the treatment/habilitation team, or its designee, after each use of the intervention;

(ii) a designee of the State Facility Director; and

(iii) the internal client advocate, in accordance with the provisions of G.S. 122C-53(g); and

(B) immediate notification of the legally responsible person of a minor client or an incompetent adult client unless she/he has requested not to be notified.

(d) Seclusion, physical restraint and isolation time-out shall not be employed as coercion, punishment or retaliation or for the convenience of staff or due to inadequate staffing or be used in a manner that causes harm or pain to the client. Care shall be taken to minimize any physical or mental discomfort in the use of these interventions.

(e) Whenever a client is in seclusion, physical restraint or isolation time-out, the client's rights, as specified in G.S. 122C-62, are restricted. The documentation requirements in this Rule shall satisfy the requirements specified in G.S. 122C-62(e) for restriction of rights.

(f) Whenever seclusion, physical restraint or isolation time-out is used more than three times in a calendar month:

(1) a pattern of behavior has developed and future emergencies can be reasonably predicted;

(2) dangerous behavior can no longer be considered unanticipated; and

(3) emergency procedures shall be addressed as a planned intervention in the treatment/habilitation plan.

(g) In addition to the requirements in this Rule, additional safeguards as specified in Rule .0208 of this Section shall be initiated whenever:

(1) a client exceeds spending 40 hours in emergency seclusion, physical restraint or isolation timeout in a calendar month; or one episode in which the original order is renewed for up to a total of 24 hours in accordance with the limits specified in Subparagraph (l)(8) of this Rule; or

(2) seclusion, physical restraint or isolation time-out is:

(A) used as a measure of therapeutic treatment as specified in G.S. 122C-60; and

(B) limited to specific planned behavioral interventions designed for the extinction of dangerous, aggressive or undesirable behaviors.

(h) The written approval of the State Facility Director or designee shall be required when the original order for seclusion, physical restraint or isolation time-out is renewed for up to a total of 24 hours in accordance with the limits specified in Subparagraph (l)(8) of this Rule.

(i) Standing orders or as needed (PRN) orders shall not be used to authorize the use of seclusion, physical restraint or isolation time-out.

(j) A state facility employee shall remove the client from seclusion, physical restraint or isolation time-out and seek medical attention immediately if monitoring of the physical and psychological well-being of the client indicates there is a risk to health or safety.

(k) The client shall be removed from seclusion, physical restraint or isolation time-out when the client no longer demonstrates the behavior which precipitated the seclusion, physical restraint or isolation time-out; however, if the

client is unable to gain self-control within the time frame specified in the authorization, a new authorization shall be obtained.

(l) Whenever seclusion, physical restraint or isolation time-out are used on an emergency basis prior to inclusion in the treatment/ habilitation plan, the following procedures shall be followed:

(1) A state facility employee authorized to administer emergency interventions may employ such procedures for up to 15 minutes without further authorization.

(2) A qualified professional may authorize the continued use of seclusion, physical restraint or isolation time-out for up to one hour from the initial employment of the intervention if the qualified professional:

(A) has experience and training in the use of seclusion, physical restraint or isolation time-out; and

(B) has been approved to employ and authorize such interventions.

(3) If a qualified professional is not immediately available to conduct a face-to-face assessment of the client, but after discussion with the state facility employee, the qualified professional concurs that the intervention is justified for longer than 15 minutes, then the qualified professional:

(A) may verbally authorize the continuation of the intervention for up to one hour;

(B) shall meet with and assess the client within one hour after authorizing the continued use of the intervention; and

(C) shall immediately consult with the professional responsible for the client's treatment/habilitation plan, if the intervention needs to be continued for longer than one hour.

(4) The responsible professional shall authorize the continued use of seclusion, physical restraint or isolation time-out for periods over one hour.

(5) If the responsible professional is not immediately available to conduct a clinical assessment of the client but, after consideration of the physical and psychological well-being of the client and discussion with the qualified professional, concurs that the intervention is justified for longer than one hour the responsible professional may verbally authorize the continuation of the intervention until an on-site assessment of the client can be made. However, if such authorization cannot be obtained, the intervention shall be discontinued.

(6) If the responsible professional and the qualified professional are the same person, the documentation requirements of this Rule may be done at the time of the documentation required by Subparagraph .0206(d)(5) of this Section.

(7) The responsible professional, or if the responsible professional is unavailable, the on-service or covering professional, shall meet with and assess the client within three hours after the client is first placed in seclusion, physical restraint or isolation time-out, and document:

(A) the reasons for continuing seclusion, physical restraint or isolation time-out; and

(B) the client's response to the intervention. In addition, the responsible professional shall provide an evaluation of the episode and propose recommendations regarding specific means for preventing future episodes. Clients who have been placed in seclusion, physical restraint or isolation time-out and released in less than three hours shall be examined by the responsible professional who authorized the intervention no later than 24 hours after the episode.

(8) Each written order for physical restraint, seclusion or isolation timeout 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 for up to a total of 24 hours.

(9) Each incident shall be reviewed by the treatment team, which shall include possible alternative actions and specific means for preventing future episodes.

(m) While the client is in seclusion, physical restraint or isolation time-out, the following precautions shall be followed:

(1) Whenever a client is in seclusion:

(A) periodic observation of the client shall occur at least every 15 minutes to assure the safety of the client. Observation shall include direct line of sight or the use of video surveillance that ensures that the client is within the view of the state facility employee observing the client;

(B) attention shall be paid to the provision of regular meals, bathing and the use of the toilet; and

(C) such observation and attention shall be documented in the client record.

(2) Whenever a client is in physical restraint, the facility shall provide:

(A) the degree of observation needed to assure the safety of the client placed in physical restraint. The degree of observation needed is determined at the time of application of the physical restraint after consideration of the following:

(i) the type of physical restraint used;

(ii) the individual client's situation, including physical and psychological well-being; and

(iii) the existence of any specific manufacturer's warning concerning the safe use of a particular product.

Observation shall include direct line of sight or the use of video surveillance that ensures that the client is within the view of the state facility employee observing the client. In no instance shall observation be less frequent than at 15-minute intervals.

(B) attention to the provision of regular meals, bathing and the use of the toilet; and

(C) documentation of the above observation and attention in the client record.

(3) Whenever a client is in isolation time-out there shall be:

(A) a state facility employee in attendance with no other immediate responsibility than to monitor the client who is placed in isolation time-out;

(B) continuous observation and verbal interaction with the client when necessary to prevent tension from escalating; and

(C) documentation of such observation and verbal interaction in the client record.

(n) After a restrictive intervention is utilized, staff shall conduct debriefing and planning with the client and the legally responsible person, if applicable, as specified in Subparagraph (d)(2) of this Rule, or Subpart (b)(6)(A)(xi) of Rule .0203 of this Section, 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.

(o) Reviews and reports on the use of seclusion, physical restraint or isolation time-out shall be conducted as follows:

(1) the State Facility Director or designee shall review all uses of seclusion, physical restraint or isolation time-out and investigate unusual patterns of utilization to determine whether such patterns are unwarranted. At least quarterly, the State Facility Director or designee shall review all uses of seclusion and physical restraint to monitor effectiveness, identify trends and take corrective action where necessary.

(2) each State Facility Director shall maintain a log which includes the following information on each use of seclusion, physical restraint or isolation time-out:

(A) name of the client;

(B) name of the responsible professional;

(C) date of each intervention;

(D) time of each intervention;

(E) duration of each intervention;

(F) name of the state facility employee who implemented the restrictive intervention;

(G) date and time of the debriefing and planning conducted with the client and the legally responsible person if applicable and staff to eliminate or reduce the probability of the future use of restrictive interventions; and

(H) negative effects of the restrictive intervention, if any, on the physical and psychological well-being of the client.

(p) 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:

(1) the type of procedure used and length of time employed;

(2) alternatives considered or employed; and

(3) 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 of the Department of Health and Human Services upon request.

(q) Nothing in this Rule shall be interpreted to prohibit the use of voluntary seclusion, physical restraint or isolation time-out at the client's request; however, the procedures in Paragraphs (a) through (p) of this Rule shall apply.

History Note: *Authority G.S. 122C-51; 122C-53; 122C-57; 122C-60; 122C-62; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1994; January 4, 1994; November 1, 1993; April 1, 1990;
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 28D .0207 PROTECTIVE DEVICES

(a) Whenever protective devices that cannot be removed at will by the client are utilized, the state facility shall:

(1) assure that the protective device shall be used only to promote the client's physical safety;
(2) assure that the factors putting the client's physical safety at risk are fully explored and addressed in treatment planning with the participation of the client and legally responsible person if applicable;
(3) document the utilization of protective device in the client's nursing care plan, when applicable, and treatment/habilitation plan;
(4) document what positive alternatives and less restrictive alternatives were considered, whether those alternatives were tried, and why those alternatives were unsuccessful;
(5) assure that the protective device is used only upon the written order of a qualified professional that specifies the type of protective device and the duration and circumstances under which the protective device is used;
(6) assure and document that the staff applying the protective device is trained and has demonstrated competence to do so;
(7) inspect to ensure that the devices are in good repair and free of tears and protrusions;
(8) determine, at the time of application of the protective device, the degree of observation needed to assure the safety of those placed in restraints. The type of protective device used, the individual patient situation, and the existence of any specific manufacturer's warning concerning the safe use of a particular product shall all be considered in determining the degree of observation needed. Observation shall include direct line of sight or the use of video surveillance. In no instance shall observation be less frequent than at 30-minute intervals.
(9) assure that whenever the client is restrained and subject to injury by another client, a state facility employee shall remain present with the client continuously.
(10) assure that the person is released as needed, but at least every two hours;
(11) re-evaluate need for and impact on client of protective device at least every 30 days; and
(12) assure that observations and interventions shall be documented in the client record.

(b) In addition to the requirements specified in Paragraph (a) of this Rule, protective devices used for behavioral control shall comply with the requirements specified in Rule .0203 of this Section.

History Note: *Authority G.S. 122C-51; 122C-57; 143B-147;*
Eff. October 1, 1984;
Amended Eff. November 1, 1993; July 1, 1989;
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.

10A NCAC 28D .0208 INTERVENTIONS REQUIRING ADDITIONAL SAFEGUARDS

(a) The interventions specified in this Rule present a significant risk to the client and therefore require additional safeguards. These procedures shall be followed in addition to the procedures specified in Rule .0203 of this Section.

(b) The following interventions are designed for the primary purpose of reducing the incidence of aggressive, dangerous or self-injurious behavior to a level which will allow the use of less intrusive treatment/habilitation procedures. Such interventions include the use of:

(1) seclusion, physical restraint or isolation time-out employed as a measure of therapeutic treatment;

(2) seclusion, physical restraint or isolation time-out used on an emergency basis more than 40 hours in a calendar month or one episode in which the original order is renewed for up to a total of 24 hours in accordance with the limits specified in Subparagraph (l)(8) of Rule .0206 of this Section;
(3) unpleasant tasting substances;
(4) planned non-attention to specific undesirable behaviors when the target behavior is health threatening;
(5) contingent deprivation of any basic necessity;
(6) contingent application of any noxious substances which include but are not limited to noise, bad smells or splashing with water; and
(7) any potentially physically painful procedure or stimulus which is administered to the client for the purpose of reducing the frequency or intensity of a behavior.

(c) Such interventions shall never be the sole treatment modality for the elimination of target behavior.

(d) The intervention shall always be accompanied by positive treatment or habilitation methods which shall include, but not be limited to:

(1) the deliberate teaching and reinforcement of behaviors which are non-injurious;
(2) the improvement of conditions associated with non-injurious behaviors such as an enriched educational and social environment; and
(3) the alteration or elimination of environmental conditions which are reliably correlated with self-injury.

(e) Prior to the implementation of any planned use of the intervention the following written approvals and notifications shall be obtained. Documentation in the client record shall include:

(1) approval of the plan by the treatment/habilitation team;
(2) that each client whose treatment/habilitation plan includes interventions with reasonably foreseeable physical consequences shall receive an initial medical examination and periodic planned monitoring by a physician;
(3) that the treatment/habilitation team shall inform the internal client advocate that the intervention has been planned for the client and the rationale for utilization of the intervention;
(4) the treatment/habilitation team shall explain the intervention and the reason for the intervention to the client and the legally responsible person, if applicable;
(5) the prior written consent of the client or his legally responsible person shall be obtained except for those situations specified in Rule .0206(g)(1) in this Section. If the client or legally responsible person refuses the intervention, the State Facility Director shall follow the right to refuse treatment procedures as specified in this Subchapter;
(6) that the plan shall be reviewed and approved by a review committee, designated by the State Facility Director, which shall include that:
    (A) at least one member of the review committee shall be qualified through experience and training to utilize the planned intervention; and
    (B) no member of the review committee shall be a member of the client's treatment team;
(7) that the treatment/habilitation plan may be reviewed and approved by the State Facility Director; and
(8) if any of the persons or committees specified in Subparagraphs (e)(1), (2), (4), (5) or (6) of this Rule do not approve the continued use of a planned intervention, the planned intervention shall be terminated. The State Facility Director shall establish an appeal mechanism for the resolution of any disagreement over the use of the intervention.

(f) Neither the consents nor the approvals specified in Paragraph (e) of this Rule shall be valid for more than six months. The treatment/habilitation team shall re-evaluate the use of the intervention and obtain the client's and legally responsible person's consent for continued use of the intervention at least every six months.

(g) The plan shall be reviewed at the meeting of the Human Rights Committee following each evaluation within the constraints of 10A NCAC 28A .0209. The Committee, by majority vote, may recommend approval or disapproval of the plan to the State Facility Director or may abstain from making a recommendation. If the State Facility Director does not agree with the decision of the Committee, the Committee may appeal the issue to the Division in accordance with the provisions of 10A NCAC 28A .0208.

(h) The intervention shall be used only when the treatment/habilitation team has determined and documented in the client record the following:

(1) that the client is engaging in behaviors that are likely to result in injury to self or others;

(2) that other methods of treatment or habilitation employing less intrusive interventions are not appropriate;
(3) the frequency, intensity and duration of the target behavior, and the behavior's probable antecedents and consequences; and
(4) it is likely that the intervention will enable the client to stop the target behavior.

(i) The treatment/habilitation team shall designate a state facility employee to maintain written records on the application of the intervention and accompanying positive procedures. These records shall include the following:
(1) data which reflect the frequency, intensity and duration with which the targeted behavior occurs (scientific sampling procedures are acceptable);
(2) data which reflect the frequency, intensity and duration of the intervention and any accompanying positive procedures; and
(3) data which reflect the state facility employees who administered the interventions.

(j) The interventions shall be evaluated at least weekly by the treatment team or its designee and at least monthly by the State Facility Director. The designee of the State Facility Director shall not be a member of the client's treatment/habilitation team. Reviews shall be documented in the client record.

(k) During the use of the intervention, the Human Rights Committee shall be given the opportunity to review the treatment/ habilitation plan within the constraints of 10A NCAC 28A .0209.

History Note: *Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 143B-147;*
Eff. November 1, 1993;
Amended Eff. October 1, 2004; July 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0209 TRAINING: EMPHASIS ON ALTERNATIVES TO RESTRICTIVE INTERVENTIONS

(a) Facilities shall implement policies and practices that emphasize the use of alternatives to seclusion, physical restraint and isolation time-out.

(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 to property 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 shall be completed at least annually by each service provider.

(f) Content of the training that the service provider plans to use shall 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 people with disabilities;
(5) recognizing cultural, environmental and organizational factors that may affect people with disabilities;
(6) recognizing the importance, and assisting people with disabilities 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 request and review 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 seclusion, physical restraint and isolation time-out.

(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 not be 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 physical restraint, seclusion and isolation time-out at least one time, with a positive review by the coach.

(7) Trainers shall teach a training program aimed at preventing, reducing and eliminating the need for seclusion, physical restraint and isolation time-out 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; and

(2) The Division of MH/DD/SAS may request and review this documentation at 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;
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 28D .0210 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 at least annually and have demonstrated competence.

(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 prerequisite for taking this training is demonstrating competence by completion of training in preventing, reducing and eliminating the need for seclusion, physical restraint and isolation time-out.

(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 shall be completed by each service provider periodically (minimum annually).
(f) Content of the training that the service provider plans to employ shall be approved by the Division of MH/DD/SAS pursuant to Paragraph (g) of this Rule.
(g) Acceptable training programs shall include, but not be limited to, presentation of:
    (1) refresher information on alternatives to the use of seclusion, physical restraint and isolation time-out;
    (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 seclusion, physical restraint and isolation time-out;
    (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 importance and purpose; and
    (8) documentation methods and 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 request and review 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 seclusion, physical restraint and isolation time-out.
    (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. 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)(6) of this Rule.
    (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 (i)(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 seclusion, physical restraint and isolation time-out at least two times with a positive review by the coach.
    (10) Trainers shall teach a program on the use of seclusion, physical restraint and isolation time-out at least once annually.
    (11) 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 outcome (pass/fail);
        (B) when and where they attended; and

(C) instructor's name.

(2) The Division of MH/DD/SAS may request and review this documentation at 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;
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Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0300 - RIGHT TO REFUSE TREATMENT

10A NCAC 28D .0301 THERAPEUTIC AND DIAGNOSTIC PROCEDURES

(a) In addition to the treatment procedures specified in G.S. 122C-57(f), other intrusive procedures which are not routine medical diagnostic or treatment procedures shall require the express and informed written consent of the client or his legally responsible person prior to their initiation except in medical emergencies. Such procedures shall include but are not limited to the following:

(1) procedures that introduce radioactive dyes;

(2) hyperalimentation;

(3) endoscopy;

(4) lumbar puncture;

(5) prescribing and administration of the following drugs:

(A) Antabuse;

(B) Clonodine when used for non-FDA approved uses; and

(C) Depo-Provera when used for non-FDA approved uses; and

(6) neuroleptic drug therapy following the diagnosis of tardive dyskinesia or after the symptoms of tardive dyskinesia have appeared as observed by using a standardized abnormal involuntary movement rating scale.

(b) Non-emergency surgery, and other therapeutic and diagnostic procedures as specified in Paragraph (a) of this Rule, shall not be performed on a client unless the client or his legally responsible person has been provided with sufficient information concerning the proposed procedure in order to make an educated decision about the treatment measure and has consented in writing.

(c) Emergency surgery may be performed on a client without consent as specified in Paragraph (b) of this Rule only when:

(1) immediate action is necessary to preserve the life or health of the client;

(2) the client is unconscious or otherwise incapacitated so as to be incapable of giving consent;

(3) in the case of a minor or incompetent adult client, the consent of the legally responsible person cannot be obtained within the time necessitated by the nature of the medical emergency, subject to the provisions of G.S. 90-21.1 et seq.; and

(4) the attending physician and a second physician certify in writing that the situation requires emergency surgery.

History Note: *Authority G.S. 90-21.1; 90-21.13; 122C-51; 122C-57; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0302 INTRUSIVE INTERVENTIONS

When a client or his legally responsible person refuses treatment or habilitation utilizing interventions specified in Section .0200 of this Subchapter in a non-emergency situation, the following process shall be followed for both voluntary and involuntary clients:

(1) The responsible professional shall speak to the client or legally responsible person, if applicable, and attempt to explain his assessment of the client's condition, the reasons for recommending the intervention, the benefits and risks, and the advantages and disadvantages of alternative courses of action. If the client or his legally responsible person still refuses to participate and the responsible professional still believes that these interventions are a necessary part of the client's treatment or habilitation plan:
    (a) The responsible professional shall tell the client and the legally responsible person, if applicable, that the matter will be discussed at a meeting of the client's treatment/habilitation team;
    (b) If the client's condition permits, the responsible professional shall invite the client and the legally responsible person, if applicable, to attend the meeting of the treatment/habilitation team; and
    (c) The responsible professional shall suggest that the client and the legally responsible person, if applicable, discuss the matter with a person of his own choosing such as a relative, friend, or internal client advocate.

(2) If a voluntary client or his legally responsible person still refuses the intervention after the process in Paragraph (1) of this Rule has been followed and if the use of the intervention is still determined to be essential to the treatment or habilitation of the voluntary client by the treatment/habilitation team and no alternative procedures are appropriate, the treatment/habilitation team shall make a determination as to whether the client meets the requirements for involuntary commitment.
    (a) If the client meets the requirements for involuntary commitment, as specified in G.S. Chapter 122C, Article 5, the treatment/habilitation team may make a written recommendation to the State Facility Director requesting the initiation of commitment proceedings.
    (b) If the client does not meet the requirements for involuntary commitment, as specified in G.S. Chapter 122C, Article 5, the treatment/habilitation team may make a written recommendation to the State Facility Director requesting the discharge of the client.
    (c) The State Facility Director may designate a group to investigate the circumstances and to recommend appropriate action. Such a group shall include, but not be limited to, representatives from the Human Rights Committee, client advocates, and qualified professionals in supervisory positions.

(3) Interventions as specified in Rules .0203 through .0206 of this Subchapter shall not be administered to a voluntary client in a non-emergency situation if the client or his legally responsible person refuses the intervention.

(4) If an involuntary client or his legally responsible person, if applicable, refuses treatment or habilitation utilizing interventions specified in Rules .0203 through .0206 of this Subchapter in a non-emergency situation, after the process in Paragraph (1) of this Rule has been followed and if the use of the intervention is still determined to be essential to the treatment or habilitation of the involuntary client by the treatment/habilitation team and no alternative approaches are appropriate, the treatment/habilitation team shall meet to review the involuntary client's or his legally responsible person's response and assess the need for the intervention as follows:
    (a) If the client or legally responsible person is present, the treatment/habilitation team shall attempt to formulate a treatment or habilitation plan that is acceptable to both the client or legally responsible person and the treatment/habilitation team. The client or legally responsible person may agree to participate in the treatment or habilitation program unconditionally or under certain conditions that are acceptable to the treatment/habilitation team.
    (b) If the client or legally responsible person is not present, the treatment/habilitation team shall review its previous recommendations and the client's response and shall document their decision in the client record.

(5) If, after reassessing the need for the interventions, the treatment/habilitation team still believes that the interventions are a necessary part of the involuntary client's treatment or habilitation plan and

the client or his legally responsible person, if applicable, still refuses, the client's treating physician and another physician, who may be the Clinical Director or his designee, shall interview the client and review the record. If both physicians determine that the intervention is essential, in accordance with G.S. 122C-57(e), the intervention may be administered as part of the client's documented individualized treatment or habilitation plan.

(6) The treating physician shall document the decision relative to the utilization of the intervention in the client record. Such documentation shall also include consideration of negative effects related to the specific treatment/habilitation measure.

History Note: *Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;*
Eff. October 1, 1984;
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SECTION .0400 - REFUSAL OF PSYCHOTROPIC MEDICATION

10A NCAC 28D .0401 ADMINISTRATION OF MEDICATIONS IN AN EMERGENCY

(a) For the purposes of the rules in this Section, "emergency" means a situation in which a client is in imminent danger of causing physical harm to self or other persons unless there is rapid intervention by the state facility employee in the form of the administration of psychotropic medication.
(b) When a client in a state facility refuses psychotropic medication in a situation that constitutes an emergency, the Director of Clinical Services may authorize administration of the psychotropic medication upon written certification that psychotropic medication is essential in order to prevent the client from causing imminent physical harm to self or other persons.
(c) If it is impossible to comply with the procedure in Paragraph (b) of this Rule without jeopardizing the life of the client or other persons, the medication may be administered upon a physician's written or verbal order.
(d) In any situation falling within Paragraph (b) or (c) of this Rule, the physician authorizing the psychotropic medication shall immediately document the authorization with such documentation including a statement describing the circumstances making the medication necessary and setting forth the reasons why lesser intrusive alternative measures would not have been adequate.
(e) Within 24 hours, or when imminent danger has passed or upon expiration of the physician's order, whichever comes first, the use of psychotropic medication shall be re-evaluated by the physician. Continuation of the administration of psychotropic medication in an emergency after the re-evaluation by the physician shall be permitted for up to 48 hours after written approval by the Clinical Director. If the emergency no longer exists then the procedures specified in Rules .0403 and .0404 of this Section shall apply.
(f) The occurrence of three emergency episodes within a 30-day period where psychotropic medications are administered shall constitute the need for the treatment team to review the treatment/habilitation plan. The treatment team shall develop a plan to respond to future crisis situations.

History Note: *Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0402 BEST INTEREST TEST

(a) The responsible professional shall document in the client record that the administration of psychotropic medication against the client's will is in the best interest of the client. "Psychotropic medication administration is in the best interest of the client" means that:

(1) the client presents an imminent physical threat to himself, other clients, or state facility employee (Behavior constituting such threat shall be explicitly documented in the client record);

(2) the client is incapable without medication of participating in any treatment or habilitation plan available at the state facility that will give him a realistic opportunity of improving his condition; or

(3) although it is possible to devise a treatment or habilitation plan without psychotropic medication which will give the client a realistic opportunity of improving his condition, there is a significant possibility that the client will harm himself or others before improvement of his condition is realized if medication is not administered.

(b) In addition, the following factors shall be considered when determining if psychotropic medication administration is in the best interest of the client, and the responsible professional shall document such considerations in the client record:

(1) the client's reason for refusing medication;
(2) the existence of any less intrusive treatments; and
(3) the risks involved and severity of side effects associated with administration of the proposed medication.

History Note: *Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0403 REFUSAL IN STATE FACILITIES OTHER THAN MR CENTERS

(a) This Rule applies to all state facilities with the exception of mental retardation centers. Mental retardation centers shall comply with Rule .0404 of this Section.

(b) In the case of an emergency, procedures specified in Rule .0401 of this Section shall apply.

(c) In the case of a client's refusal of psychotropic medication in a non-emergency, the best interest test as specified in Rule .0402 of this Section shall apply. A court order issued regarding the administration of medication for forensic patients would take precedence over this Rule.

(d) Administration to Involuntary Clients.

(1) When an involuntary client or his legally responsible person refuses psychotropic medication in a situation that is not an emergency, the following procedures are required:
    (A) The attending physician shall speak to the client or legally responsible person, if applicable, and attempt to explain his assessment of the client's condition, the reasons for prescribing the medication, the benefits and risks of taking the medication, and the advantages and disadvantages of alternative courses of action. If the client or his legally responsible person still refuses and the physician still believes that psychotropic medication administration is in the best interest of the client as specified in Rule .0402 of this Section:
        (i) the physician shall tell the client and the legally responsible person, if applicable, that the matter will be discussed at a meeting of the client's treatment team;
        (ii) if the client's clinical condition permits, the physician shall invite the client and the legally responsible person, if applicable, to attend the meeting of the treatment team; and
        (iii) the physician shall suggest that the client and the legally responsible person, if applicable, discuss the matter with a person of his own choosing, such as a relative, friend, guardian or client advocate.
    (B) The treatment team shall meet to review the client's or legally responsible person's response and assess the need for psychotropic medication.
        (i) If the client or legally responsible person is present, the treatment team shall attempt to formulate a treatment or habilitation plan that is acceptable to both the client or legally responsible person and the treatment team. The client or legally responsible person may agree to take medication unconditionally or under certain conditions that are acceptable to the treatment team.
        (ii) If the client or legally responsible person is not present, the treatment team shall review its previous recommendations and the client's response and shall document their decision in the client record.
    (C) If, after assessing the need, the treatment team still believes that psychotropic medication administration is in the best interest of the client as specified in Rule .0402 of this Section

and the client or legally responsible person still refuses administration of the prescribed medication, the Director of Clinical Services or his physician designee, who is not a member of the client's treatment team, shall interview the client and review the record, and may approve the administration of the medication over the objection of the client and legally responsible person.

(2) Such refusal shall be documented in the client record.

(e) Administration to Voluntary Clients.

(1) When a voluntary client in a state facility refuses psychotropic medication in a non-emergency situation, the medication shall not be administered to:

(A) a competent adult client without the client's consent;

(B) an incompetent adult client without consent of the legally responsible person; or

(C) a minor client without the consent of the legally responsible person.

(2) Such refusal shall be documented in the client record.

(f) Independent Psychiatric Evaluation.

(1) Whenever the Director of Clinical Services is asked to review a psychotropic medication decision, the Director of Clinical Services may retain an independent psychiatric consultant to evaluate the client's need for psychotropic medication. The use of a psychiatric consultant may be particularly indicated in cases where there is a disagreement between the prescribing physician and other members of the treatment team.

(2) If the client is evaluated by an independent psychiatric consultant, the Director of Clinical Services shall file a report in the client record indicating:

(A) the recommendation of the consultant; and

(B) why the Director of Clinical Services made a decision to follow, or not to follow, the consultant's recommendation.

(g) Case Review by the Director of Clinical Services.

(1) The Director of Clinical Services or his physician designee shall review each week the treatment or habilitation program of each client who is refusing to accept psychotropic medication administration voluntarily to determine:

(A) whether the client is still receiving the prescribed medication;

(B) whether psychotropic medication is still in the best interest of the client as specified in Rule .0402 of this Section; and

(C) whether the other components of the client's treatment or habilitation plan are being implemented.

(2) The Director of Clinical Services (not his designee) shall review quarterly the treatment or habilitation program of each client who is refusing to accept psychotropic medication administration voluntarily to determine:

(A) whether the client is still receiving the prescribed medication;

(B) whether psychotropic medication is still in the best interest of the client as defined in Rule .0402 of this Section; and

(C) whether the other components of the client's treatment or habilitation plan are being implemented.

(h) Documentation.

(1) Each step of the procedures outlined in Paragraphs (d) through (g) of this Rule shall be documented in the client record.

(2) Whenever the client or his legally responsible person has refused the administration of psychotropic medication and later agrees to such administration, the documentation of consent, either verbal or written, shall be included in the client record.

(i) A client's willingness to accept medications administered by mouth in lieu of accepting medications administered by an intramuscular route does not necessarily constitute consent. The responsible professional shall ensure that the client is indeed willing to accept the medication and is not responding to coercion.

(j) Statistical Record. The State Facility Director shall maintain a statistical record of the use of psychotropic medication against the client's will which shall include, but not be limited to, the number of administrations by client, unit of like grouping, responsible physician, and client characteristics. The statistical record shall be made available to the Division Director and Human Rights Committee on a monthly basis.

History Note: *Authority G.S. 122C-51; 122C-57; 131E-67; 143B-147;*

Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28D .0404 REFUSAL IN REGIONAL MENTAL RETARDATION CENTERS

(a) This Rule applies to mental retardation centers. All other state facilities shall comply with Rule .0403 of this Section.

(b) In the case of an emergency, procedures specified in Rule .0401 of this Section shall apply.

(c) In the case of a client's refusal of psychotropic medication in a non-emergency, the best interest test as specified in Rule .0402 of this Section shall apply.

(d) Medication Refusal Incident Defined.

(1) A medication refusal incident is defined as any behavior on the part of the client, be it verbal or non-verbal, or legally responsible person, which is judged to be an attempt to communicate an unwillingness to have psychotropic medication administered to the client.

(2) Given the characteristics of the mentally retarded population, some very commonplace acts that may not necessarily constitute refusal should be considered. These may include:

(A) passivity or the lack of active participation in various activities which may require physical prompting such as hand over hand manipulation in order to learn a particular skill or complete a particular task;

(B) spitting out medication because of objectionable texture or taste (Therefore, disguising the texture or taste of psychotropic medication with a pleasant tasting vehicle such as applesauce or pudding may not necessarily be considered administration against the client's will.); or

(C) tantrums, self-injurious behavior, aggressive acts, etc. which would not automatically be judged to represent a client's attempt to refuse medication. However, it is recognized these behaviors in some cases may indeed be the only form of communication a client may have with which to express his or her refusal.

(e) Administration of Medication in Non-Emergency Situations. When a minor or adult client or his legally responsible person refuses psychotropic medication in a situation that is not an emergency, the following procedures are required:

(1) If a state facility employee suspects that a client may be attempting to refuse psychotropic medication, the state facility employee shall notify the client's qualified mental retardation professional (QMRP) and the client's internal advocate.

(2) If the QMRP agrees that the client may be attempting to refuse psychotropic medication, the QMRP shall notify the client's internal advocate and shall assemble the client's treatment team, including the treating physician, to assess the refusal incident.

(A) In the case of a client who is suspected of refusing, the team shall make a decision as to whether the client's behaviors, be they verbal or non-verbal, are true indications of refusal. In those instances where behavior is determined not to be refusal, authorization for the continued administration of the psychotropic medication may be given.

(B) In those cases where behaviors are judged to be refusal or when refusal originates with the competent adult client or with the client's legally responsible person, the client when possible or appropriate and the legally responsible person shall be invited to meet with the team to resolve the issue.

(C) The physician shall explain the reasons for prescribing the medication, the benefits and risks of taking the medication and the advantages and disadvantages of alternate courses of action. The team shall make every effort to develop a habilitation plan or specific form of treatment that would be agreeable to the client or his legally responsible person and still be consistent with the treatment needs of the client.

(3) In those cases where an agreement cannot be reached between the treatment team, including the physician, and the legally responsible person, and the team, including the physician, still feels that psychotropic medication administration is in the best interest of the client, the issue shall be referred to the State Facility Review Committee appointed by the State Facility Director.

(A) The composition of this committee should include a complement of professionals, including the Medical Director (or his designated physician) and Human Rights

Committee representatives. The internal client advocate shall be invited to represent the client's interest but not be considered a member of the State Facility Review Committee. The Committee should not include state facility employees providing direct services to the client refusing the psychotropic medication. In any event, the confidentiality regulations as codified in 10A NCAC 26B shall be followed.

(B) As with the treatment team, the State Facility Review Committee shall involve the client and the legally responsible person where appropriate in an attempt to arrive at a mutually acceptable solution.

(C) If agreement is reached between the legally responsible person and the State Facility Review Committee, no further proceedings are necessary. If agreement cannot be reached the State Facility Review Committee shall forward its recommendations concerning any changes in treatment or support of existing treatment methods to the Center Director.

(4) If the State Facility Director receives recommendations concerning any changes in treatment or support of existing treatment methods regarding a specific client who has refused psychotropic medications and this recommendation is still unacceptable to the legally responsible person, the Center Director shall have, as the last alternative, the authority to discharge the client under G.S. 122C-57(d). In those cases where the Center Director makes the decision to discharge the client, information shall be provided to the legally responsible person regarding the grievance procedures as specified in 10A NCAC 26B .0203, .0204, and .0205.

(f) Documentation. Each step of the procedure outlined in Paragraphs (d) through (e) of this Rule shall be documented in the client record.

(g) Statistical Record. The State Facility Director shall maintain a statistical record of the use of psychotropic medication against the client's will which shall include, but not be limited to, the number of administrations by client, unit of like grouping, responsible physician, and client characteristics. The statistical record shall be made available to the Division Director and Human Rights Committee on a monthly basis.

History Note: *Authority G.S. 122C-51; 122C-57; 122C-242; 143B-147;*
Eff. October 1, 1984;
Amended Eff. April 1, 1990; July 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SUBCHAPTER 28E - ADVANCE CARE DIRECTIVES FOR CLIENTS

SECTION .0100 - RIGHT TO NATURAL DEATH

10A NCAC 28E .0101 SCOPE

These Rules set forth the right of an individual to control decisions relating to his medical care, including the right to a peaceful and natural death, as set forth in G.S. 90-321. These Rules apply to the Division's four psychiatric hospitals, the N.C. Special Care Center, the three Alcohol and Drug Abuse Treatment Centers, and the five Mental Retardation Centers, hereafter referred to as Division facilities.

History Note: *Authority G.S. 32A-15; 90-320; 143B-147;*
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28E .0102 DEFINITIONS

(a) The definitions contained in this Rule, and the terms defined in G.S. 90-321 shall apply to the rules in this Subchapter.

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

(1) "Advance care directive" means any indication made in writing by a client in which the client makes provision or directions as to who will make health care decisions should the client become

incapable of doing so; whether in such cases extraordinary means of sustaining life should be employed; or both.

(2) "Capable client" means a client who has the ability to make and communicate health care decisions, as confirmed by the client's attending physician.

(3) "Division" means the term as defined in G.S. 122C-3.

History Note: *Authority G.S. 32A-15; 32A-16; 90-320; 90-321; 143B-147;*
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28E .0103 ADVANCE CARE DIRECTIVES

The Division shall honor advance care directives made by clients prior to admission or made by capable clients after admission. Division facilities shall decline to honor any advance care directive which does not conform with the requirements set forth by G.S. 32A-25 (for a health care power of attorney) or G.S. 90-321 (for a living will).

History Note: *Authority G.S. 32A-15; 90-320; 90-321; 90-322; 143B-147;*
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

10A NCAC 28E .0104 NATURAL DEATH IN ABSENCE OF DIRECTIVE

Clients in division facilities retain the right to die with dignity even where they have made no advance care directive, or have made a directive which does not comply with statutory requirements. In the absence of an advance care directive, the Division shall maintain strict compliance with the procedure established by G.S. 90-322 for determination of when, and under what conditions, extraordinary means or artificial nutrition or hydration may be withheld or withdrawn.

History Note: *Authority G.S. 90-320; 90-322; 143B-147;*
Eff. November 2, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SUBCHAPTER 28F – ADMISSION AND DISCHARGE

SECTION .0100 - ADMISSIONS

10A NCAC 28F .0101 REGIONS FOR DIVISION INSTITUTIONAL ADMISSIONS

(a) Except as otherwise provided in rules codified in this Chapter and Chapters 26 through 29 of this Title and except for State-wide programs and cross-regional admissions approved by the Division Director based upon the clinical need of the individual or for the purpose of accessing available beds or services, a person seeking admission to a regional institution of the Division shall be admitted only to the institution which serves the region of the state which includes the person's "county of residence" as defined in G.S. 122C-3.

(b) For state operated facilities, the regions of the state and the counties which constitute the regions are as follows:

(1) Western Region: Broughton Hospital, Julian F. Keith Alcohol and Drug Abuse Treatment Center (ADATC), and J. Iverson Riddle Developmental Center shall serve Alleghany, Alexander, Ashe, Avery, Buncombe, Burke, Cabarrus, Caldwell, Catawba, Cherokee, Clay, Cleveland, Davidson, Gaston, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Polk, Rowan, Rutherford, Stanly, Surry, Swain, Transylvania, Union, Watauga, Wilkes, Yadkin, and Yancey County;

(2) Central Region: Central Regional Hospital, Murdoch Developmental Center, R. J. Blackley ADATC, Whitaker School, and Wright School shall serve Alamance, Anson, Caswell, Chatham, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Halifax, Harnett, Hoke, Lee, Montgomery,

Moore, Orange, Person, Randolph, Richmond, Rockingham, Stokes, Vance, Wake, and Warren County; and

(3) Eastern Region: Cherry Hospital, Caswell Developmental Center, and Walter B. Jones ADATC shall serve Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Edgecombe, Gates, Greene, Hertford, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Robeson, Sampson, Scotland, Tyrrell, Washington, Wayne, and Wilson County.

History Note: *Authority G.S. 122C-3; 143B-147;*
Eff. February 1, 1976;
Amended Eff. June 1, 2009; April 1, 1990; July 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0200 – VOLUNTARY ADMISIONS, INVOLUNTARY COMMITEMENTS AND DISCHARGES OF ADULTS FROM REGIONAL PSYCHIATRIC HOSPITALS

10A NCAC 28F .0201 SCOPE

The rules in this Section apply to admissions, commitments and discharges of all clients to and from the regional psychiatric hospitals of the Division. The criteria and procedures shall be followed by staff of the hospitals and by area program staff making referrals to the hospitals and serving clients following discharge from the hospitals. Rule .0213 of this Section contains provisions that relate only to minors from non-single portal area programs. Until the effective date of the repeal of Rules .0128 and .0129, Rules .0211 and .0212 shall supersede.

History Note: *Authority G.S. 122C-211; 122C-212; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0202 EXPLANATION OF TERMS

For the purposes of the rules in this Section the following terms shall have the meanings indicated:

(1) "Area program staff" means professionals who are employees of the area authority or who contract with the area authority or are employed by an agency which contracts with the area authority and who are clinically privileged by the area authority.

(2) "Authorization" means the process whereby area program staff approve of the hospitalization of a client currently residing in their catchment area, and agree that the hospitalization shall be included in their bed day utilization count.

(3) "Continuity of care" means the seamless integration of both inpatient and outpatient services into a unified plan of care for clients served by the area authority.

(4) "County of residence" has the meaning specified in G.S. 122C-3.

(5) "County where currently residing" means the county where the client was living immediately prior to hospitalization.

(6) "Division" means the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.

(7) "Eligible Psychologist" means a licensed practicing psychologist who has at least two years' clinical experience.

(8) "Facility" has the meaning specified in G.S. 122C-3.

(9) "Hospital" means one of the regional psychiatric hospitals of the Division.

(10) "Mental illness" has the meaning specified in G.S. 122C-3.

History Note: *Authority G.S. 122C-3; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0203 AUTHORIZATION OF HOSPITALIZATION BY AREA PROGRAM

(a) Designated area program staff shall authorize all hospitalizations for individuals residing in an area program's catchment area.

(b) This authorization shall be done when the individual is evaluated by the area program for referral to the hospital for admission and shall be reviewed in accordance with area program policy.

(c) When such authorization is for an individual residing in a facility within the catchment area but whose county of residence is outside the catchment area, the authorizing area program shall notify the area program serving the individual's county of residence within 24 hours.

(d) Authorization for continuing hospitalization is the responsibility of the area program serving the individual's county of residence.

History Note: *Authority G.S. 122C-211(e); 122C-261(f); 122C-262; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0204 AUTHORIZATION OF HOSPITALIZATION WHEN INDIVIDUAL ARRIVES DIRECTLY AT HOSPITAL

(a) When an individual from an area program arrives at the hospital for admission without area program authorization, the hospital shall contact designated personnel of the individual's county of residence area program, before admission is approved.

(b) If the area program does not respond within one hour, the hospital is deemed to have been authorized to admit, and shall contact the area program on the next working day to obtain authorization for continuation of the hospitalization.

History Note: *Authority G.S. 122C-3; 122C-211; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0205 WRITTEN EVALUATION BY AREA PROGRAM

(a) Area program staff shall evaluate each individual prior to authorization and referral to the hospital unless G.S. 122C-262 applies.

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

(1) identifying information, e.g., client's full name (including maiden name), address, birthdate, race;
(2) referral source;
(3) presenting problem;
(4) if available, medications and pertinent medical and psychiatric information, including the DSM-IV diagnoses, history of treatment, side effects, allergies, last injection date, recent laboratory work;
(5) name, address and phone number of legally responsible person and next of kin, if applicable;
(6) legal charges pending, if applicable; and
(7) name and telephone number of the area program staff members to contact for further information including staff to call after regular working hours.

(c) The evaluation shall accompany the individual to the hospital.

History Note: *Authority G.S. 122C-53(a); 122C-55(a); 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996; March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0206 ADDITIONAL INFORMATION FOR TREATMENT

The following client information, if available, shall be sent with the evaluation which accompanies the individual to the hospital. If not immediately available, it shall be sent, together with any information required by Rule .0205 of this Section but not provided in the evaluation, by the authorizing area program to the appropriate hospital admissions office within one working day of the client's admission to the hospital. This information, which shall be used by hospital staff in developing the client's treatment plan, shall include but need not be limited to the following:

(1) name of client's mental health center therapist and psychiatrist and case manager, if applicable;
(2) county of residence;
(3) name, address and telephone number of the individuals in the client's family and social support network who may provide information for use in plan development;
(4) previous admissions to any state facility, i.e., psychiatric, substance abuse, developmental disabilities;
(5) current psychiatric and other medications, including compliance with medications and aftercare instructions;
(6) alternatives attempted or considered prior to referral to the hospital;
(7) goal of hospitalization specifying the treatment objectives that the hospital should address;
(8) specific suggestions for programming and other treatment planning recommendations; and
(9) release plans, which include information relevant to placement and other special considerations of the client upon discharge from the hospital.

History Note: *Authority G.S. 122C-261; 122C-262; 122C-263; 122C-264; 122C-265; 122C-266; 122C-267; 122C-268; 122C-268.1; 122C-269; 122C-270; 122C-271; 122C-272; 122C-273; 122C-274; 122C-275; 122C-276; 122C-277; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996; March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0207 COMMUNICATION TO AREA PROGRAM REGARDING ADMISSION/DENIAL

(a) In all instances where area program staff have evaluated, authorized, and referred the individual to a hospital with a recommendation for admission, the area program staff shall call the hospital admission office to inform it of the authorization and referral, and advise it as to the name and phone number of an area program contact person.
(b) If the opinion of the examiner at the hospital is that the individual does not meet inpatient criteria, the examiner shall contact designated area program staff to discuss the individual's condition prior to releasing the individual. Unreasonable delay shall not occur as a result of the foregoing and in no event shall the individual be detained by the hospital for more than 24 hours.
(c) If the opinion of the examiner is that the individual does meet inpatient criteria, the hospital shall contact designated area program staff within 24 hours to notify them of the admission.
(d) When the hospital staff does not accept a client for admission, the hospital staff, client, area program staff, and if applicable, family or legally responsible person, shall discuss where in the community the client shall be returned and shall discuss with the client options for receiving services.

History Note: *Authority G.S. 122C-132; 122C-221; 122C-261; 122C-262; 122C-263; 122C-264; 122C-265; 122C-266; 122C-267; 122C-268; 122C-268.1; 122C-269; 122C-270; 122C-271; 122C-272; 122C-273; 122C-274; 122C-275; 122C-276; 122C-277; 122C-261; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0208 GENERAL CRITERIA FOR ADMISSION

(a) Admission staff shall evaluate the individual to determine that:

(1) there is the presence of mental illness;
(2) the individual is in need of treatment or further evaluation at the facility; and
(3) admitting the individual to the hospital is an appropriate treatment modality.

(b) The individual shall currently reside in the region served by the hospital unless one or more of these exceptions occurs:

(1) A transient resident of another state who requires hospitalization shall be admitted to the hospital serving the region in which the client is found.

(2) A defendant who is ordered to a state mental health facility for determination of capacity to proceed to trial (G.S. 15A-1002) may be admitted to the Forensic Unit at Dorothea Dix Hospital.

(3) An individual whose treatment needs have necessitated a cross regional admission from the hospital in his region may be admitted as arranged by the Division's Chief of Mental Health Services or his designee.

(4) In case of emergency, a client may be admitted to a hospital outside of the region of residence. Subsequent transfer may include transfer to the appropriate regional hospital and such transfer shall be in accordance with G.S. 122C-206.

(5) A client from any catchment area of the state may be considered for admission to the Clinical Research Unit of Dorothy Dix Hospital. In the case of a client of another regional hospital, application shall be made in accordance with G.S. 122C-206.

(c) An individual shall not be admitted to a hospital if the:

(1) primary need is custodial care pending rest home or nursing home placement;

(2) treatment needs can be met locally;

(3) admission is sought primarily because of a lack of living space or financial support; or

(4) primary medical or surgical problem can be more appropriately treated in a general hospital.

History Note: *Authority G.S. 122C-3; 122C-132; 122C-206; 122C-221; 122C-261; 122C-262; 122C-263; 122C-264;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0209 COORDINATION AND CONTINUITY OF CLIENT CARE

(a) Each hospital in conjunction with each area program shall develop a process to assure ongoing communication between the hospital and area program regarding clients in treatment at the hospital. This process shall include provisions for case collaboration, particularly around treatment issues and issues related to discharge planning and community care. For minor clients and for adult clients adjudicated incompetent, such collaboration shall include the legally responsible person. The process shall include but is not limited to the following:

(1) specifically designated staff at both the hospital and area program to facilitate communication;

(2) routinely scheduled case management contact at hospital site;

(3) hospital staff visitation to area programs;

(4) telephone conferences; and

(5) a discharge plan developed in collaboration among hospital and area program staff and client.

(b) The process for ongoing communication shall be incorporated into each area program's written agreement with the state hospital.

History Note: *Authority G.S. 90-21.1; 122C-3; 122C-132; 122C-221; 122C-223; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996; March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0210 NOTIFICATION OF CLIENT HEARING AND/OR DISCHARGE

(a) The hospital shall give the authorizing area program 72 hours notice of planned discharge of all clients except those clients for whom unplanned discharge precludes 72 hours notice. In those cases notice shall be given within 24 hours. If there is a disagreement between the hospital and area program regarding the planned discharge of a voluntary client, the disagreement shall be resolved by the procedures specified in Rule .0212 of this Section.

(b) The hospital shall provide 24 hours notice to the authorizing area program prior to a court hearing, of the recommendations to be made at the hearing. At the time of this notification, a collaborative discharge contingency plan shall be developed in case the judge does not order commitment.

(c) The Post-Institutional Plan, together with the items specified in Rule .0211 of this Section, shall be sent to the authorizing area program within 24 hours of discharge.
(d) A discharge summary shall be sent to the authorizing area program prior to the first scheduled appointment and in any case no later than 15 days after discharge.

History Note: *Authority G.S. 122C-112; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0211 PLACEMENT OF CLIENTS OUTSIDE THEIR COUNTY OF RESIDENCE
Note: Until the effective date of the repeal of Rule .0128 of this Section, this Rule shall supersede.
(a) If a discharge plan proposes that a client live in a facility outside his county of residence, hospital staff shall notify the authorizing area program so that the area program can begin making such a living arrangement. Hospital staff shall provide the authorizing area program with information which shall include:
(1) the client's status, diagnosis and needs;
(2) information regarding the facility being considered; and
(3) information regarding the facility's ability to serve the client being considered to live there.
(b) The authorizing area program shall contact the area program in the county of the facility to share client information, and collaboratively develop a plan for appropriate services provision, authorization, and payment.
(c) When a client discharged from a hospital moves to a facility outside his county of residence, the hospital shall send, at the time of discharge, the following records to the authorizing area program serving the client's county of residence:
(1) hospital's psychiatric evaluation;
(2) social history, such as family constellation, order of birth, and developmental history; and
(3) post-institutional plan.
In addition, the hospital discharge summary shall be sent to the authorizing area program within 15 days of discharge. This area program shall share the information with the area program serving the client in the county of the facility.

History Note: *Authority G.S. 122C-3; 122C-112; 122C-117; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0212 RESOLUTION OF DIFFERENCES OF OPINION
(a) Differences of opinion between area authority/county program staff and hospital staff regarding admission, treatment or discharge issues shall be resolved through negotiation involving hospital and area authority/county program staff, clients, legally responsible persons, and with client consent, family members.
(b) If resolution of issues regarding authorization, admission or discharge is not reached by the Directors of the two organizations, the dispute shall be resolved following the procedures as set forth in 10A NCAC 26A .0200; 10A NCAC 27G .0810 through .0812 continuing to the final level of appeal, if necessary, with procedures in G.S. 150B, Article 3 Administrative Hearings.
(c) During the resolution of differences of opinion between area authority/county program and hospital staff, the client shall be provided with the more conservative and secure treatment option.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1989;
Amended Eff. November 1, 2005; July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0213 REFERRALS OF MINORS FROM A NON-SINGLE PORTAL AREA

(a) In a non-single portal area, in addition to area program staff, a licensed physician or eligible psychologist may refer a minor directly to a hospital. This person shall be known as the "referring agent."
(b) As part of the referring process, the referring agent shall provide the evaluation and other information specified in Rules .0205 and .0206 of this Section.
(c) To assure appropriate planning for treatment, discharge, and aftercare, when a licensed physician or eligible psychologist makes a referral pursuant to this Rule, he or she shall be asked by the hospital to agree in writing to:

(1) continued involvement with the child and family during hospital treatment;
(2) participation in identification and coordination of community services that are essential to discharge planning; and
(3) provision of aftercare, as needed.

(d) If the referring agent does not sign the agreement described in Paragraph (c) of this Rule, the hospital staff shall consult with the minor's legally responsible person to determine a practitioner to participate in discharge and aftercare planning. The area program staff shall be considered as an option. The selected practitioner shall be considered to be the referring agent.
(e) For purposes of Rules .0207 through .0212 of this Section, the referring agent shall perform the consultation, communication and notice functions described for area program staff. The area program staff also shall participate and shall receive the notices prescribed in those Rules.

History Note: *Authority G.S. 122C-112; 143B-147;*
Eff. February 1, 1989;
Amended Eff. July 1, 1996; March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0300 - MEDICAL STAFF BYLAWS OF NORTH CAROLINA REGIONAL MENTAL HOSPITALS

10A NCAC 28F .0301 ORGANIZATION OF STAFFS

The medical and dental staffs of the four psychiatric hospitals shall organize themselves in conformity with the model bylaws and rules set forth in Rule .0308 of this Section. Rule .0308 of this Section shall be the model bylaws and rules used by each such association in drafting of bylaws and rules for itself and each such association shall have bylaws and rules in substantial conformity to those in Rule .0308 of this Section.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0302 APPLICANTS FOR MEMBERSHIP

Applicants for membership on the medical staffs shall be duly licensed or authorized to practice medicine or dentistry in the State of North Carolina according to those standards set forth by the North Carolina State Board of Medical Examiners or the North Carolina State Board of Dental Examiners. No applicant shall be denied staff membership on the basis of sex, race, creed, color, or national origin. Staff members shall indicate their acceptance of membership on the medical staff by signed agreement that they will abide by the medical staff bylaws, rules, and regulations and by the bylaws of the governing body.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0303 MEDICAL DIRECTOR OF HOSPITAL

The medical director of a hospital shall be a member of the hospital medical staff and shall be a medical doctor duly licensed to practice medicine in the State of North Carolina with approved training and experience in the practice of psychiatry.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0304 APPLICATION PROCESS

Applicants for the medical staff may be appointed or reappointed by the Director of the hospital with concurrence of the Director of Clinical Services and after consultation with the credentials committee. Appointment to the medical staff shall confer upon the appointee only such privileges as may hereinafter be provided. Determination of privileges will be made by the Director and Director of Clinical Services after recommendation of the executive committee of the medical staff. Such determination is based on applicant's training, experience, demonstrated competence, and conducted satisfactory performance of duties.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0305 RESTRICTION OR TERMINATION OF STAFF PRIVILEGES

Should the superior of any physician or dentist recommend restriction or termination of the employment of any physician or dentist of the medical staffs for personal conduct or performance of duties issues as specified in the State Personnel Manual, such recommendation will be forwarded in writing to the Director and Director of Clinical Services who in turn may, within a period of five days, refer said recommendation to the executive committee of the medical staff for review. The result of this review will be forwarded to the Director within five days. If the Director and Director of Clinical Services accept the recommendation of the executive committee of the medical staff, said recommendation will be made known to the physician or dentist in question. Further appeal may be made in accordance with the standard grievance procedure established by the State Personnel Act. Any physician or dentist may be suspended by the Director and Director of Clinical Services for flagrant misconduct pending the appeal mechanism as state above.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0306 EMERGENCY AND TEMPORARY PRIVILEGES

The Director and Director of Clinical Services shall have the authority to grant emergency and temporary privileges to a qualified physician who is not a member of the medical staff for a period of time not to exceed 30 days.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0307 DIVISIONS OF STAFF

The medical staff shall be divided into honorary, visiting, active, and resident staffs. Officers, standing and special committees shall be elected and appointed with duties assigned, including meeting schedules and attendance requirements, in accordance with the model bylaws.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0308 MEDICAL STAFF BYLAWS FORM

(a) Preamble

(1) Recognizing that the medical and dental staff is responsible for the quality of medical care in the hospital and must take steps to assume this responsibility, and that the best interests of the patient are protected by concerned effort, subject to the authority of the Division of Mental Health Services, the physicians and dentists practicing in (fill in name) hospital hereby organize themselves in conformity with the bylaws, rules, and regulations hereinafter stated.

(2) For the purpose of these bylaws the words "medical staff" shall be interpreted to include all physicians and dentists who are privileged to attend to patients in (fill in name) hospital.

(3) The term "governing body" means the Director of the Division of Mental Health Services.

(4) Whenever the term "director" appears, it shall be interpreted to refer to the Director of (fill in name) hospital as duly appointed by the Director of the Division of Mental Health Services, North Carolina Department of Human Resources.

(5) Whenever the term "Director of Clinical Services" appears, it shall be interpreted to mean that person responsible for all medical and clinical services where the Director is a non-medical administrator.

(6) Whenever the term "paramedical staff" appears, it shall be interpreted to include the professional members of the Department of vocational rehabilitation, rehabilitation services, departments of physical therapy, psychology, nursing, social services, pharmacy, medical records, physicians' assistants, and nurse practitioners.

(7) These bylaws, rules, and regulations of the medical staff shall state the policies under which the medical staff regulates itself, creating and defining an atmosphere and framework within which members of the medical staff act with a reasonable degree of freedom and confidence. These medical staff bylaws, rules, and regulations shall provide for an effective formal means by which the medical staff may participate in the development of facility policy relative both to facility management and patient care not inconsistent with the North Carolina statutes and policies of the Division of Mental Health Services.

(b) Name of Organization. The name of this organization shall be "The Medical Staff of (fill in name) Hospital."

(c) Purpose. The purpose of this organization shall be as follows:

(1) to insure that the best possible care is rendered to all patients admitted to this hospital or treated by physicians and paramedical staff in the employ of this hospital;

(2) to provide a means whereby problems of medico-administrative nature may be discussed by the medical staff with the administration of the hospital and the Division of Mental Health Services;

(3) to initiate and maintain rules and regulations for self-governance of the medical staff;

(4) to provide an active education and training program and to maintain educational and training standards;

(5) to carry out through the hospital all appropriate duties of the Division of Mental Health Services;

(6) to carry out research in the fields of mental health;

(7) to attain and maintain the standards of the accreditation council of psychiatric facilities (Joint Commission on Accreditation of Hospitals);

(8) to insure a high level of professional performance of all practitioners authorized to practice in the hospital through the appropriate delineation of the clinical privileges that each practitioner may exercise in the hospital and through an ongoing review and evaluation of each practitioner's performance in the hospital;

(9) to promote the well-being of the medical staff, permitting them to practice medicine in a congenial atmosphere and with the support and stimulus of working with their colleagues; and

(10) to advise and assist the Division of Mental Health Services and management of (fill in name) hospital in their responsibilities of providing an environment conducive to the practice of medical care of high quality, and to promote liaison with county, state and national professional societies, and with medical colleagues in community hospitals.

(d) Qualifications for Membership

(1) Licensing. Applicants for membership on the medical staffs shall be duly licensed or authorized to practice medicine or dentistry in the State of North Carolina according to those standards set forth by the North Carolina State Board of Medical Examiners or the North Carolina State Board of Dental Examiners. Externs, interns, and resident physicians must have appropriate recognition and authorization by the North Carolina State Board of Medical Examiners. Physicians' assistants and

nurse practitioners shall have at least one physician supervisor appointed by the Director or Director of Clinical Services of the hospital.

(2) Criteria for Membership. No applicant shall be denied membership on the basis of any other criteria not related to professional competence or good standing with the North Carolina State Board of Medical Examiners or the North Carolina State Board of Dental Examiners.

(3) Ethics. Acceptance of membership on the medical staff shall constitute the staff member's agreement that he will strictly abide by the principles of medical ethics of the American Medical Association or the American Dental Association, whichever is applicable.

(4) Medical Director. The medical director shall be a member of the hospital medical staff and shall be a medical doctor duly licensed to practice medicine in the State of North Carolina with approved training and experience in the practice of psychiatry.

(5) Appointments

(A) Appointments to the medical staff shall be made by the Director of the hospital with concurrence of the Director of Clinical Services.

(B) The Director shall consult with the credentials committee of the medical staff before taking action on any application or cancelling any appointment previously made.

(C) Appointment to the medical staff of (fill in name) hospital shall confer upon the appointee only such privileges as may hereinafter be provided.

(D) Initial appointments shall be for a period extending to the end of the current medical staff year of the hospital. Reappointments shall be for a period of not more than two medical staff years. For the purpose of these bylaws the medical staff year commences on the first day of July and ends the 30th day of June of each year.

(6) Appointment Procedure

(A) Application for membership on the medical staff shall be presented in writing conforming to the requirements laid down by the North Carolina State Personnel Department and such other requirements as may be determined by the Director of the Division of Mental Health Services. The application shall state the qualifications and references of the applicant and shall signify his agreement to abide by the bylaws, rules and regulations of the medical staff. The application for employment on the medical staff shall be presented to the Director and Director of Clinical Services who shall transmit it to the Secretary of the medical staff.

(B) The Secretary of the medical staff shall present the application immediately to the credentials committee. This committee shall review the application and the applicant in order to determine suitability and eligibility for employment in the hospital.

(C) The credentials committee shall submit a report of findings to the Director and to the Director of Clinical Services as soon as possible and in all cases within one month recommending that the application be accepted, deferred, or rejected. Wherever a recommendation to defer is made, it must be accompanied by reasons for the deferment and must be followed by a subsequent report to accept or reject the applicant within a period of 30 days. Any recommendation for appointment shall include a delineation of privileges.

(D) The Director of the hospital in concurrence with the Director of Clinical Services shall either accept the recommendation of the credentials committee or shall refer it back for further consideration stating the reasons for such action. After further consideration the credentials committee will report to the Director and Director of Clinical Services who will take final action on the application.

(E) When a final decision has been made by the Director and Director of Clinical Services, they shall be authorized to transmit this decision to the candidate for employment, and if the candidate accepts employment, to secure his signed agreement to be governed by the bylaws, rules, and regulations.

(F) It is recommended that the Director and Director of Clinical Services may utilize the consultative services of the credentials committee in reviewing the credentials of paramedical personnel who are being considered for appointment to responsible positions of leadership at (fill in name) hospital.

(7) Reappointment Process

(A) At least 60 days prior to the final scheduled governing body meeting in the medical staff year, the executive committee of the medical staff shall review all pertinent information available on each practitioner scheduled for periodic appraisal, for the purpose of determining its recommendations for reappointments to the medical staff and for the granting of clinical privileges for the ensuing period, and shall transmit its recommendations, in writing, to the Director of Clinical Services. Where non-reappointment or a change in clinical privileges is recommended, the reason for such recommendation shall be stated and documented.

(B) Recommendations for reappointment shall normally be made by the credentials committee and shall normally be considered at the annual meeting.

(C) Each recommendation concerning the reappointment of a medical staff member and the clinical privileges to be granted upon reappointment shall be based upon such member's professional competence and clinical judgement in the treatment of patients, his ethics and conduct, his attendance at medical staff meetings and participation in staff affairs, his compliance with the hospital bylaws and the medical staff bylaws, rules and regulations, his cooperation with hospital personnel, his use of the hospital's facilities for patients, his relations with other practitioners, and his general attitude toward other practitioners, and his general attitude toward patients, the hospital and the public.

(D) Thereafter, the procedure provided in Part (d)(6)(C) to Part (d)(6)(F) of this Rule relating to recommendations on applications for initial appointment shall be followed.

(8) Appeals

(A) Should the superior of any physician or dentist recommend restriction or termination of the employment of any physician or dentist of the medical staffs, such recommendation will be forwarded in writing to the Director and Director of Clinical Services who in turn may, within a period of five days, refer said recommendation to the executive committee of the medical staff for review. The result of this review will be forwarded to the director within five days. If the Director and Director of Clinical Services accept the recommendation of the executive committee of the medical staff, said recommendation will be made known to the physician or dentist in question. The physician or dentist may, if he wishes, appeal his case to the regional director of mental health. Further appeal can be made by the physician or dentist in question to the Director of the Division of Mental Health Services, the Secretary of the North Carolina Department of Health and Human Services, and finally, to the State Personnel Board within a period not to exceed two weeks. Should the Director and Director of Clinical Services disagree with the recommendation of the executive committee of the medical staff committee, they can proceed with their decision after consulting with the regional director of mental health.

(B) (A) of this Subpart does not preclude the right of the Director and Director of Clinical Services to suspend any physician or dentist from his duties for flagrant misconduct pending the appeal mechanism as in (A) of this Subpart. Any superior recommending termination or restriction of the rights and privileges of a physician or dentist of the staff of this hospital must show cause for such recommendations. If the cause is basically performance, evidence shall be presented of two successive verbal warnings having been given as well as a written warning having been previously forwarded to the physician or dentist in question.

(9) Emergency and Temporary Privileges

(A) Regardless of his departmental staff status, in the case of an emergency, the physician attending any patient shall be expected to do all in his power to save the life of any patient at (fill in name) hospital including the calling of such consultation as may be available or desirable. For the purpose of this Subpart, an emergency is defined as a condition in which the life of the patient is in immediate danger and in which any delay in administering treatment would increase the danger.

(B) The Director and Director of Clinical Services of the hospital shall have the authority to grant temporary privileges to a qualified physician who is not a member of the medical staff. Such a physician shall work under the direct supervision of the Director and of the Director of Clinical Services of the hospital. Such temporary privileges shall last until the credentials committee meets, but not to exceed 30 days.

(e) Categories in the Medical Staff

(1) Divisions of Medical Staff. The medical staff shall be divided into honorary, visiting, active, and resident staffs.

(2) Honorary Staff. The honorary medical staff shall consist of physicians who are not active in the hospital and who are honored by emeritus positions. These may be physicians who have retired from active hospital service or physicians of outstanding reputation not necessarily resident in the community. The honorary staff is not eligible to vote or hold office, ordinarily does not admit patients, and shall have no assigned duties.

(3) Visiting Medical Staff

(A) The visiting medical staff shall consist of physicians of recognized professional ability who are active in programs carried out by the hospital or who have signified willingness to accept such appointment.

(B) The duties of the members of the visiting medical staff shall be to give their services in the care of patients on request of any member of the active medical staff or duties as designated by the Director or Director of Clinical Services of (fill in name) hospital.

(C) Consultants may be considered members of the visiting staff.

(4) Active Medical Staff

(A) The active medical staff shall consist of those physicians who are employed either full-time or part-time by (fill in name) hospital.

(B) The active medical staff shall consist of physicians who have been selected to transact all business of the medical staff and attend patients who are in the hospital and to whom all such patients shall be assigned. Only members of the active medical staff shall be eligible to hold office on committees of the medical staff.

(C) Members of the full-time active medical staff shall be required to attend three-fourths of the medical staff meetings.

(D) Members of the active medical staff shall be required to attend meetings of all committees upon which they agree to serve by virtue of appointment or election.

(E) Each active staff physician may have one and not more than two physicians' assistants and nurse practitioners under his supervision and responsibility in (fill in name) hospital, after first having the individual's credentials approved by the credentials committee and medical staff. These individuals will be registered and function in conformity with North Carolina General Statute 90-18(13), 1971.

(5) The House Staff

(A) The house staff consists of interns, assistant residents, and residents, who shall be assigned to the clinical departments in such numbers as may from time to time be decided by the Director and Director of Clinical Services.

(B) Members of the house staff must be graduates of or students in good standing of approved and recognized schools of medicine. Members of the house staff will perform such duties as may seem appropriate to the Director of the service to which they are assigned. Graduates of medical schools approved and recognized other than those in the United States, Canada, or Puerto Rico must present a valid certificate from the Educational Council for Foreign Medical Graduates, or a similar organization approved by the North Carolina State Board of Medical Examiners as an added condition of appointment.

(f) Determination of Qualifications

(1) Classification of Privileges

(A) Determination of privileges granted to members of the medical staff will be made by the Director and Director of Clinical Services of the hospital after recommendations of the executive committee of the medical staff. In determining these recommendations the executive committee of the medical staff shall consult with the medical staff and the members of the credentials committee.

(B) Restricting the privileges of any physician or dentist by reason of age or disability will be the duty of the Director and Director of Clinical Services at the request of the credentials committee. Any restrictions will be made known in writing to the involved physician or dentist. Should the physician or dentist refuse the recommended restriction or restrictions, he may appeal.

(2) Determination of Privileges

(A) Determination of initial privileges shall be based on an applicant's training, experience, and demonstrated competence. Determination of such recommended privileges shall be made by the credentials committee.

(B) Determination of extension of further privileges shall be based upon the applicant's training, experience and demonstrated competence, and his continued satisfactory performance of duties in the hospital.

(C) It shall be the duty of the credentials committee to recommend specific rights and privileges of each physician and dentist as practicing at (fill in name) hospital. Such recommendation will be made part of the minutes of that committee. This will include those physicians given the right to perform specialized procedures such as an electrocardiogram and liver biopsies. It shall in like manner be the duty of the credentials committee to recommend rights and privileges of paramedical staff.

(g) Officers and Committees

(1) Officers. The officers of the medical staff shall be the president, vice president, and secretary. Ultimate authority and accountability remain with the governing body and with the Director and Director of Clinical Services.

(2) Requirements to be Officers. Officers must be members of the active medical staff at the time of appointment or nomination and election and must remain members in good standing during their term of office. Failure to maintain such status shall immediately create a vacancy in the office involved.

(3) Election of Officers

(A) The president, the vice president, and the secretary shall be elected at the annual meeting of the medical staff. All officers shall be members of the active medical staff. Only members of the active medical staff shall be eligible to vote.

(B) The nominating committee shall consist of members of the active medical staff appointed by the president of the medical staff. This committee shall offer one or more nominees for each office.

(C) Nominations may also be made from the floor at the time of the annual meeting or be made by petition signed by at least five members of the active staff and filed with the Secretary of the medical staff at least 30 days prior to the annual meeting.

(4) Term. Elected officers shall serve a one year term from their election date or until a successor is elected. They shall take office on the first day of the medical staff year.

(5) Vacancies. Vacancies of the officers during the medical staff year shall be filled by the president of the medical staff.

(6) President. The president shall serve as the chief administrative officer of the medical staff to do the following:

(A) act in coordination and cooperation with the Director and Director of Clinical Services in all matters of mutual concern within the hospital;

(B) call, preside at, and be responsible for the agenda of all general meetings of the medical staff;

(C) serve as chairman of the medical staff executive committee;

(D) serve as ex officio member of all other medical staff committees without vote;

(E) be responsible for the enforcement of medical staff bylaws, rules, and regulations, for implementation of sanctions where these are indicated, and for the medical staff's compliance with procedural safeguards in all instances where corrective action has been requested against a practitioner;

(F) appoint committee members to all standing, special, and multidisciplinary medical staff committees except elected members of the executive committee and joint conference committee;

(G) represent the views, policies, needs, and grievances of the medical staff to the governing body and to the Director and Director of Clinical Services;

(H) receive and interpret the policies of the governing body to the medical staff and report to the governing body on the performance and maintenance of quality with respect to the medical staff's delegated responsibility to provide medical care;

(I) be responsible for the educational activities of the medical staff; and

(J) be the spokesman for the medical staff in its external professional and public relations.

(7) Absence of President. In the absence of the president, the vice president shall assume all the duties and have the authority of the president. He shall be a member of the executive committee of the medical staff and of the joint conference committee. He shall automatically succeed the president when the latter fails to serve for any reason.

(8) Secretary-Treasurer. The Secretary-treasurer shall be a member of the executive committee of the medical staff. The Secretary shall keep accurate and complete minutes of all medical staff meetings, call medical staff meetings on order of the president, attend to all correspondence, and perform such other duties as ordinarily pertain to his office. He shall be the Secretary of the ad hoc bylaws committee whenever it convenes, unless this becomes a standing committee.

(h) Committees

(1) Committees shall be designated as standing and special. All committee members other than elected members of the executive and the joint conference committee shall be appointed by the president of the medical staff. Committees shall be known as committees of the medical staff of the hospital and can include, other than members of the active medical staff, persons representing disciplines from within and without the hospital. Committee reports shall be filed in the Director's and director of clinical service's offices. The report of all committee meetings will be brought to the attention of the executive committee. It shall be the duty of the president or his designee to compile and present these committee reports for the consideration of the executive committee at its next regular meeting.

(2) The executive committee shall be composed of the president, vice president, secretary, and two other elected members of the medical staff. The Director and Director of Clinical Services shall be ex officio members.

(3) The executive committee shall be empowered to act on behalf of the medical staff. The committee shall meet at least monthly, and shall maintain a permanent record of its proceedings and actions. The Director and Director of Clinical Services shall attend all meetings of this committee. Functions and responsibilities of the executive committee include the following:

(A) to receive and act upon the reports of medical staff committees;

(B) to consider and recommend action to the Director and Director of Clinical Services all matters of a medico-administrative nature;

(C) to implement the approved policies of the medical staff;

(D) to make recommendations to the governing body;

(E) to take all reasonable steps to ensure professionally ethical conduct on the part of all members of the medical staff and to initiate such prescribed corrective measures as are indicated;

(F) to fulfill the medical staff's accountability to the governing body for the diagnosis, treatment and care rendered to the patients in the facility; and

(G) to ensure that the medical staff is kept abreast of the accreditation program and informed of the accreditation status of the facility.

(4) The following committees are essential and report to the executive committee of the medical staff:

(A) administrative committees which include the joint conference committee, the credentials review committee, and the accreditation committee; and

(B) clinical committees which include patient care evaluation, utilization review, medical records, tissue review, pharmacy and therapeutics, infections, and research.

(5) Committees may be combined consistent with proper management.

(i) Meetings

(1) Annual Meeting. The annual meeting of the medical staff shall be held near the end of the hospital fiscal year. At this time, the officers and committees shall make such reports as may be desirable; committee recommendations and committee appointments for the ensuing year shall be made.

(2) Monthly Meeting. The medical staff shall meet monthly to review the clinical work of the hospital since its last meeting and make recommendations for improvement. It will hear reports from the executive committee and the other standing committees. Business and other executive sessions of the medical staff will be conducted by the active staff except that other categories of the medical staff may be present and participate but without the right to vote.

(3) Special Meetings

(A) Special meetings of the medical staff may be called at any time by the Director, Director of Clinical Services, president of the medical staff or by written request of at least five members stating the purpose of the meeting. At any special meeting no business shall be transacted except that stated in the notice calling the meeting. Sufficient written notice of any meeting shall be provided at least 48 hours before the time set for the meeting.

(B) The joint conference committee will meet quarterly with the governing body.

(4) Attendance at Meetings

(A) Members of the active medical staff shall attend at least three-fourths of the regular staff meetings unless excused by the executive committee for just cause. Absence from more than one-fourth of the regular staff meetings of the year, unless excused by the executive committee for just cause such as sickness or absence from the community shall be considered a basis for disciplinary action.

(B) Reinstatement of members of the active staff to positions rendered vacant because of absence from meetings may be made on application, the procedure being the same as in the case of original appointment.

(C) Members of the honorary and visiting categories of medical staff shall not be required to attend meetings but it is expected that they will attend and participate in these meetings unless unavoidably prevented from doing so.

(D) A member of any category of the staff who has attended a case that is to be presented for discussion at any meeting shall be notified and shall be required to be present.

(5) Quorum. Fifty percent of the total membership of the active medical staff shall constitute a quorum.

(6) Agenda

(A) The agenda at any regular meeting shall be as follows:

(i) business, which includes call to order, acceptance of the minutes of the last regular and of all special meetings, unfinished business, communications, reports of standing and of special business committees, and new business; and

(ii) medical, which includes review and analysis of the clinical work of the hospital, reports of standing and of special medical committees, discussion and recommendations for improvement of the professional work of the hospital, and adjournment.

(B) The agenda at special meetings shall be as follows:

(i) reading of the notice calling the meeting,

(ii) transaction of the business for which the meeting was called, and

(iii) adjournment.

(7) Robert's Rules. Unless specified otherwise, Robert's Rules of Order will be followed at all medical staff meetings where business is conducted and at all committee meetings, except each committee may adopt its own rules or suspend the rules if a majority of members agree.

(8) Amendments. Amendments to these bylaws shall be made upon consideration and recommendation of the medical staff, the Director and Director of Clinical Services, and with approval of the governing body.

(9) Signatures. Adoption by the medical staff shall be indicated by signatures of the Director and Director of Clinical Services and the Director of the Division of Mental Health Services as the governing body.

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0400 - HOSPITAL BEHAVIOR THERAPY PROGRAMS

10A NCAC 28F .0401 SCOPE

(a) The purpose of Rules .0401 through .0406 of this Section shall be to set forth the requirements and general framework for behavior therapy programs used in the treatment of mental illness.

(b) The rules in this Section shall apply to behavior therapy programs in the regional psychiatric hospitals of the Division.

History Note: *Authority G.S. 143B-147;*
Eff. October 8, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0402 DEFINITIONS

For the purposes of the rules in this Section the following terms shall have the meaning indicated:

(1) Behavior therapy shall be defined as the systematic application of principles of conditioning and learning for the purpose of changing or remediating human behavior. In addition, behavior therapy shall meet the expanded definition set forth in Division publication HOSPITAL BEHAVIOR THERAPY PROGRAMS, APSR 115-2 (09/08/80), adopted pursuant to G.S. 150B-14(c).

(2) Hospital shall mean one of the regional psychiatric hospitals of the Division.

History Note: *Authority G.S. 143B-147;*
Eff. October 8, 1980;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0403 IDENTIFICATION OF BEHAVIOR THERAPY PROGRAMS

The Director of each hospital shall be responsible for the identification of treatment programs in the hospital that qualify as behavior therapy according to the definition given in Rule .0402(1) of this Section including the referenced definition in APSR 115-2 of the Division's administration publications system.

History Note: *Authority G.S. 143B-147;*
Eff. October 8, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0404 REQUIRED FACILITY MANUALS

The Director of each hospital shall be responsible for the development of a manual which shall establish the framework and general operating procedures for behavior therapy programs in the hospital. The manual shall not be overly constraining on the behavior therapy programs but shall serve as a general guide to clinical practice, within the legal and ethical constraints relating to client rights and accepted professional practice. The manual shall be available for information and inspection by hospital clients, staff, and the general public. Each manual shall address the following:

(1) definition of key terms employed;
(2) patients rights including but need not be limited to:
    (a) consent; and
    (b) disallowed procedures;
(3) staff qualifications;
(4) peer review procedures including a time schedule;
(5) training for personnel;
(6) records and documentation; and
(7) use of aversive (i.e., the application of noxious stimuli) and intrusive procedures including specifically:
    (a) documentation of alternative, positive approaches attempted, and documentation of consent to the specific program employed;
    (b) statement of minimum client rights to be observed for all patients in the program, citing relevant statutes and standards which shall include client rights as set forth in G.S. 122C-51 through 122C-58 and 122C-62 and 10A NCAC 28A, B, C and D, Division publication HUMAN RIGHTS FOR CLIENTS OF STATE OWNED AND OPERATED FACILITIES, APSM 95-1 (07/01/89), adopted pursuant to G.S. 150B-14(c).

(c) specific time schedule for peer review; and
(d) approval procedures, to include review by the Human Rights Committee, as provided in 10A NCAC 28A .0207 DUTIES.

History Note: *Authority G.S. 143B-147;*
Eff. October 8, 1980;
Amended Eff. March 1, 1990; April 1, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0405 REQUIRED PROGRAM MANUAL

(a) The Director of each behavior therapy program of a regional psychiatric hospital shall be responsible for the development of an operations manual which shall communicate the purpose and operating procedures of the program. The manual shall be available for information and inspection by hospital clients, staff, and the general public.

(b) The manual shall contain, but need not be limited to, the following:

(1) definition of key terms employed;
(2) the target populations and behaviors;
(3) the choice of treatment methods and techniques;
(4) goals of treatment;
(5) voluntary participation of the client; and
(6) evaluation of treatment.

History Note: *Authority G.S. 143B-147;*
Eff. October 8, 1980;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0406 INSTITUTIONAL BEHAVIOR THERAPY COMMITTEE

(a) The Director of each hospital shall establish an institutional behavior therapy committee to:

(1) review, at least annually, program-wide applications of behavior therapy (e.g., Behavior Therapy Ward);
(2) be available for consultation to unit or program directors; and
(3) investigate an established program or an individual application of behavior therapy upon request of the hospital director.

(b) The committee shall consist of six persons, the majority of whom are professionals with training and experience in the field of behavior therapy. Among the six shall also be a representative of the Human Rights Committee and a psychiatrist.

(c) All committee members, with the exception of the representative of the Human Rights Committee, shall be division employees unless the hospital director requests from the Division director the appointment of one member outside the Division.

History Note: *Authority G.S. 143B-147;*
Eff. October 8, 1980;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0500 - DESIGNATION OF RESEARCH FACILITIES IN REGIONAL PSYCHIATRIC HOSPITALS

10A NCAC 28F .0501 SCOPE

The rules in this Section establish procedures by which a regional psychiatric hospital may be designated as a facility where adults who are not otherwise admissible as clients, because of an absence of mental illness, may be voluntarily admitted for the purposes of research.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0502 APPLICATION

(a) Application for designation shall be made to the Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3001 Mail Service Center, Raleigh, NC 27699-3001.

(b) The application for designation shall be in letter form and shall include the following:

(1) name and address of facility;
(2) description of the organization of research within the facility;
(3) description of the types of research currently conducted at the facility;
(4) description of the types of research for which designation is requested;
(5) description of the conditions under which individuals, admitted under this designation, would be housed and maintained;
(6) assurance of an active Human Rights Committee including its operating rules; and
(7) description of the procedures by which the medical records and statistics would be maintained for the individuals who would be admitted under terms of G.S. 122C-210.2.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0503 REVIEW PROCESS

Upon receipt of the application and prior to granting designation, the Division director shall evaluate the application according to the following criteria:

(1) consistency of the research, currently conducted and proposed, with division goals and priorities;
(2) adequacy of procedures by which medical records and statistics would be maintained separate from those kept for regularly admitted clients;
(3) existence of an active Human Rights Committee with adequate operating rules which give the committee the authority to monitor the care of individuals admitted for research;
(4) adequacy of the facility's capacity to house and maintain persons admitted under this designation in a safe manner; and
(5) any other criteria deemed relevant by the Division director.

History Note: *Authority G. S. 122C-112(b)(3); 122C-210.2;*
Eff. December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0504 DESIGNATION

(a) The Division director shall notify the applicant of his decision in writing within 60 days of receipt of a complete application.

(b) Designation shall be for a specified period of time, not to exceed two years, and stated in the written decision.

(c) The Division director shall terminate the designation upon finding that the facility no longer meets the qualifications for designation or upon request by the facility director that designation be terminated.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. December 1, 1988;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0600 - VOLUNTARY ADMISSION OF ADULTS WHO ARE NOT OTHERWISE ADMISSIBLE AS CLIENTS TO DESIGNATED RESEARCH FACILITIES IN REGIONAL PSYCHIATRIC HOSPITALS

10A NCAC 28F .0601 SCOPE

The rules in this Section establish standard procedures and uniform criteria for voluntary admissions of adults to regional psychiatric hospitals designated as research facilities within the provisions of Part I of Article 5 of Chapter 122C of the General Statutes. These individuals would not otherwise be admissible as clients under G.S. 122C-211 because of an absence of mental illness. Their reason for being admitted is to serve in approved research projects.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0602 EXPLANATION OF TERMS

For the purposes of the rules in this Section the following terms shall have the meanings indicated:

(1) "Hospital" means one of the regional psychiatric hospitals of the Division.
(2) "Designated research facility" means a regional psychiatric hospital which has met the requirements of 10A NCAC 28F, .0500.
(3) "Principal investigator" means the person, or his designee, who has overall responsibility for the conduct for the proposed research.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0603 APPLICATION FOR ADMISSION

The application for admission to participate in a specific research program shall be in writing and signed by the individual requesting admission to a designated research facility.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0604 GENERAL CRITERIA FOR VOLUNTARY ADMISSION

(a) When an individual request admission to a designated research facility the admission staff shall determine from the principal investigator that admission to the hospital is for a specific research project that has been approved by the facility's Human Rights Committee and the designated Institutional Research Committee.
(b) Upon admission to the designated research facility, the admission staff shall:

(1) verify that the individual has been informed by the principal investigator of the nature of the procedures which will be employed as part of the research protocol; and
(2) verify that the individual has signed the informed consent form covering participation in the research project.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0605 RECORD KEEPING

(a) A client record shall be maintained for each individual and shall include but not be limited to:

(1) application for admission;
(2) signed informed consent form covering participation in the project;

(3) physical examination and review of systems;
(4) description of procedures performed;
(5) special tests;
(6) adverse reactions and incidents; and
(7) termination summary.

(b) A complete description of medications administered shall be placed in the client record when it no longer would interfere with the purpose of the research to do so.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0606 DISCHARGE

(a) An individual who has been admitted under the provisions of these rules shall be kept in the hospital no longer than is indicated by the research protocol under which he was admitted.

(b) An individual who has been admitted under the provisions of these rules shall be discharged upon his own request. The discharge request shall be in writing.

(c) An individual who has been admitted under the provisions of these rules may be discharged by the facility at any time.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. January 1, 1989;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0607 PAYMENT FOR PARTICIPATION

Reasonable compensation may be paid to individuals admitted under the provisions of these rules, for their services in participation in research projects, provided that such compensation is paid from research grant funds.

History Note: *Authority G.S. 122C-112(b)(3); 122C-210.2;*
Eff. January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0700 - ADMISSION OF DEAF CLIENTS TO STATE PSYCHIATRIC HOSPITALS AND TRANSFER OF DEAF CLIENTS TO DOROTHEA DIX HOSPITAL

10A NCAC 28F .0701 PURPOSE AND SCOPE

(a) The purpose of the rules in this Section is to set forth procedures for State psychiatric hospitals when establishing policy for the:
(1) admission of deaf clients to State psychiatric hospitals; and
(2) transfer of deaf clients from State psychiatric hospitals to the Dorothea Dix Hospital Deaf Unit (DDHDU).

(b) These Rules shall be used in conjunction with the transfer requirements in G.S. 122C-206 and rules contained in 10A NCAC 28F .0200.

History Note: *Authority G.S. 122C-206; 143B-147;*
Eff. March 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0702 DEFINITIONS

For the purpose of the rules in this Section, the following terms shall have the meanings specified:

(1) "Certified interpreter" means an interpreter who is certified by the National Registry of Interpreters for the Deaf (NRID), or has received an A or B degree in the North Carolina Interpreter Classification System.
(2) "Clinical impressions" mean information provided by the Regional Adult Coordinator of Mental Health Services for the Deaf to assist in differentiating psychiatric conditions from the cultural norms of deafness.
(3) "Deaf client" means an individual who is admitted to a State psychiatric hospital and:
    (a) has a severe to profound hearing loss;
    (b) utilizes any modality of sign language as the primary means of communication; or
    (c) would benefit from a signing environment.
(4) "Dorothea Dix Hospital Deaf Unit" means the statewide 17-bed co-ed psychiatric unit for deaf adults (age 18 and above) located on the Dorothea Dix Hospital campus.
(5) "Regional adult coordinator of mental health services for the deaf" means the professional who provides mental health services for deaf adults through the Division's designated regional deaf service centers.

History Note: *Authority G.S. 122C-206; 143B-147;*
Eff. March 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0703 ADMISSION OF DEAF CLIENTS TO STATE PSYCHIATRIC HOSPITALS

(a) Except for Dorothea Dix Hospital, upon admission of a deaf client to a State psychiatric hospital, the hospital shall adhere to the following procedures:
(1) within 24 hours, the responsible professional designated by the hospital director shall notify the Regional Adult Coordinator of Mental Health Services for the Deaf to arrange an assessment of the deaf client;
(2) within 60 hours of notification by the hospital, the Regional Adult Coordinator shall perform the assessment which shall become part of the primary client record and shall include, but not be limited to:
    (A) an evaluation of the deaf client's language and communication abilities;
    (B) cultural and social information;
    (C) clinical impression; and
    (D) recommendations.

(b) Each State psychiatric hospital that admits a deaf client shall be responsible for obtaining and providing interpreter services from the time of admission until the client is transferred.

History Note: *Authority G.S. 122C-206; 143B-147;*
Eff. March 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0704 TRANSFER OF DEAF CLIENTS TO THE DOROTHEA DIX DEAF UNIT

(a) A voluntarily admitted deaf client, who has been determined by the treatment team to require a hospital stay of 15 days or more, shall be eligible for transfer to the DDHDU at the time of such determination.
(b) An involuntarily admitted deaf client who, after the initial court hearing is committed shall be eligible for transfer to the DDHDU after the initial court hearing.
(c) Upon transferring a client to the DDHDU, as determined in Paragraphs (a) or (b) of this Rule, the responsible professional at the sending facility shall:
(1) comply with the transfer requirements set forth in G.S. 122C-206 and 10A NCAC 28F .0200; and
(2) explain and ensure that the process for transfer is interpreted by the Regional Coordinator or a certified interpreter.

History Note: *Authority G.S. 122C-206; 143B-147;*
Eff. March 1, 1995;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0705 DOROTHEA DIX HOSPITAL DEAF UNIT

(a) The Director of Admissions at Dorothea Dix Hospital shall forward the information required in Rule .0704 of this Section to the Coordinator of the Deaf Unit.

(b) The Director of Admissions, the Coordinator of the Deaf Unit, and the responsible professional at the sending facility shall mutually determine the date of transfer.

(c) The Director of Admissions and the Coordinator of the Deaf Unit may refuse to accept a transfer if the client is determined to be inappropriate for transfer:

(1) the Coordinator of the Deaf Unit shall consult with the State Coordinator of Mental Health Services for the Deaf; and

(2) such refusal of transfer shall be documented by both facilities involved, in order to provide background information should a review of the decision be requested.

(d) The Dorothea Dix Hospital Admissions Office shall:

(1) complete a new "Identification/Face Sheet-Form A" upon receiving a transferred client; and

(2) incorporate into the primary client record, information which is generated by the DDHDU.

(e) The DDHDU treatment team and the appropriate area program shall be responsible for discharge planning, and shall ensure that:

(1) all transferred clients shall be directly discharged from the DDHDU to the community;

(2) a copy of the aftercare plan is shared with the appropriate Regional Coordinator upon consent of the client, the legally responsible person, and with the sending hospital; and

(3) transportation for discharged clients shall be provided in accordance with established transportation policy of Dorothea Dix Hospital.

History Note: *Authority G.S. 122C-206; 143B-147;*
Eff. March 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0800 – GENERAL RULES FOR MR CENTERS

10A NCAC 28F .0801 VOLUNTARY ADMISSIONS TO MR CENTERS

(a) The procedures of this Rule shall apply to all state institutions for the mentally retarded.

(b) Any minor, or parent of any minor, or guardian of any minor may request voluntary admission to a mental retardation facility for such person by signing a standard form requesting voluntary admission. Such forms shall be available at each mental retardation center.

(c) Any adult, or any incompetent adult's guardian may request voluntary admission for the person to any mental retardation center of the Division by signing a standard form requesting admission for the person to the mental retardation center. Such forms shall be available at each mental retardation center.

(d) Admissions shall be considered appropriate when community resources to meet the needs of the individual have been explored and it is determined that community services are not available.

(e) Except in emergency cases, a person shall be admitted only if he has been comprehensively evaluated by an interdisciplinary team of mental retardation specialists.

(f) All admissions to the regional mental retardation centers shall be considered time limited, goal-oriented, and subject to periodic review to determine the appropriateness of continued treatment, training, or discharge.

(g) Parents, guardians, and applicants shall be counseled prior to admission on the relative advantages and disadvantages of institutionalization and the goals of treatment or training.

(h) Any minor resident of a center for the mentally retarded may be removed from the center at any time by the parent or guardian of the minor.

(i) Any adult resident of a center for the mentally retarded who has been voluntarily admitted and has not been judicially declared to be incompetent may leave the center without permission at any time.

(j) Except in emergency cases, children less than six years of age shall not be admitted to a center for the mentally retarded.

History Note: *Authority G.S. 122C-112; 122C-114; 143B-147;*

Eff. February 1, 1976;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0802 CRITERIA FOR ADMISSION

Except in cases of admission for respite care persons shall be admitted to a regional mental retardation center of the division only upon the determination by the center that the following criteria are met:

(1) The parent or parents, guardian or guardians, or person or persons standing in loco parentis cannot reasonably provide for the habilitation and maintenance needs of the person due to the person's retardation or the person's mental retardation accompanied by physical handicaps;

(2) There is no community-based program available to the person which can provide for the habilitation and maintenance needs of the person; and

(3) The habilitation and maintenance needs of the person can best be met at the mental retardation center.

History Note: *Authority G.S. 122C-112; 122C-181; 122C-241; 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0803 RESPITE CARE

(a) Persons may be admitted to the regional mental retardation centers for respite care. Respite care may be afforded a person for one of the following three reasons:

(1) Regular Respite Care. A parent, guardian or other person responsible for the care of a mentally retarded person requires relief from the care of a mentally retarded person for such reasons as a family vacation or the need for home rest.

(2) Respite Care for Behavior Management. A parent, guardian or other person responsible for the care of a mentally retarded person requires relief from the care of a mentally retarded person who is presenting severe behavioral problems which either disrupt or interfere with normal family functioning. Respite care for this purpose is offered to allow the family time to rest as well as to explore local community resources and services, which could be utilized following discharge.

(3) Emergency Respite Care. The death or temporary loss of a parent, guardian or other responsible person, or any other situation leaves the mentally retarded person without supervision or care. Respite care for this purpose is offered to provide temporary care while community resources and services which could be utilized following discharge can be explored by the agency initiating the application.

(b) Respite care admissions shall normally be for a period not to exceed 30 days. If a caregiver requests, an additional 30 days may be granted and the admission status shall be changed from respite care to some other category.

(c) Respite care admissions, except emergency respite care admissions, shall be scheduled and all required admission data supplied at least two weeks prior to admission.

History Note: *Authority G.S. 122C-112; 122C-181; 122C-241; 143B-147;*
Eff. February 1, 1976;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0804 PRIORITY OF ADMISSION

Equal priority for admission to a mental retardation center shall be given to all applicants except that first priority shall be given to Willie M. class members according to the provisions of 10A NCAC 29A .0101 through .0106 which are available in division publication APSR 45-8.

History Note: *Authority G.S. 122C-112; 122C-181; 122C-241; 143B-147; S.L. 1981, Ch. 859;*
Eff. February 1, 1976;

Amended Eff. March 1, 1990; February 1, 1982; September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0805 REGIONS

A prospective resident may be admitted only to the regional mental retardation center located in the region in which he is domiciled, except that the Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services may permit the admission of a person with special needs to a regional mental retardation center other than that located in the region in which the person is domiciled, when the center to which the person is seeking admission offers a special program not available at the center in the region in which the person is domiciled.

History Note: *Authority G.S. 122C-122; 122C-181; 122C-241; 143B-147;*
Eff. February 1, 1976;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0806 DISCHARGE

A resident of a mental retardation center of the division shall be discharged if one or more of the following occur:

(1) One or more of the criteria for admission seen in Rule .0802 of this Section is not met;
(2) The resident completes the habilitation program for which he was admitted and the criteria for admission seen in Rule .0802 of this Section are not otherwise met;
(3) The resident requests discharge and the resident is not a minor or judicially declared incompetent;
(4) The resident's parent or guardian requests discharge and the resident is a minor;
(5) The resident's guardian requests discharge and the resident has been judicially declared incompetent;
(6) The director of the mental retardation center determines that it is not in the best interest of the resident or the center for the resident to be retained at the center; and
(7) When the term of a planned contractual agreement with the resident, the resident's parent, the resident's guardian, or the person standing in loco parentis to the resident has expired and agreement has not been reached on a new contract.

History Note: *Authority G.S. 122C-112; 122C-181; 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0900 – VOLUNTARY ADMISSION AND DISCHARGE TO ALCOHOLIC REHABILITATION CENTERS (ARCS)

10A NCAC 28F .0901 SCOPE

The rules in this Section apply to voluntary admissions and discharges of all clients to alcoholic rehabilitation centers (ARCs). The criteria and procedures shall be followed by staff of ARCs and by area program staff making referrals to ARCs.

History Note: *Authority G.S. 122C-112; 122C-181; 122C-211; 2C-212; 143B-147;*
Eff. April 1, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0902 PROCEDURES FOR VOLUNTARY ADMISSION AND DISCHARGE

(a) Evaluation. Any person voluntarily seeking admission shall receive an evaluation to include a physical examination by a staff physician of the ARC within 24 hours of the time of presentation for admission. Only those persons who have been determined to be in need of treatment or evaluation available at the ARC and who will be able to benefit from the program and services offered at the ARC shall be admitted. In making the decision,

consideration shall be given to the effects of any previous treatment efforts in reducing or exacerbating the person's problems.
(b) Evaluation in Writing. The evaluation shall be in writing and shall state whether the person is in need of admission for treatment or further evaluation of alcoholism or drug dependency.
(c) Nonacceptance. If the examining physician at the ARC determines that the person is not in need of admission for treatment or further evaluation, or that another facility to which application for admission is made does not provide the requisite evaluation or indicated treatment services, the person shall not be accepted as a client, but other appropriate suggestions and referrals shall be made as indicated to meet the person's need. If the person is not admitted to the ARC, personnel from the ARC shall notify the referral source and specify reasons for nonacceptance and inform the referral source as to the status of the person's receiving services from another provider. If it is determined the client can be more appropriately served in the community, based on evaluation of the client's needs and consideration of resources available in the community, the client shall be referred to the community program.
(d) Leaving Against Medical Advice. A client, a client's parent if a minor, or a client's guardian, if a minor or incompetent, upon the client's leaving an ARC against the advice of the attending physician will be given the opportunity, though not required, to sign a form relieving the ARC and the staff of the ARC from liability for any consequences of the client's departure from the ARC. Such forms shall be available at every state ARC.
(e) Contracts. There shall be written agreements between area authorities and alcoholic rehabilitation centers specifying policies and procedures in admitting, providing services to, referring and discharging persons.

History Note: *Authority G.S. 122C-112; 122C-181; 122C-211; 122C-212; 143B-147;*
Eff. April 1, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .0903 APPOINTMENTS FOR ADMISSION
(a) Arrival at an ARC without an appointment may result in admission being delayed because of lack of bed space. However, if bed space is not available, ARC staff shall contact the appropriate area program or the closest emergency room in order to arrange for placement of the client until bed space is available.
(b) Individuals transporting persons seeking admission to an ARC shall remain with the person until a determination has been made as to the availability of bed space.

History Note: *Authority G.S. 122C-112; 122C-181; 122C-211; 143B-147;*
Eff. February 1, 1982;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .1000 - PROBATION AND DISCHARGE

10A NCAC 28F .1001 PROBATION AND DISCHARGE
(a) A patient at an alcohol and drug abuse treatment center may be placed on probation by the clinical team for failure to adhere to the prescribed treatment plan or any other violation of the rules and regulations of the alcohol and drug abuse treatment center. Persons placed on probation shall be counseled to assure that they understand the rules, including their right to file a grievance as specified in 10A NCAC 28B .0203 STATE FACILITY GRIEVANCE PROCEDURE AND REPORTS, Division publication HUMAN RIGHTS FOR CLIENTS IN STATE OWNED AND OPERATED FACILITIES, APSM 95-1, 07/01/89, adopted pursuant to G.S. 150B-14(c).
(b) Probation shall be for a period of one week from the detection of the violation.
(c) Patients committing one of the violations listed in Part (a) of this Rule while on probation may be discharged by vote of the clinical team, who will ensure the patients' understanding of the right to file a grievance as cited in Paragraph (a) of this Rule.

History Note: *Authority G.S. 122C-181; 143B-147;*
Eff. February 1, 1976;
Amended Eff. August 1, 1990; March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28F .1002 CENTER RULE VIOLATION

Any patient who commits one or more of the following acts may be immediately discharged from an alcoholic rehabilitation center:

(1) drinking alcohol,
(2) taking unauthorized drugs,
(3) possession of alcohol,
(4) possession of unauthorized drugs,
(5) unacceptable social behavior,
(6) theft, or
(7) violent behavior.

Persons exhibiting violent behavior as a result of serious emotional or psychiatric problems may be transferred to other institutions of the division better able to treat the emotional or psychiatric problems.

History Note: *Authority G.S. 122C-181; 143B-147;*
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SUBCHAPTER 28G – WHITAKER SCHOOL

SECTION .0100 – GENERAL RULES

10A NCAC 28G .0101 DEFINITIONS

For the purposes of the rules in this Subchapter, the following terms shall have the meanings indicated:

(1) The "program" means the Whitaker School. It is a program providing treatment and education for emotionally disturbed children who are either multi-handicapped or chronically impaired. The program emphasizes psychological, social and educational rehabilitation. The treatment model is based on re-education theory rather than traditional psychiatric treatment.
(2) A "group" is a sub-unit of the program consisting of eight children of the same sex. There shall be three groups of children in the program, two groups for males and one group for females.
(3) A "regional placement committee" is a committee in each of the four regions of the state composed of no more than five representatives appointed by the Mental Health, Developmental Disabilities and Substance Abuse Services regional director. Each committee shall have at least three members who are formally licensed or certified to practice their professions and are fully qualified professionals as defined in G.S. 122C-3(31). One of the members' area of expertise shall be in mental retardation and at least two of these shall represent different mental health disciplines.
(4) "Seclusion" is the placement of a child alone in a locked room when such placement of the child is neither a part of a systematic behavior change program written in the treatment plan nor a part of the procedural guidelines for at-risk procedures.
(5) The "therapeutic hold" is the act of a staff member physically holding a child to protect the child from hurting himself or herself, from hurting others, or from destroying property.
(6) "Time out" is the use of a designated room which may have a closed door but which shall not be locked, for the purpose of removing the child from a stressful situation.

History Note: *Authority G.S. 143B-147;*
Eff. March 24, 1981;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0102 REFERRAL PROCESS

(a) Prospective clients for the program shall be referred by any individual or public agency to the local area mental health, mental retardation and substance abuse program.

(b) Any local area program that receives a referral of a prospective client shall conduct a diagnostic evaluation in accordance with 10 NCAC 18B .1218(8).
(c) If the results of the diagnostic evaluation indicate that such referral is appropriate, the Director of the area program shall refer the prospective client to the appropriate regional placement committee.

History Note: *Authority G.S. 143B-147(a)(2)(a);*
Eff. March 24, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0103 REVIEW BY THE REGIONAL PLACEMENT COMMITTEE
(a) Upon receipt of the evaluation of a prospective client, the regional placement committee shall review the evaluation in order to determine whether placement in the program would be appropriate for the prospective client. Such determination shall be made by the committee within 30 days.
(b) In considering appropriateness for placement, the committee shall determine the following:
(1) that the child is considered seriously emotionally disturbed, and either multi-handicapped or chronically impaired;
(2) that the child is between the ages of 10 and 18;
(3) that community and other residential placement have been considered and have been judged inappropriate; and
(4) that placement in the program is the least restrictive, appropriate environment.
(c) The regional placement committee shall recommend placement to the Director of the Division of Mental Health, Developmental Disabilities and Substance Abuse Services. Upon review and approval by the Division director, the Director of the program shall accept the child for placement. Placement shall be made within two weeks of acceptance, if space is available. If no space is immediately available, the estimated length of time until the next opening shall be conveyed to the regional placement committee.
(d) Placement in the program shall be limited to two children per region per group, unless this limitation is waived by the Division director.
(e) Only children recommended by the regional placement committee may be placed in the program except that the Secretary of the Department of Health and Human Services may place children pursuant to G.S. 7A-652(e).
(f) Priority for admission shall be given to Willie M. class members according to the provisions of 10A NCAC 29A .0101 through .0106 which are available in division publication APSR 45-8.

History Note: *Authority G.S. 122C-181; 143B-147; S.L. 1981, Ch. 859;*
Eff. March 24, 1981;
Amended Eff. February 1, 1982; September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0104 ADMISSION TO THE PROGRAM
(a) A parent, guardian or person standing in loco parentis of a child recommended by the regional placement committee or transferred by the Secretary of Health and Human Services shall request voluntary admission of the child to the program.
(b) The program shall have admission forms available.
(c) Upon completion of the diagnostic evaluation, recommendation by the regional placement committee, approval by the Division director, and the availability of space, the child shall be admitted in accordance with the provisions of Article 4, Chapter 122C of the North Carolina General Statutes.

History Note: *Authority G.S. 143B-147(a)(2)(a);*
Eff. March 24, 1981;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0105 REVIEW OF APPROPRIATENESS OF ADMISSION

After admission of the child, review procedures of Article 4, Chapter 122C of the North Carolina General Statutes shall be followed.

History Note: *Authority G.S. 143B-147(a)(2)(a);*
Eff. March 24, 1981;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0106 TREATMENT AND EDUCATION PLAN

(a) Within 24 hours of admission to the program a preliminary treatment plan shall be developed and implemented for the child. The treatment plan shall be based on a diagnostic study, including a physical examination performed at admission.

(b) Within 30 days of admission, each client shall have a treatment plan, as required by G.S. 122C-57 and an individual education plan, as required by G.S. 115C-113, both to cover a period of three months.

(c) A copy of the child's treatment plan and individual education plan shall be furnished to the parent, guardian, or person standing in loco parentis.

(d) Copies of the treatment plan and individual education plan may be released to other persons or agencies within the limits of the Division's Confidentiality Regulations as codified in 10A NCAC 26B and published in APSM 45-1.

History Note: *Authority G.S. 143B-147(a)(2)(a);*
Eff. March 24, 1981;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0107 PLAN FOR DISCHARGE

(a) A discharge plan shall be developed jointly by the program staff, the area mental health, mental retardation and substance abuse program staff, the child's parent or guardian, and the child.

(b) At least two weeks prior to discharge, the child shall have a completed discharge plan setting forth recommendations for meeting the child's treatment and education needs.

History Note: *Authority G.S. 122C-57; 143B-147;*
Eff. March 24, 1981;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0108 TIME OUT

(a) Time out procedures which employ the use of a time out room shall be implemented only upon the approval of the group supervisor. The use of such time out room procedures shall meet the minimum conditions expressed in this Rule.

(b) The time out room shall be as follows:

(1) a permanent structural entity;
(2) constructed with an observation window or video tape equipment for monitoring;
(3) at least 80 square feet in floor space;
(4) adequately ventilated;
(5) adequately lighted either naturally or with artificial light;
(6) constructed so as to have a slip resistant, resilient floor; and
(7) located in a manner that will facilitate easy and speedy access.

(c) A record shall be maintained which indicates the specific behavior for which the time out room procedure was used and shall include the child's name, the date, and time of entry into the time out room and the time of exit. The name of the staff person who placed the child in time out shall also be entered on the data sheet.

(d) The program director shall review the time out room data sheets or a summarization of the data sheets at least every month.

(e) General use of the time out room for a child shall be prohibited. The group supervisor shall approve time out room usage for specific behaviors and not for children without specifying the behaviors.
(f) The use of a time out room requires adherence to the principle that the longer the child is in time out the lesser the effect on behavior. Time out room periods in excess of 15 minutes per child at any one time or an aggregate time out in excess of three hours in any 24 hour period shall be documented by very thorough justification.

History Note: *Authority G.S. 122C-62; 143B-147;*
Eff. March 24, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0109 SECLUSION
(a) Seclusion shall not be employed for any child unless imminent harm to the child or others exists. Seclusion shall be used only upon the approval of the group supervisor. Immediate action to develop a suitable program shall be implemented for the child.
(b) The seclusion room shall follow the description provided in Rule .0108(b) of this Section for time out room.
(c) A record shall be maintained which indicates the specific behavior for which the seclusion procedure was used and shall include the child's name, the date, and time of entry into seclusion and the time of exit. The name of the staff person who placed the child in seclusion shall also be entered on the data sheet.
(d) The program director shall review the seclusion data sheets or a summarization of the data sheets at least weekly.
(e) General use of seclusion for a child shall be prohibited. The group supervisor shall approve seclusion for specific behaviors and not for children without specifying the behaviors.
(f) The use of seclusion requires adherence to the principle that the longer the child is in seclusion the lesser the effect on behavior. Seclusion periods in excess of 15 minutes per child at any one time or an aggregate time out in excess of three hours in any 24 hour period shall be documented by very thorough justification.

History Note: *Authority G.S. 122C-60; 122C-62; 143B-147;*
Eff. March 24, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28G .0110 THERAPEUTIC HOLD
(a) No physical restraint shall be employed beyond the use of the therapeutic hold.
(b) Therapeutic hold shall under no circumstances be used as a punishment.
(c) Therapeutic hold shall be employed only after less restrictive measures have failed to provide safety to the child and others.
(d) Therapeutic hold shall under no circumstances be used in lieu of developing an intervention program designed to change the behavior necessitating therapeutic hold.
(e) Records on the use of therapeutic hold shall be filed in the master record.
(f) Only staff persons trained in the use of the therapeutic hold may use this treatment technique. Only training provided by the program director shall be approved.

History Note: *Authority G.S. 122C-60; 122C-62; 143B-147;*
Eff. March 24, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SUBCHAPTER 28H – WRIGHT SCHOOL

SECTION .0100 - ADMISSIONS

10A NCAC 28H .0101 ELIGIBILITY REQUIREMENTS

(a) Wright School shall serve only children who are recommended for admission by its admissions committee and meet the following requirements:

(1) patients ages 6 through 13, provided the admissions process is initiated prior to attaining the age of 13;
(2) patients functioning in the slow learner to average to gifted range of intelligence exclusive of mental retardation;
(3) patients without physical disabilities;
(4) patients who are able to relate within a small group "open setting";
(5) patients mildly to moderately emotionally disturbed, not mentally ill; and
(6) patients whose parents or guardians are willing to be involved in a treatment plan for the patient to the extent that the staff of Wright School deems necessary.

(b) Priority for admission shall be given to Willie M. class members according to the provisions of 10A NCAC 29A .0101 through .0106 which are available in division publication APSR 45-8.

History Note: *Authority G.S. 122C-181; 143B-147; S.L. 1981, Ch. 859;*
Eff. September 15, 1978;
Amended Eff. February 1, 1982; September 30, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28H .0102 REFERRAL PROCEDURE

(a) Parents or any concerned party wishing to refer a child to Wright School may obtain a "referral packet" from Wright School. They may complete and submit the data requested therein. This data consists of the following:

(1) a referral form identifying the child as to age, sex, grade, school, and referring agent and giving permission to contact the child's school;
(2) a letter from the parents requesting admission and stating the child's behavioral problems and a description of the family; and
(3) a behavioral checklist stating a list of behaviors as observed by the parents.

(b) Wright School shall ask the child's school to complete a behavioral checklist.

History Note: *Authority G.S. 143B-147;*
Eff. September 15, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28H .0103 INITIAL EVALUATION

The admissions committee shall make an initial evaluation of the application for admission resulting in one of the following actions:

(1) If the child is to be considered for admission, the application shall be referred to the professional staff for additional data collecting; or
(2) If the child is not one to be considered for admission, the parents and referring agency shall be notified accordingly.

History Note: *Authority G.S. 143B-147;*
Eff. September 15, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28H .0104 FINAL EVALUATION

All applicants being considered for admission after the initial evaluation shall be referred to the professional staff for additional data collecting. This data shall include interviews with the child, the child's parents, teachers, and any other persons having significant knowledge of the child. Considering this data, the admissions committee shall make a final evaluation of the application. Accepted applications shall be processed. If the child is not accepted for admission, the parents and referring agency shall be notified.

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

Eff. September 15, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28H .0105 MEDICAL EXAMINATION

Parents of children entering Wright School shall have their child examined by a physician prior to admission. On the day of admission the parents shall submit a completed and signed standard medical application form. This form shall include a medical history as well as the report of a physical examination by a physician.

History Note: *Authority G.S. 143B-147;*
Eff. September 15, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28H .0106 DAY PATIENTS

On the day of admission parents of patients shall complete and sign a memorandum of understanding for the payment of fees and child participation in the program.

History Note: *Authority G.S. 143-117;*
Eff. September 15, 1978;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28H .0107 FORMS AFFECTING RIGHTS

The admission of a child shall require the filing by the parents and child of several forms provided by the residential unit which may affect the patient's rights. They are as follows:

(1) Instruction Sheet for Parents--parents' acknowledgement of the school's arrangements for such matters as the child's pet, allowance, and communication with their child;
(2) Media Release Form--gives Wright School parental permission to take pictures for treatment and training purposes;
(3) Application Form--provides Wright School with familial data, including the child's characteristics, for research purposes;
(4) Field Trip Permission--provides to Wright School the parental consent for the child's participation in field trip activities;
(5) Media Contract--gives Wright School permission to videotape meetings and activities with parents for training purposes;
(6) Parents' Agreement--parents agree to certain arrangements regarding clothing, communications, spending money, etc.:
(7) Weekly and Vacation Diary Report--forms which tell about the student's activities while away from Wright School; and
(8) Emergency Medical Form--gives permission for medical care and surgical procedures necessary in life-threatening situations.

History Note: *Authority G.S. 143B-147;*
Eff. September 15, 1978;
Amended Eff. March 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28H .0108 PATIENTS' MONEY

All patients' money shall be kept by the patients' teachers except during supervised spending times. Parents shall be notified of the existence of this Rule at the time the child is admitted to Wright School.

History Note: *Authority G.S. 143B-147;*
Eff. September 15, 1978;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0200 - MISCELLANEOUS

10A NCAC 28H .0201 VOLUNTEERS

Volunteers and students may be used to assist in the programs of Wright School. Those interested in volunteer and student work may apply for such work at the school.

History Note: *Authority G.S. 143B-147;*
Eff. September 15, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28H .0202 TRAINING SERVICES PROCEDURE

(a) Training services for persons in the field of treatment of emotionally disturbed children may be obtained from Wright School training division by contacting Wright School. The initial request for services shall include the need, the place, persons, and alternate dates.
(b) The training division shall process the request and in cooperation with the requesting party make a design for implementation of training. A contract to conduct this program shall be drawn up and signed by both administrative staffs.
(c) Evaluations shall be completed according to agreements worked out between contracting parties and disseminated to identified personnel of both agencies.

History Note: *Authority G.S. 143B-147;*
Eff. September 15, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SUBCHAPTER 28I – OTHER RULES PERTAINING TO STATE OPERATED FACILITIES AND SERVICES

SECTION .0100 – RULES GOVERNING DEPORTMENT: TRAFFIC, PARKING AND REGISTRATION OF VEHICLES AT DIVISION FACILITIES

10A NCAC 28I .0101 SCOPE

The provisions of Rules .0101 through .0112 in this Section apply to the grounds and all persons thereon and to the drivers of all vehicles, public or private, of those facilities that elect to enforce these rules. If a facility elects to enforce these rules, they shall be in force 24 hours a day, except as otherwise provided in the rules and it shall be unlawful for any person to violate the provisions of these rules except as otherwise permitted in the rules or in the General Statutes.

History Note: *Authority G.S. 143-116.6; 143-116.7;*
Eff. January 1, 1987;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0102 DEFINITIONS

The definitions of all terms shall be as provided in the General Statutes of North Carolina, insofar as they are provided. The meaning of other terms shall be as follows:

(1) "Crosswalk" means that portion of a roadway ordinarily included within the prolongation or connection of lateral lines of sidewalks at intersections, or any portion of a roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface of the roadway.

(2) "Dormant storage" means the parking of a non-operative vehicle for a period longer than seven days.
(3) "Institution" means the Division's psychiatric hospitals, mental retardation centers, alcoholic rehabilitation centers, North Carolina Special Care Center at Wilson, Wright School and Whitaker School.
(4) "Institution Director" means the chief administrative officer or manager of the institution or his designee.
(5) "Law enforcement officer" means an individual who is qualified and has been certified or who is in the process of being certified according to the requirements of G.S. 17C-6 or has been appointed under G.S. 122C-183, adopted pursuant to G.S. 150B-14(c).
(6) "Park" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of, and while actually engaged in loading and unloading.
(7) "Secretary" means Secretary of the Department of Health and Human Services.
(8) "Stop" means, when required complete cessation of movement.
(9) "Street or roadway" means any way or place designated or marked by proper authorities for vehicular travel.
(10) "Traffic office" means an office as designated by the Institution Director to administer these rules.
(11) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon the grounds, excepting devices moved by human power.
(12) "Walk or walkway" means a way designed for, or marked by proper authorities for, the exclusive use of pedestrians, whether along a street or roadway or not.

History Note: *Authority G.S. 143-116.6; 143-116.7;*
Eff. January 1, 1987;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0103 DEFACING SIGNS

No person without authority shall attempt to, or in fact, alter, deface, injure, knock down or remove any official traffic control sign or device or any railroad sign or signal, or any inscription, shield or insignia thereon, or any other part thereof. Violators of this Rule shall be arrested and prosecuted according to the provisions of General Statute 14-132.

History Note: *Authority G.S. 14-132; 143-116.6;*
Eff. January 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0104 OBEYING OFFICERS AND SIGNS

The driver of any vehicle shall obey the instructions of any law enforcement officer having jurisdiction to enforce the statewide motor vehicle laws and of any official traffic sign or control device applicable thereto, placed in accordance with the rules of this Section, unless otherwise directed by such officer. The Institution Director may erect, establish and maintain the signs, signals, and markings necessary to implement the rules in this Section and state motor vehicle laws applicable to the institution grounds.

History Note: *Authority G.S. 143-116.7;*
Eff. January 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0105 VEHICLE REGISTRATION

(a) If the Institution Director elects to require vehicle registration, each vehicle used or parked on institution property by employees must be registered and must display an official sticker. Newcomers to the institutional staff shall display an official sticker within 48 hours of beginning employment, excluding holidays and weekends. For the purposes of the rules in this Section, "employees" shall include those persons who have assigned work stations on

the grounds of the institution. Bonafide visitors to the institution are exempt from vehicle registration requirements. Students and trainees shall register their vehicles and display an official temporary permit valid up to 90 days.
(b) The registration sticker or temporary permit shall be displayed in such manner as designated by the Institution Director.
(c) Out-of-date stickers shall not be displayed on vehicles.
(d) No person shall display a counterfeit sticker or sticker issued to another vehicle or vehicle registrant.
(e) The person to whom the registration sticker is issued shall be responsible for all civil penalties charged for violation of the rules in this Section regardless of who is operating the vehicle.
(f) The employee shall present his ownership registration card or other proof of ownership, if requested, for the vehicle to be registered.
(g) A copy of the latest traffic rules shall be issued with each registration sticker.
(h) The individual assigned responsibility for a vehicle with a permanent state license shall receive notice of any improper operation of or citation issued to the vehicle for conveyance to the appropriate operator of the vehicle.
(i) Registration stickers shall serve as parking permits and may be obtained at such location as designated by the Institution Director.
(j) Registration stickers may be issued to be valid for a period of up to three years. There shall be a charge of one dollar ($1.00) for each sticker issued to defray the cost of its issuance.
(k) A temporary permit shall be obtained when it is necessary to bring a vehicle on the grounds as a replacement for one previously registered. Temporary permits shall be obtained at the location designated by the Institution Director and shall be effective only for the period of time specified on the temporary permit.

History Note: *Authority G.S. 143-116.7;*
Eff. January 1, 1987;
Amended Eff. April 1, 1990; January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0106 VEHICLE OPERATION
(a) No vehicle shall be driven or ridden except upon the streets, roadways, alleys and driveways of the institution's grounds. Vehicles shall not be driven or ridden upon or within any sidewalk or walking area or within any area not designated for vehicular traffic.
(b) When stop signs or signals are erected upon streets, roadways, or alleys of the institution grounds each driver of a vehicle shall stop at every such sign or signal, or at a clearly marked stop line, before entering the street or intersection, except when directed to proceed by an officer or traffic control signal.
(c) When yield signs are erected upon streets, roadways, or alleys, each driver of a vehicle shall yield the right-of-way to opposing traffic before entering the street or intersection, except when directed to proceed by an officer or traffic control signal.

History Note: *Authority G.S. 143-116.7;*
Eff. January 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0107 PARKING
(a) No person shall stop any vehicle in any street, roadway or parking lot except for parking or stopping as allowed by the Rules in this Section unless such stop is made necessary by:
(1) the approach of emergency vehicles as defined in the General Statutes;
(2) the approach of any procession which is given the right-of-way;
(3) the stopping of a bus to load or unload passengers;
(4) traffic signals;
(5) the passing of some other vehicle or pedestrian; or
(6) some emergency.
In the cases covered by these exceptions, vehicles shall stop so as not to obstruct any crosswalk, walkway, street, or intersection. In case of an emergency, provisions for the removal of the vehicle shall be made within a reasonable period of time. "Reasonable time" shall be determined by the seriousness of the hazard created by such an emergency stop.

(b) When signs are erected, placed or installed establishing time zones for parking and giving notice thereof, no person shall park a vehicle for a period of time longer than that indicated by the sign. Time zone restrictions shall be in effect at all times, unless otherwise indicated on the time zone sign.
(c) Vehicles shall be parked at the angle to the curb indicated by marks or signs, and no vehicle shall be parked in such a manner as to occupy more than the space indicated by lines, signs, or markings for one vehicle.
(d) Vehicles shall be parked only in designated parking spaces. Parking spaces are defined by appropriate painted lines in the surfaced parking areas and by parking bumper logs in the gravel-dirt parking areas.
(e) Vehicles shall be parked with the front end toward the curb except where parallel parking is indicated. In no instance shall a vehicle be parked with its rear to the curb.
(f) No person shall park a vehicle upon any street, roadway, alley, parking lot or driveway for the principal purpose of:

(1) displaying it for sale;
(2) washing, greasing or repairing such vehicle except for repairs necessitated by an emergency; or
(3) storage which is not incident to the bonafide use and operation of such vehicle.

(g) Agents designated by the Institution Director may remove to a place of storage, at the owner's expense, any unattended vehicle illegally stopped or parked in such a manner as to be: blocking the normal movement of a properly parked car; obstructing the flow of traffic; creating a safety hazard endangering life or property; using authorized or unauthorized parking space for dormant storage; or in violation of the Rules in this Section. Any such removal shall meet the requirements of Article 7A of Chapter 20 of the General Statutes, adopted pursuant to G.S. 150B-14(c).
(h) Nothing in the Rules in this Section shall be deemed to prohibit authorized service vehicles from operating in such a manner as is necessary for the particular service being performed.

History Note: *Authority G.S. 143-116.7;*
Eff. January 1, 1987;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0108 PARKING AREAS
All vehicles may park in any designated parking location on a first-come, first-served basis, except in those areas designated and marked as service zones, loading zones, handicapped parking, and restricted and reserved parking zones or spaces.

History Note: *Authority G.S. 143-116.7;*
Eff. January 1, 1987;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0109 PARKING EXCEPTIONS
If a vehicle must be parked in violation of the Rules in this Section due to an emergency situation, the employee or visitor shall notify the institution traffic office immediately and give his name, make and color of vehicle, parking permit number if applicable, location, description of the emergency, and estimated time vehicle will need to remain in the prohibited area.

History Note: *Authority G.S. 143-116.7;*
Eff. January 1, 1987;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0110 SPEED LIMITS
Speed limits for the grounds of the institution shall be indicated by clearly marked standard speed limitation signs posted in conspicuous locations next to streets and roadways. Speed limits lower than those provided in G.S. 20-141 shall be established only upon the direction of the Secretary and shall be based upon a traffic and engineering

investigation conducted pursuant to G.S. 143-116.7(b). A copy of the traffic and engineering investigation may be inspected in the traffic office of the institution.

History Note: *Authority G.S. 143-116.7;*
Eff. January 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0111 STREET AND GROUNDS RESTRICTIONS

(a) No person shall use the streets, roadways, parking lots, alleys, driveways, or sidewalks for the purpose of advertising any article, commodity, service, or event by sign, poster, drawing, painting, or photograph, by crying out the same, or by using any loudspeaker, musical instrument or noise making device. However, the Institution Director may formulate and issue a policy regarding the broadcasting of official announcements or instructions for a specific event.

(b) No person, firm, or corporation shall use the streets, roadways, parking lots, alleys, driveways, or sidewalks for the purpose of selling, or offering for sale, any article, commodity or service.

(c) The Institution Director may close any street, roadway, parking lot, or driveway, or any portion thereof, when necessary for the purpose of construction or maintenance work, or for the protection of pedestrians or for special events. When such closing has been indicated by proper signs, barriers or obstructions, no person shall willfully drive into or upon such street, roadway, alley, or driveway, or portion thereof, or breakdown, remove, injure or destroy any such sign, barrier or obstruction.

(d) No person, firm, or corporation shall throw, dump or place in any manner any paper, glass, trash, garbage, rubbish, filth, wood, boxes, dirt, or any other articles of substance on any street, roadway, parking lot, alley, driveway, or sidewalk of the institutional grounds or any place where such matters may be blown or washed or may fall in these areas. This Subparagraph shall not be deemed to prohibit any construction or maintenance work or properly authorized disposal operations.

History Note: *Authority G.S. 143-116.6; 143-116.7;*
Eff. January 1, 1987;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0112 VIOLATIONS

(a) Violation of the rules in this Section shall subject the offender to a civil penalty. The offender and the person to whom the vehicle is registered may be charged civil penalties for non-moving violations as follows:

(1) employees only:
  (A) failure to register a vehicle, five dollars ($5.00);
  (B) failure of a registered vehicle owner to secure a temporary permit when using a non-registered vehicle, two dollars ($2.00);
  (C) failure to display or improper display of parking sticker, two dollars ($2.00); and
  (D) failure to remove expired parking sticker, two dollars ($2.00); and
(2) all violators:
  (A) parking in a restricted area or restricted parking space, five dollars ($5.00);
  (B) blocking a fire hydrant, five dollars ($5.00);
  (C) parking on grass, five dollars ($5.00);
  (D) blocking a walkway, two dollars ($2.00);
  (E) double parking or parking in driving lane, five dollars ($5.00);
  (F) improper use of a service zone, five dollars ($5.00);
  (G) parking out of space, two dollars ($2.00);
  (H) parking with rear of vehicle to curb, two dollars ($2.00);
  (I) overtime parking, two dollars ($2.00);
  (J) parking in "non-parking" zone, five dollars ($5.00); and
  (K) parking in a "handicapped space," twenty-five dollars ($25.00).

(b) Civil penalties for non-moving violations listed in (a) of this Rule shall be processed as follows:

(1) By the fifth calendar day of the month following the citation, the face value of the penalty indicated may be paid by writing on the ticket the name of the person to whom the vehicle is registered and mailing it together with payment to the person or office as designated on the citation by the institution director.

(2) If the person receiving the citation feels that the citation was unjustly issued, a request for review may be made in writing to the director of the institution. The request for review shall be made within five days of the date the citation was issued and shall state the reason for review. The director shall notify the person in writing of the final decision regarding the review. If the decision sustains the issuance of the citation, the date of written notice shall become the effective date of issue of the citation and the penalty shall be paid according to the instructions in (b)(1) of this Rule. If the review determines a citation should not have been issued, no further action shall be required.

(3) If the penalty is not paid by the fifth calendar day of the month following the citation, the institution director shall mail a notice to the person in whose name the vehicle is registered. If the offender is an institution employee, the division supervisor and the appropriate supervisor shall also be instructed to contact the registrant.

(4) If the penalty is not paid by the last calendar day of the month following the citation, the institution director shall:

(A) initiate enforcement by civil action in the nature of a debt;

(B) instruct the employee's supervisor to initiate disciplinary action; or

(C) employ both actions.

(c) Court citations shall be issued for all violations not listed in (a) of this Rule including all violations of state motor vehicle laws, all speeding violations, violations arising from failure to obey traffic control signs or devices, and violations of deportment and grounds control requirements. The offender shall be cited to stand trial for the alleged offense in the General Court of Justice by the officer observing the violation.

History Note: *Authority G.S. 20-37.6(f); 143-116.6; 143-116.7;*
Eff. January 1, 1987;
Amended Eff. July 1, 1994; April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0200 - PROCEDURES FOR OBTAINING ADULT PROTECTIVE SERVICES

10A NCAC 28I .0201 SCOPE

The purpose of the rules in this Section is to set forth the procedures for obtaining adult protective services for clients in need of medical or surgical treatment who are residing in regional mental retardation centers, and regional psychiatric hospitals, and North Carolina Special Care Center of the Division, and who appear to be incompetent. These Rules do not apply to immediate life threatening disorders in which medical or surgical action can take place without consent pursuant to G.S. 90-21.13(3).

History Note: *Authority G.S. 108A-99 through 108A-111; 122C-57; 122C-61; 131-60.6; 143B-147;*
Eff. October 8, 1980;
Amended Eff. July 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0202 DEFINITIONS

As used in this Section the following terms shall have the meanings specified:

(1) "Adult protective services" means services provided by the State or other government or private organizations or individuals which are necessary to protect the disabled adult from abuse, neglect, or exploitation. They shall consist of evaluation of the need for service and mobilization of essential services on behalf of the disabled adult as outlined in G.S. 108A-99 through 108A-111.

(2) "Disabled adult" means an adult resident of a regional psychiatric hospital, regional mental retardation center, or North Carolina Special Care Center of the Division who needs medical or

surgical treatment and is mentally incompetent to give his consent to that treatment and has no legal guardian or guardian as defined in G.S. 122C-3.

(3) "Emergency" [as defined in G.S. 108A-101(g)] refers to a situation where:
  (a) the disabled adult is in substantial danger of death or irreparable harm if protective services are not provided immediately;
  (b) the disabled adult is unable to consent to services;
  (c) no responsible, able or willing caretaker is available to consent to emergency services; and
  (d) there is insufficient time to utilize procedure provided in G.S. 108A-105.

(4) "Legal guardian" means a "guardian of the person" as defined in G.S. 35A-1202 and appointed pursuant to G.S. Chapter 35A.

(5) "Institution" means either a regional psychiatric hospital, regional mental retardation center or North Carolina Special Care Center of the Division.

(6) "Request form" means the "Request for Initiation of Adult Protective Services" form which is a standard form to be obtained from the Division.

(7) "Emergency request" means a request that is made because of the following conditions:
  (a) a disabled adult is in need of protective services and is incompetent to consent to them;
  (b) an emergency exists within the context of G.S. 108A-106; and
  (c) no other person authorized by law or order to give consent for the person is available and willing to arrange for emergency services.

History Note: *Authority G.S. 108A-99; 122C-57; 122C-61; 143B-147;*
Eff. October 8, 1980;
Amended Eff. August 1, 1990; April 1, 1990; July 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0203 INITIATION OF REQUEST FOR ADULT PROTECTIVE SERVICES

(a) Any duly licensed physician who is a staff member of, or is under contract with, the institution may initiate a request for adult protective services when in his opinion the client is in need of medical or surgical treatment without which there is reason to believe the client's life could be threatened or when delay in treatment would cause permanent damage or disability to the client and if:

(1) in the physician's opinion, the client is not competent to give consent to medical or surgical treatment;

(2) the client does not have a legal guardian or a guardian as defined in G.S. 122C-3; and

(3) where the appointment of a legal guardian would take such time as to endanger the client as indicated in this Rule.

(b) When the requirements in (a) of this Rule are met, the physician shall complete Part I of the request form. Information on the form shall be complete and indicate:

(1) the current condition of the client;

(2) needed intervention;

(3) probable implications if intervention is delayed; and

(4) if the situation constitutes an emergency and, if so, the reasons for the emergency.

History Note: *Authority G.S. 108A-99 through 108A-111; 122C-57; 122C-61; 131-60.6; 143B-147;*
Eff. October 8, 1980;
Amended Eff. April 1, 1990; July 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0204 DETERMINATION OF COMPETENCY

Upon completion of Part I of the request form, the physician shall request a determination of the competency of the client and a determination of whether or not the client has a guardian by a staff member or members designated by the Institution Director. The staff member or members shall respond within 24 hours of receiving the request. If, in the opinion of the designated staff member or members, the client is not competent, Part II of the request form shall be completed indicating the client's incompetency and the facts upon which the opinion is based including:

(1) evidence of the client's incompetency to make or communicate a decision concerning the procedure indicated;
(2) an indication of whether the client is mentally ill and mentally retarded; and
(3) a determination of whether or not the client has a guardian.

If, in the opinion of the designated staff member or members, the client is competent, Part II of the request form shall be completed indicating the client's competency.

History Note: *Authority G.S. 108A-99 through 108A-111; 122C-57; 122C-61; 131-60.6; 143B-147;*
Eff. October 8, 1980;
Amended Eff. April 1, 1990; July 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0205 REVIEW OF REQUEST FORM

(a) Upon completion of the determination of the competency of the client, and of whether or not the client has a guardian, the request form shall be sent to the Institution Director or his designee for review of the completeness of information and appropriateness of pursuing adult protective services. If any information on the request form is incomplete, the appropriate staff member shall be notified and requested to furnish the information necessary to complete the request form within 24 hours.

(b) If the designated staff member or members determine the client to be competent, or if the client is incompetent and has a guardian, the initiating physician shall be notified within 24 hours and the procedure terminated, or the initiating physician may appeal to the Institution Director or the Director's designee for a review of that determination by completing Part III of the request form.

History Note: *Authority G.S. 108A-99 through 108A-111; 122C-57; 122C-61; 131-60.6; 143B-147;*
Eff. October 8, 1980;
Amended Eff. July 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0206 NOTIFICATION OF COUNTY DEPARTMENT OF SOCIAL SERVICES

(a) When review of the request form is complete and it seems appropriate to pursue adult protective services, the material shall be forwarded to the Institution Director or the Director's designee for final review and completion of Part IV of the request form. The Director or the Director's designee of the Department of social services in the county where the institution is located shall be called and notified that a request for adult protective services is being sent. The supporting data with cover letter shall then be forwarded to the county department of social services within 24 hours.

(b) Institutions shall send the request for adult protective services to the Department of social services in the county in which the institution is located within 24 hours.

History Note: *Authority G.S. 108A-99 through 108A-111; 122C-57; 122C-61; 131-60.6; 143B-147;*
Eff. October 8, 1980;
Amended Eff. July 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0207 STAFF PARTICIPATION IN COURT HEARINGS

When an investigation of a request for adult protective services results in a court hearing, institutional staff shall be available to attest to the facts listed in the request for protective services or those facts listed in the actual petition for such services.

History Note: *Authority G.S. 108A-99 through 108A-111; 122C-57; 122C-61; 131-60.6; 143B-147;*
Eff. October 8, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0208 INSTITUTIONAL ACTION FOLLOWING SOCIAL SERVICES APPROVAL

(a) Upon receipt of telephone notification by the Director of the county department of social services or the Director's designee of approval for treatment, the Institution Director shall notify the physician who instituted the request for such approval so that arrangements can be made for treatment and of the need to await written consent from the county department of social services prior to initiating any medical or surgical procedures.

(b) Upon receipt of written consent from the county department of social services, the procedures approved may be initiated.

History Note: Authority G.S. 108A-99 through 108A-111; 122C-57; 122C-61; 131-60.6; 143B-147;
Eff. October 8, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0300 - PRESCRIBING OF MEDICATIONS ABOVE RECOMMENDED DOSAGES

10A NCAC 28I .0301 SCOPE

(a) The rules in this Section define the limits on prescribing medications above recommended dosages for extended periods for clients institutionalized in division institutions.

(b) The rules in this Section shall apply to prescribing of medications in all division institutions except Wright School.

History Note: *Authority G.S. 143B-147;*
Eff. July 15, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0302 DEFINITIONS

For the purposes of this Section, the following terms shall have the meanings indicated:

(1) AMERICAN HOSPITAL FORMULARY SERVICE. A two-volume collection of drug monographs and other information published by the American Society of Hospital Pharmacists, 4630 Montgomery Avenue, Washington, D.C. 20014.

(2) PHYSICIAN'S DESK REFERENCE. A drug reference text published by Medical Economics Company, A Litton Division, Oradell, New Jersey 07649.

(3) AMA DRUG EVALUATIONS. A drug reference text published by Publishing Sciences Group, Inc., Acton, Massachusetts.

(4) Formulary. A list of medications approved for use within an institution.

History Note: *Authority G.S. 143B-147;*
Eff. July 15, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0303 STANDARD OF MAXIMUM DOSAGE

Each institution Pharmacy and Therapeutics Committee shall establish a standard of maximum dosage for each medication included in its formulary. The standard shall be established in accordance with dosage recommendations in the AMERICAN HOSPITAL FORMULARY SERVICE, PHYSICIAN'S DESK REFERENCE, and AMA DRUG EVALUATIONS.

History Note: *Authority G.S. 143B-147;*
Eff. July 15, 1980;
Amended Eff. April 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0304 REVIEW OF MEDICATION ORDERS

All medication orders shall be reviewed prospectively during normal working hours by the institution pharmacy department for compliance with the established standard referenced in Rule .0603 of this Section. If the medication is prescribed above the established limits the pharmacy department shall notify the prescribing physician.

History Note: *Authority G.S. 143B-147;*
Eff. July 15, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0305 JUSTIFICATION OF MEDICATION ORDERS

(a) Medication prescribed above the established standard of maximum dosage shall be justified by the physician in the client's record.

(b) The physician shall rejustify the continued use of a prescribed medication above the established standard of maximum dosage in the client's record at least every 90 days.

History Note: *Authority G.S. 143B-147;*
Eff. July 15, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 28I .0306 REPORT TO CLINICAL DIRECTOR

The Pharmacy Director shall make a monthly report to the Clinical Director of clients receiving medications above the institution's established standard of maximum dosage.

History Note: *Authority G.S. 143B-147;*
Eff. July 15, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0400 - MISCELLANEOUS

10A NCAC 28I .0401 FIREARMS

History Note: *Authority G.S. 143B-147;*
Eff. February 1, 1976;
Repealed Eff. May 1, 2007.

10A NCAC 28I .0402 FIREARMS

(a) Each state facility shall develop and implement written policies concerning firearms.

(b) The written policies shall include:

(1) a provision stating that only a law enforcement officer as set forth in G.S. 143-166.2(d) may bring a firearm onto the grounds of the facility;

(2) a provision setting forth the areas of the facility where firearms are prohibited including law enforcement officers' firearms. At a minimum, each facility's policy shall prohibit firearms from any patient or resident care area unless a law enforcement officer determines it is necessary to ensure client or staff safety; and

(3) a provision stating that prior to entering an area of the facility where firearms are prohibited, a law enforcement officer shall:

(A) secure his or her firearm in his or her locked motor vehicle; or

(B) deposit his or her firearm in a secured site as designated by the facility.

History Note: *Authority G.S. 122C-112.1;*
Eff. May 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.