

CHAPTER 70 – CHILDREN'S SERVICES

SUBCHAPTER 70A – PROTECTIVE SERVICES

SECTION .0100 - GENERAL

10A NCAC 70A .0101 PURPOSE

Rules in this Subchapter govern the provision of protective services for children with funds administered by the Division of Social Services. Included are requirements for the management of the central registry of neglect, abuse, and dependency cases, and requirements which must be met by county departments of social services in carrying out their responsibilities for the protection of children under Chapter 7B of the General Statutes.

*History Note: Authority G.S. 7B-311; 108A-74; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. May 1, 2006; September 1, 1994; February 1, 1986; January 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70A .0102 CONFIDENTIALITY: CENTRAL REGISTRY: RESPONSIBLE INDIVIDUALS LIST: ABUSE AND NEGLECT CASES

(a) Information submitted by county departments of social services to the central registry of abuse, neglect and dependency cases is confidential except as otherwise required by law. Non-identifying statistical information and general information about the scope, nature and extent of the child abuse, neglect and dependency problem in North Carolina is not subject to this Rule of confidentiality.

(b) Access to the central registry of child abuse, neglect and dependency cases is restricted to:

- (1) staff of the Division of Social Services and staff of the Office of the Secretary of the Department of Health and Human Services who require access in the course of performing duties pertinent to management, maintenance and evaluation of the central registry and evaluation of and research into abuse and neglect cases reported in accordance with Chapter 7B, Article 3. Management of the central registry includes the provision of information on a case by division staff to a North Carolina county department of social services or to an out-of-state social services agency to assure that protective services will be made available to such child and the child's family as quickly as possible to the end that such child will be protected and that further abuse or neglect will be prevented.
- (2) individuals who may receive approval to conduct studies of cases in the central registry. Such approval must be requested in writing to the Director of the Division of Social Services. The written request shall specify and be approved on the basis of:
 - (A) an explanation of how the findings of the study have potential for expanding knowledge and improving professional practices in the area of prevention, identification and treatment of child abuse and neglect;
 - (B) a description of how the study will be conducted and how the findings will be used;
 - (C) a presentation of the individual's credentials in the area of critical investigation; and
 - (D) a description of how the individual will safeguard information.

Access shall be denied when in the judgment of the Director the study will have minimal impact on either knowledge or practice.

- (3) the county director in order to identify whether a child who is the subject of an abuse, neglect or dependency investigation has been previously reported as abused or neglected, or whether a child is a member of a family in which a child fatality due to suspected abuse or neglect has occurred in any county in the state. Information from the central registry shall be shared with law enforcement or licensed physicians or licensed physician extenders when needed to assist the county director in facilitating the provision of child protective services to assure that the child and the child's family shall receive protective services as quickly as possible so that such child can be protected and further abuse, neglect or dependency prevented. Information shared from the central registry for child abuse and neglect shall be limited to:
 - (A) the child's name, date of birth, sex, race;

- (B) the county that investigated the report;
 - (C) the type of maltreatment that was reported;
 - (D) the case decision;
 - (E) the date of the case decision;
 - (F) the type of maltreatment found; and
 - (G) the relationship of the perpetrator to the victim child.
- (4) the Chief Medical Examiner's office and law enforcement in the event of a child fatality and there is a need to determine if their investigation or evaluation should consider child abuse, neglect or dependency as a factor in the death. Information shall be limited to that outlined in Subparagraphs (b)(3)(A) through (G) of this Rule.
- (c) Information submitted by county departments of social services to the Responsible Individuals List of abuse and serious neglect cases is confidential except as otherwise required by law. The Responsible Individuals List shall identify parents, guardians, caretakers or custodians who have been identified as responsible individuals in substantiated cases of abuse or serious neglect. Information from this list shall be used exclusively for the purpose of determining current or prospective employability or fitness to care for or adopt children.
- (d) Requests for information from the Responsible Individuals List shall be in writing and shall include a last name, first name, middle initial, date of birth, gender and social security number of the individual to be checked.
- (e) Authorized persons, as defined in 10A NCAC 70A .0104(b)(1), must inform responsible individuals if the reason they are being denied is due to information obtained from the Responsible Individuals List.

*History Note: Authority G.S. 7B-311; 143B-153;
 Eff. February 1, 1976;
 Readopted October 31, 1977;
 Amended Eff. June 1, 1990; January 1, 1983;
 Temporary Amendment Eff. July 10, 1991, For a Period of 180 Days to Expire on January 5, 1992;
 Amended Eff. May 1, 2006; July 1, 1993; December 1, 1991;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70A .0103 REPORTS OF NEGLECT, ABUSE OR DEPENDENCY

- (a) Reports of neglect, abuse, or dependency shall be referred to another county department of social services for investigation when the alleged perpetrator is:
- (1) an employee of the county department of social services;
 - (2) a foster parent supervised by that county department of social services;
 - (3) a member of the Board of Social Services for that county, a member of the Board of County Commissioners, the County manager, or a member of the governance structure for the county department of social services;
 - (4) a caretaker in a sole-source contract group home;
 - (5) a child's parent/caretaker is an incompetent adult and a ward of that county department of social services; or
 - (6) a minor in foster care who is also a parent/caretaker.
- (b) When in the professional judgment of the county director the department would be perceived as having a conflict of interest in the conduct of a child protective service investigation, the director shall request that another county conduct the investigation.

*History Note: Authority G.S. 7B-100; 7B-300; 143B-153;
 Effective January 27, 1977;
 Readopted Eff. October 31, 1977;
 Amended Eff. March 1, 2017; September 1, 1994; July 1, 1993; June 1, 1990;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70A .0104 DEFINITIONS

- (a) Definitions relating to child abuse, neglect and dependency are found in G.S. 7B-101.
- (b) Unless otherwise noted, the following definitions have the following meaning:

- (1) "Authorized persons" means persons authorized to receive data from the Responsible Individuals List. Individuals authorized to receive information from the Responsible Individuals List are:
 - (A) individuals whose job functions include administration of the Responsible Individuals List and provision of information from the List to other authorized persons, as identified by the Director of the North Carolina Division of Social Services;
 - (B) individuals as identified by the Directors of county Departments of Social Services;
 - (C) individuals as identified by the Director of the Division of Child Development for child caring institutions;
 - (D) any Executive Director or program administrator of a child placing agency licensed by the State of North Carolina or another state or that state's agency;
 - (E) individuals as identified by the Director of the Division of Health Service Regulation for group home facilities;
 - (F) any Executive Director or program administrator of other providers of foster care, child care and adoption services determined by the Department of Health and Human Services;
 - (G) the Administrator for the State Guardian Ad Litem program; and
 - (H) any Executive Director or program administrator of other private or non-profit agencies that care for children.
- (2) "Personal written notice" means delivery in person of the case decision to the responsible individual by the social worker.
- (3) "Serious neglect" means conduct, behavior, or inaction that evidences a disregard of consequences of such magnitude as to constitute an unequivocal danger to a child's health, welfare or safety.

History Note: Authority G.S. 7B-311(d); 143B-153;
 Eff. January 1, 1980;
 Amended Eff. May 1, 2006; April 1, 2003; July 1, 1993; June 1, 1990; November 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70A .0105 RECEIVING INFORMATION: INITIATING PROMPT INVESTIGATIONS OF REPORTS

- (a) The county director shall receive and initiate an investigation on all reports of suspected child abuse, neglect, or dependency, including anonymous reports:
- (b) The county director shall to the extent possible obtain the following information from the person making the report:
 - (1) The name, address, and actual or approximate age of the juvenile(s);
 - (2) The names and ages of other juveniles residing in the home;
 - (3) The name and address of the juvenile's parent, guardian, or caretaker;
 - (4) The name and address of the alleged perpetrator;
 - (5) The present whereabouts of the juvenile(s) if not at the home address;
 - (6) The nature and extent of any injury or condition resulting from abuse, neglect, or dependency;
 - (7) Other information that the reporter has which might be helpful in establishing the need for protective services, including the names, addresses, and telephone numbers of other individuals who may have information about the condition of the juvenile(s); and
 - (8) The name, address, and telephone number of the person making the report.
- (c) When a county director receives a report of suspected abuse or of criminal maltreatment of a juvenile by a person other than the juvenile's parent, guardian, custodian, or caretaker, the director shall notify the appropriate law enforcement agency in accordance with G.S. 7B-307. The county director shall provide the law enforcement agency with any information obtained from the person making the report as outlined in Subparagraphs (b)(1) through (b)(7) of this Rule. The name, address, and telephone number of the individual making the report, included as Subparagraph (b)(8) of this Rule, may be shared with law enforcement when this information is necessary for law enforcement to perform their duties as related to the report.
- (d) The county director shall initiate an investigation of suspected abuse, within 24 hours after receiving a report. The county director shall initiate an investigation of suspected neglect or dependency within 72 hours after receiving a report, except that investigations of all accepted reports of child abandonment shall be initiated immediately. Initiation of an investigation is defined as having face-to-face contact with the alleged victim child or children. If there is not such face-to-face contact within the prescribed time period, the case record shall contain documentation

to explain why such contact was not made and what other steps were taken to assess the risk of harm to the child or children.

(e) When the director is unable to initiate the investigation within the prescribed time period, as indicated in Paragraph (d) of this Rule, because the alleged victim child or children cannot be located, the director shall make diligent efforts to locate the alleged victim child or children until such efforts are successful or until the director concludes that the child or children cannot be located. Diligent efforts shall include, but not be limited to, visits to the child's or children's address at different times of the day and on different days. All efforts to locate the child or children shall be documented in the case record.

(f) When abuse, neglect, or dependency is alleged to have occurred in an institution, in addition to the procedures described in Paragraphs (a) through (e) of this Rule, the county director shall notify the individual who is administratively responsible for on-site operation of the institution in order to solicit the cooperation of the administration of the institution. Notification shall occur within the time frames required in Paragraph (d) of this Rule, and prior to contact with the alleged victim juvenile(s) if the director determines that such notice would not place the alleged victim(s) at risk of further harm.

(g) The county director must have an internal two level review, including at a minimum the worker and the worker's supervisor, prior to making a decision that information received does not constitute a report of abuse, neglect, or dependency.

(h) The county director must establish a process by which the person providing this information may obtain a review of the agency's decision not to accept the information as a report of abuse, neglect, or dependency. The process shall include:

- (1) informing the person providing the information that the agency will not conduct an investigation, the basis for that decision, and their right to and the procedures for obtaining such a review; and
- (2) designating the persons by whom and the manner in which such reviews will be conducted.

*History Note: Authority G.S. 7B-301; 7B-302; 7B-306; 7B-307; 143B-153;
Eff. January 1, 1980;
Temporary Amendment Eff. July 10, 1991, For a Period of 180 Days to Expire on January 5, 1992;
Amended Eff. April 1, 2003; September 1, 1994; July 1, 1993; June 1, 1992; December 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70A .0106 CONDUCTING AN INVESTIGATION

(a) The county director shall make an investigation to assess:

- (1) whether the specific environment in which the child or children is found meets the child's or children's need for care and protection; and
- (2) facts regarding the existence of abuse, neglect, or dependency; and
- (3) the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and
- (4) the risk of harm to and need for protection of the child or children.

(b) When the county director receives a report of suspected abuse, neglect, or dependency, the county director shall check the county agency's records and the North Carolina Central Registry of child abuse, neglect, and dependency reports to ascertain if any previous reports of abuse, neglect, or dependency have been made concerning the alleged victim child or children. Central Registry checks are not necessary when the agency has conducted such a check within the previous 60 days or when the agency is providing continuous child protective services to the family.

(c) Face-to-face interviews with all alleged victim children shall be conducted within statutory time frames, unless there is documentation in the case record to explain why such contact was not made.

(d) There shall be a face-to-face interview with any parent or caretaker with whom the victim child or children reside, unless there is documentation in the case record to explain why such an interview was not conducted. The parent or caretaker shall be interviewed on the same day as the victim child or children unless there is documentation in the case record to explain why such interviews were not conducted.

(e) The investigation shall include a visit to the place where the child or children reside.

(f) There shall be a face-to-face interview with the alleged perpetrator or perpetrators unless there is documentation to explain why such an interview was not conducted.

(g) Any persons identified at the time the report was accepted for investigation as having information concerning the condition of the child or children shall be interviewed in order to obtain any information relevant to the investigation unless there is documentation in the case record to explain why such interviews were not conducted.

(h) The county director shall implement a structured decision making process that includes the following assessments:

- (1) assessment of the immediate safety of the child or children;
- (2) assessment of the future risk of harm to the child or children;
- (3) assessment of the family's strengths and needs;
- (4) documentation of an assessment of all of the information obtained during the investigation;
- (5) documentation of a safety response plan; and
- (6) documentation of the case decision.

(i) When additional information is necessary to complete an investigation, information from the following sources shall be obtained and utilized:

- (1) Professionals or staff at an out-of-home care setting having relevant knowledge pertaining to the alleged abuse, neglect, or dependency;
- (2) Other persons living in the household or attending or residing in the out-of-home care setting;
- (3) Any other source having relevant knowledge pertaining to the alleged abuse, neglect, or dependency; and
- (4) Records; i.e., school, medical, mental health, or incident reports in an out-of-home care setting.

(j) The county director shall exercise discretion in the selection of collateral sources in order to protect the family's or out-of-home care setting's right to privacy and the confidentiality of the report.

(k) Conducting an investigation as outlined in Paragraph (a) of this Rule when the alleged abuse, neglect, or dependency occurred in an institution shall include the following:

- (1) A discussion of the allegation with the individual who has on-site administrative responsibility for the institution;
- (2) A discussion of the procedure to be followed during the investigation;
- (3) The utilization of resources within and without the institution as needed and appropriate; and
- (4) A discussion of the findings with the Administrator of the institution which shall be confirmed in writing by the county director and shall be held confidential by all parties as outlined in 10A NCAC 70A .0113, of this Subchapter.

*History Note: Authority G.S. 7B-302; 143B-153;
Eff. January 1, 1980;
Amended Eff. April 1, 2003; February 1, 1995; September 1, 1994; July 1, 1993;
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10A NCAC 70A .0107 WHEN ABUSE, NEGLECT OR DEPENDENCY IS FOUND

(a) When an investigation reveals the presence of abuse, neglect, or dependency, the social worker who conducted the assessment shall make every effort to provide personal written notice to the following persons or agencies:

- (1) any responsible individual who was alleged to have abused or seriously neglected the child or children;
- (2) any parent or other individual with whom the child or children resided at the time the county director initiated the investigation; and
- (3) any agency with whom the court has vested legal custody.

(b) Personal written notice may be made by a social worker other than the social worker who conducted the assessment under G.S. 7B-302(a), if the social worker who conducted the assessment is unavailable. If the county department of social services is unable to provide the personal written notice to the responsible individual, there shall be documentation of efforts made to deliver the personal written notice to the responsible individual in the case record. In addition to fulfilling the requirements of G.S. 7B-320(b), the personal written notice shall also include:

- (1) a statement informing the responsible individual that employers may access the Responsible Individuals List to determine suitability for employment; and
- (2) a statement informing the responsible individual that the timeframes to request an expunction from the District Attorney or the District Court still apply, even if no notice is received from the Director after the Director has been requested to expunge.

(c) The county director shall complete structured decision making assessments of every family in which an investigation of abuse, neglect or dependency is conducted. The assessment findings shall be used to evaluate the need for services and to develop a case plan.

(d) In all cases in which abuse, neglect, or dependency is found, the county director shall determine whether protective services are needed and, if so, shall develop, implement, and oversee an intervention plan to ensure that there is adequate care for the victim child or children. The case plan shall:

- (1) be based on the findings of the structured decision making assessments;
- (2) contain goals representing the desired outcome toward which all case activities shall be directed;
 - (3) contain objectives that:
 - (A) describe specific desired outcomes;
 - (B) are measurable;
 - (C) identify necessary behavior changes;
 - (D) are based on an assessment of the specific needs of the child or children and family;
 - (E) are time-limited; and
 - (F) are mutually accepted by the county director and the client.
- (4) specify all the activities needed to achieve each stated objective;
- (5) have stated consequences that will result from either successfully following the plan or not meeting the goals and objectives specified in the plan; and
- (6) shall include petitioning for the removal of the child or children from the home and placing the child or children in appropriate care when protection cannot be initiated or continued in the child's or children's own home.

(e) When an investigation leads a county director to find evidence that a child may have been abused or may have been physically harmed in violation of a criminal statute by a person other than the child's parent, guardian, custodian, or caretaker, the county director shall follow all procedures outlined in G.S. 7B-307 in making reports to the prosecutor and appropriate law enforcement agencies. The report shall include:

- (1) the name and address of the child, of the parents or caretakers with whom the child lives, and of the alleged perpetrator;
- (2) whether the abuse was physical, sexual or emotional;
- (3) the dates that the investigation was initiated and that the evidence of abuse was found;
- (4) whether law enforcement has been notified and the date of the notification;
- (5) what evidence of abuse was found; and
- (6) what plan to protect the child has been developed and what is being done to implement it.

(f) When an investigation reveals the presence of abuse, neglect, or dependency in an institution, the county director shall complete the following steps:

- (1) the child's or children's legal custodian shall be informed;
- (2) an intervention plan for the care and protection of the child or children shall be developed in cooperation with the institution and the legal custodian; and
- (3) when abuse is found, a written report shall be made to the prosecutor in the county where the institution is located.

History Note: Authority G.S. 7B-302; 7B-307; 7B-311; 7B-320(d); 143B-153;
Eff. January 1, 1980;
Amended Eff. May 1, 2006; April 1, 2003; February 1, 1995; September 1, 1994; July 1, 1993;
June 1, 1990;
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10A NCAC 70A .0108 WHEN ABUSE, NEGLECT OR DEPENDENCY IS NOT FOUND

When a thorough investigation does not reveal abuse, neglect or dependency, the county director shall:

- (1) notify the following persons or agencies of the case finding:
 - (a) any parent or caretaker who was alleged to have abused or neglected the child or children;
 - (b) any parent or other individual with whom the child or children resided at the time the county director initiated the investigation; and
 - (c) any agency with whom the court has vested legal custody;
- (2) communicate to the persons or agencies named in (1) of this Rule that the Department shall no longer be involved with the child or children on a non-voluntary basis.

History Note: Authority G.S. 7B-300; 7B-302 143B-153;

Eff. January 1, 1980;

Amended Eff. July 1, 1993; June 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70A .0109 NOTIFICATION OF REPORTER; REVIEW BY THE PROSECUTOR

(a) Within five working days after receipt of the report of abuse, neglect, or dependency, the director shall give written notice to the person making the report, unless specifically requested not to do so, as to whether the report was accepted for investigation and whether the report was referred to the appropriate State or local law enforcement agency. Within five working days after completion of the protective services investigation, the director shall give subsequent written notice to any identified person or persons making the report, unless specifically requested not to do so. This second notice shall contain the following information:

- (1) whether or not there is a finding of abuse, neglect, or dependency;
- (2) whether the county department of social services is taking action to protect the juvenile, and if so, what action it is taking;
- (3) whether or not the agency has filed a petition; and
- (4) notification of the reporter's right to request a review by the prosecutor if the reporter is not satisfied with the director's decision not to file a petition. The reporter shall be informed that the request must be made within five working days of the notice and must include the prosecutor's address.

(b) When the county director receives a notice from the prosecutor that a review will be held regarding not filing a petition, he shall send immediately, but in all cases within three working days of the receipt of the notice, a copy of the investigation report to the prosecutor.

(c) Within 20 days after the reporter is notified of the right to a review, the prosecutor shall review the director's decision. Upon completion of the review specified in G.S. 7A-547, the prosecutor may:

- (1) affirm the decision of the director;
- (2) request that the appropriate law enforcement agency investigate the allegations; or
- (3) direct the director to file a petition in the matter.

History Note: Authority G.S. 7A-544; 7A-547; 143B-153;

Eff. January 1, 1980;

Amended Eff. September 1, 1994; July 1, 1993; February 1, 1986;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70A .0110 ASSUMING TEMPORARY CUSTODY OF A CHILD

(a) A county department of social services worker may take a child into temporary custody without a court order and provide personal care and supervision for up to 12 hours, provided:

- (1) the county director concludes that there are reasonable grounds for believing the child is abused, neglected, or dependent and that he would be injured or could not be taken into custody if it were first necessary to obtain a court order. The county director shall document in the protective services case record as soon as possible the following:
 - (A) the grounds upon which the decision was made to take temporary custody without a court order; and
 - (B) information specific to successful or unsuccessful attempts to notify the child's parents, guardian or custodian that the child has been taken into temporary custody and that the parent, guardian or custodian has a right to be present with the child pending a determination of the need for non-secure custody.
- (2) the county director files a petition for an immediate non-secure custody order unless he decides that temporary custody is no longer necessary and releases the child to his parents, guardian or custodian. To preserve a parent, guardian or custodian's right to due process, the county director shall not make an assessment case decision until after the court has adjudicated the petition.

(b) A county director of social services shall file all petitions which allege that a child is abused, neglected or dependent except those petitions resulting from review by the prosecutor.

History Note: Authority G.S. 7B-311; 7B- 403; 7B-404; 7B- 500; 7B-501; 143B-153;

Eff. January 1, 1980;
Amended Eff. May 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70A .0111 REVIEW OF COURT ORDERED PLACEMENTS

- (a) In cases where the court removes custody of a child from a parent or caregiver because of dependency, neglect or abuse and places the child in the custody of the Department of Social Services, the county director shall not return the child to his parents or caregivers without the judge finding sufficient facts to show that the child will receive proper care and supervision.
- (b) In any case where custody is removed from a parent, guardian, custodian, or caretaker the court shall conduct a review hearing within 90 days from the date of the dispositional hearing and shall conduct a review hearing within six months thereafter.
- (c) The county director of social services shall make a timely request to the clerk to calendar each review at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the review and its purpose to the parent, the juvenile, if 12 years of age or more, the guardian, any foster parent, relative, or preadoptive parent providing care for the child, the custodian or agency with custody, the guardian ad litem, and any other person or agency the court may specify, indicating the court's impending review.
- (d) The county director shall submit a written report to the judge that shall include but not be limited to:
- (1) The services plan developed with the family to preserve the child's own home or to reunite the parents and children;
 - (2) The specific changes on the part of the parents and children;
 - (3) Whether the child can remain at home or be returned home, and the plan to be used when the child returns home;
 - (4) If the child cannot return home, the plan to be used to establish the permanent living arrangement for the child, including projected time frames and any considerations of termination of parental rights;
 - (5) Goals and objectives for the child's continuation in foster care if indicated and the role of foster parents in planning for the child;
 - (6) A summary of the child's specific experiences in placement, both positive and negative, including the different placements the child has had since the last court hearing; and
 - (7) Any other information the court deems necessary.

History Note: Authority G.S. 7B 906; 143B-153;
Eff. January 1, 1980;
Amended Eff. April 1, 2003; June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70A .0112 CASE RECORDS FOR PROTECTIVE SERVICES

- (a) The county director shall maintain a separate case record or a separate section in a case record on a child for whom protective services are initiated or who is placed in the custody of the county department of social services by the court. The case record documentation shall be kept confidential. Information from the case record shall be released only in accordance with Chapter 7B, Subchapter I, of the North Carolina General Statutes and the Rules of this Subchapter.
- (b) The protective services case record shall document the investigation. In addition, when applicable, the protective services case record shall include:
- (1) summary documentation of the results of the check of the central registry of abused, neglected, and dependent children whenever a report is accepted for investigation unless the agency has conducted such a check in the 60 days prior to the new report, or the agency is providing ongoing children's services to the family;
 - (2) copies of all comprehensive family assessments, including safety assessments, risk assessments, assessments of family strengths and needs, re-assessments of family strengths and needs and assessments of the child's and family's progress or lack of progress in completing the items documented in the Family Services Case Plan;

- (3) documentation of any safety response plan that was developed to ensure the child's safety during the course of the investigation;
- (4) documentation of the case decision, the basis for the case decision, and the names of those participating in the decision;
- (5) documentation of notifications to parents, caretakers, the alleged perpetrator, or others specified in Rules .0107, .0108, .0109 and .0114 of this Section regarding the case decision;
- (6) documentation of contacts with and services provided to the family, current within seven days of service delivery. Documentation may be taped for transcription, typed or legibly handwritten, and shall include information about the family's response to and use of services, as well as any change in the assessment of safety or risk to the children;
- (7) the Family Services Case Plan developed at the beginning of the treatment phase, with any subsequent revisions to the plan;
- (8) documentation of reviews of the Family Services Case Plan, current within three months, which reflect an assessment of the plan's effectiveness, the family's use of services, and the need for continued agency involvement;
- (9) copies of the following:
 - (A) Intake/Screening Form provided by the Division for all reports concerning the family whether these reports have been received while a case was active or while a case was closed;
 - (B) notices to the reporter;
 - (C) requests made of other county departments of social services for information relating to prior contacts by that agency with the family, when applicable; and
 - (D) DSS 5104, Application/Report to the Central Registry.
- (10) copies of the following reports or documents, when applicable:
 - (A) petitions relating to the legal or physical custody of children while receiving child protective services;
 - (B) reports to the court;
 - (C) reports or notifications to prosecutors;
 - (D) reports to law enforcement agencies;
 - (E) Child Medical Evaluations and Child Mental Health Evaluation requests, consents, and reports;
 - (F) any other medical, psychological, or psychiatric reports;
 - (G) notifications to licensing agencies; and
 - (H) any other reports, notifications, or documents related to the provision of child protective services.
- (11) summaries of the following information, when not otherwise documented in the case record:
 - (A) at the time treatment services begin, a summary of the reasons services are being provided;
 - (B) when filing a petition for custody, the reasons custody is being sought; and
 - (C) at the time treatment services are terminated, a summary of the basis for the decision.

History Note: Authority G.S. 7B-302; 7B-306; 7B-311; 7B-312; 7B-313; 7B-314; 7B-315; 7B-2901; 143B-153; Eff. January 1, 1980;
 Amended Eff. May 1, 2006; April 1, 2003; September 1, 1994; January 1, 1983;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70A .0113 CONFIDENTIALITY OF COUNTY DSS PROTECTIVE SERVICES RECORDS

(a) The county director shall not allow anyone outside of the county department of social services other than state and federal agency personnel carrying out their lawful responsibilities for program audit and review to examine a protective services case record as described in Rule .0112 of this Subchapter unless:

- (1) the judge orders the county director to allow examination; or
- (2) the child or the child's attorney requests to examine his own record.

(b) The county director in carrying out his duties may share information and a summary of documentation from the case record without a court order with public or private agencies or individuals that are being utilized to provide or facilitate the provision of protective services to a child.

(c) The county director shall allow the District Attorney or his designee access to the case record, including any information or documentation therein, which he needs to carry out his mandated responsibilities that result from a report of confirmed abuse or from the county director's decision not to file a petition.

History Note: Authority G.S. 7B-302; 7B-2901; 143B-153;
Eff. January 1, 1980;
Amended Eff. September 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70A .0114 EXPUNCTION PROCESS

History Note: Authority G.S. 7B-311(d); 143B-153;
Eff. May 1, 2006;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0200 - COMMUNITY CHILD PROTECTION TEAMS

10A NCAC 70A .0201 NATURE AND PURPOSE OF TEAM

(a) Community Child Protection Teams shall be established in every county in the state. Team membership shall consist of representatives of public and nonpublic agencies in the community that provide services to children and their families and other individuals who represent the community. These community representatives shall meet together on a regular basis:

- (1) to identify gaps and deficiencies in community resources which have impact on the incidence of abuse, neglect, or dependency;
- (2) to advocate for system improvements and needed resources where gaps and deficiencies exist in the child protection system;
- (3) to promote collaboration between agencies in the creation or improvement of resources for children as a result of their review of selected cases; and
- (4) to inform the county commissioners about actions needed to prevent or ameliorate child abuse, neglect, or dependency.

(b) The Community Child Protection Team shall not encompass a geographic or governmental area larger than one county.

History Note: Authority G.S. 7B-302; 7B-1400; 7B-1401; 7B-1402; 7B-1403; 7B-1404; 7B-1405; 7B-1406; 7B-1407; 7B-1408; 7B-1409; 7B-1410; 7B-1411; 7B-1412; 7B-1413; 7B-1414; 143B-153;
Temporary Adoption Eff. July 10, 1991, For a Period of 180 Days to Expire on January 5, 1992;
Eff. December 1, 1991;
Amended Eff. September 1, 1994; July 1, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70A .0202 RESPONSIBILITY FOR TRAINING OF TEAM MEMBERS

(a) The Division of Social Services shall develop and make available for the team members on an ongoing basis, training materials to include:

- (1) The role and function of the Community Child Protection Team;
- (2) Confidentiality requirements;
- (3) An overview of child protective services law and policy; and
- (4) Team record-keeping.

(b) Each Community Child Protection Team shall schedule relevant training as needed by its membership, using appropriate resources from the local department of social services, other community agencies, the Division of Social Services, or other individuals whose expertise can benefit the functioning of the team.

History Note: Authority G.S. 7B-302; 7B-1400; 7B-1401; 7B-1402; 7B-1403; 7B-1404; 7B-1405; 7B-1406; 7B-1407; 7B-1408; 7B-1409; 7B-1410; 7B-1411; 7B-1412; 7B-1413; 7B-1414; 143B-153;
Temporary Adoption Eff. July 10, 1991, For a Period of 180 Days to Expire on January 5, 1992;

*ARRC Objection Lodged July 18, 1991;
Eff. December 1, 1991;
Amended Eff. September 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70A .0203 CONFIDENTIALITY

(a) Any member of a Community Child Protection Team may share, during an official meeting of that team, any information available to that member that the team needs to carry out its responsibilities. The county director, however, shall not share any information that discloses the identity of individuals who have reported suspected abuse, neglect, or dependency to the county department of social services.

(b) Each member of a Community Child Protection Team and invited participant shall sign a statement indicating their understanding of and adherence to confidentiality requirements. Such statement shall include the possible civil or criminal consequences of any breach of confidentiality as well as the applicability of these Rules to any personal files created or maintained by any team member or invited participant.

(c) A team member or invited participant who fails to comply with the confidentiality requirements of this Section shall be subject to dismissal from the team or to the denial of future participation in team reviews respectively.

(d) Information generated by an executive session of a Community Child Protection Team shall be accessible for administrative purposes to the following:

- (1) the State Team and the Task Force during its existence as necessary to carry out their purposes;
- (2) staff of the Division of Social Services and staff of the Office of the Secretary of the Department of Human Resources who require access in the course of performing duties pertinent to the supervision and evaluation of the Child Protective Services Program;
- (3) the local board of county commissioners when the Community Child Protection Team makes its annual recommendations, if any, for system improvements and needed resources where gaps and deficiencies exist in the delivery of services to children and their families. Such report shall be general in nature not revealing confidential information about children and families; and
- (4) the local board of social services when receiving a report by the director of the county department of social services on the activities of the Community Child Protection Team.

This does not preclude any agency representative from sharing with his agency, on a need to know basis, information acquired at a Community Child Protection Team meeting regarding a current client or referred case.

(e) An individual may receive approval to conduct a study of the cases reviewed by the Community Child Protection Teams. Such approval must be requested in writing of the Director of the Division of Social Services. The written request shall specify and be approved on the basis of:

- (1) an explanation of how the findings of the study have potential for expanding knowledge and improving professional practices in the area of prevention, identification and treatment of child abuse, neglect, dependency, or child fatalities;
- (2) a description of how the study will be conducted and how the findings will be used;
- (3) a presentation of the individual's credentials in the area of critical investigation;
- (4) a description of how the individual will safeguard confidential information; and
- (5) an assurance that no report will contain the names of children and families or any other information that makes children and families identifiable.

Access will be denied when, in the judgment of the director, the study will have minimal impact on either knowledge or practice.

*History Note: Authority G.S. 7A-544; 7A-675; 108A-80; 143-578; 143B-153;
Temporary Adoption Eff. July 10, 1991, For a Period of 180 Days to Expire on January 5, 1992;
Eff. December 1, 1991;
Amended Eff. September 1, 1994; July 1, 1993; June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

SUBCHAPTER 70B - FOSTER CARE SERVICES

SECTION .0100 - FOSTER CARE SERVICES - GENERAL

10A NCAC 70B .0101 PURPOSE

The Children's Services Branch develops and carries out either directly or through local agencies a program of foster care services designed to preserve, rehabilitate, unite, reunite, and strengthen families; and to provide substitute care for children who must be temporarily or permanently separated from their natural families.

*History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1982; July 23, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70B .0102 ELIGIBILITY

(a) A county department of social services may determine a child eligible for foster care assistance payments if all the following factors are established:

- (1) The child has been removed from his or her own home or from the home of a specified relative by a judicial determination and placed in foster care as a result of that determination;
- (2) The placement of the child in foster care has occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of the child with the county department of social services, and such placement has not been in excess of 90 consecutive days unless there has been a judicial determination by a court of competent jurisdiction (within the first 90 days of such placement) to the effect that such placement is in the best interest of the child. If the voluntary placement agreement is continued for the second 90-day period, a new voluntary placement agreement must be completed and signed by all parties. The county department of social services must file a juvenile petition and a hearing must be held before the end of the second 90-day period, or the child must be returned home;
- (3) Responsibility for care and placement of the child is designated to the county department of social services by either the court order removing him or her from his or her home or by the voluntary placement agreement signed by the parent or guardian;
- (4) The child lives in:
 - (A) a foster care facility under the supervision of a county department of social services and licensed by the Department of Health and Human Services;
 - (B) a private child caring institution licensed or approved by the Department of Health and Human Services and in compliance with the Civil Rights Act of 1964, Title VI, 42 U.S.C. 2000d et seq., ("Title VI of the Civil Rights Act"), hereby incorporated by reference, including any subsequent amendments and editions. This Act may be accessed free of charge at <https://www.justice.gov/crt/fcs/TitleVI-Overview>;
 - (C) a private group home licensed or approved by the Department of Health and Human Services and in compliance with Title VI of the Civil Rights Act;
 - (D) a foster care facility under the auspices of a licensed or approved private child caring institution, provided such foster care services program has been licensed by the Department of Health and Human Services and is in compliance with Title VI of the Civil Rights Act;
 - (E) a foster care facility under the supervision of a private child placing agency (including those providing adoption services) and licensed by the Department of Health and Human Services;
 - (F) a foster care facility located in another state, provided such facility is in compliance with Title VI of the Civil Rights Act and is licensed or approved in the other state, and provided such placement has been approved under the appropriate interstate placement procedure; or
 - (G) an allowable independent supervised living setting for youth 18 or older; and
- (5) The child is in need of care that is not available in his or her own home or the home of a relative.

(b) A child placed in foster care who has attained 18 years of age may continue receiving foster care services and benefits until reaching 21 years of age if he or she enters into a voluntary placement agreement with the county department of social services, and meets one of the following:

- (1) Completing secondary education or a program leading to an equivalent credential;
- (2) Enrolled in an institution that provides post-secondary or vocational education;
- (3) Participating in a program or activity designed to promote or remove barriers to employment;
- (4) Employed for at least 80 hours per month; or
- (5) Is incapable of doing any of the previously described educational or employment activities due to a medical condition or disability.

(c) Court action terminating parental rights shall not render a child ineligible for foster care assistance benefits if that child is otherwise eligible. A child may be eligible for foster care assistance benefits until the final decree of adoption is issued.

History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 131D-10.2; 131D-10.5; 143B-153.
 Eff. July, 1982;
 Amended Eff. March 1, 2017; April 1, 2003;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70B .0103 FOSTER CARE ASSISTANCE PAYMENTS

(a) Foster care assistance payments include food, and shelter, clothing, personal incidentals, and ordinary and necessary school and transportation expenses.

(b) County departments of social services may request reimbursement for providing foster care assistance payments to eligible children.

History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 143B-153;
 Eff. July 1, 1982;
 Amended Eff. April 1, 2003; June 1, 1990;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70B .0104 RELATIONSHIP TO CHILD SUPPORT ENFORCEMENT PROGRAM

(a) The county director of social services must refer recipients of foster care assistance payment to the child support enforcement program except when the county director of social services determines that a referral is not appropriate because one or more of the following circumstances exists:

- (1) The establishment of paternity or the securing of support is reasonably anticipated to result in:
 - (A) physical harm to the child;
 - (B) emotional harm to the child;
 - (C) physical harm to the foster parent or other caretaker with whom the child is living; or
 - (D) emotional harm to the foster parent or other caretaker with whom the child is living.
- (2) The child for whom support is sought was conceived as a result of forcible rape or incest.
- (3) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction.
- (4) The parent(s) is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him for adoption, and the discussions have not gone on for more than three months.
- (5) A parent is already ordered by the court to pay support.
- (6) The rights of both parents have been terminated by consent or court proceeding and the child may be legally placed for adoption by the county department of social services or a child placing agency.

(b) The county department's application for foster care assistance payments shall operate to assign to the state and the county in proportionate parts as described in General Statute 110-135 all rights to child support owed or paid for the eligible foster child by his parent.

(c) The caretaker relative from whose home the child is removed by voluntary placement agreement or court order shall be advised of the assignment of support rights, and shall be asked to sign a statement that he understands the assignment. His refusal to sign, however, shall not render the child ineligible for foster care assistance payments.

(d) Referral to the county's IV-D agency shall be completed for all foster care assistance cases in which deprivation is caused by absence of a parent, regardless of whether the paternity of a child born out of wedlock has been established.

History Note: Authority G.S. 108A-24; 108A-48; 108A-49; 110-128 through 141; 143B-153;
Eff. July 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70B .0105 GOALS AND STRATEGIES

(a) The goal for each fiscal year commencing with the fiscal year which begins on October 1, 2011 is that of all the children in foster care receiving Title IV-E Foster Care Assistance the number of children who remain in foster care in excess of 24 months will decrease by 1.5 percent.

(b) The following steps shall be taken to achieve the goal stated in (a) of this Rule. The Department of Health and Human Services shall:

- (1) provide a preplacement preventive services program designed to help children remain with their families;
- (2) provide a post placement reunification services program designed to reunite children with their families in a timely fashion;
- (3) maintain a statewide information system;
- (4) insure that there is an individual case plan for each child in foster care;
- (5) insure that the status of each child is reviewed no less frequently than once every six months;
- (6) institute procedural safeguards to assure each child of a dispositional hearing in accordance with statutory requirements; and
- (7) institute procedural safeguards with respect to parental rights to be informed of changes in the child's placement and to visit the child.

History Note: Authority G.S. 108A-49; 143B-153; P.L. 96-272;
Temporary Rule Eff. October 1, 1982, for a Period of 92 Days to Expire on January 1, 1983;
Eff. January 1, 1983;
Amended Eff. October 1, 2011; June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0200 - RESOURCE ITEMS TO SUPPORT SCHOOL PARTICIPATION

10A NCAC 70B .0201 DEFINITIONS FOR SCHOOL PARTICIPATION RESOURCE ITEMS

10A NCAC 70B .0202 REIMBURSEMENT FOR SCHOOL PARTICIPATION RESOURCE ITEMS

History Note: Authority G.S. 108A-25; 108A-48; 143B-153;
Eff. July 23, 1979;
Amended Eff. June 1, 1990;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A.

SECTION .0300 – RISK ASSESSMENT

10A NCAC 70B .0301 WHEN TO COMPLETE A RISK ASSESSMENT

(a) For foster care services cases, the county director shall complete a structured risk re-assessment and reunification assessment for all cases in which family reunification is being considered as the permanent plan. If the court has relieved the agency of reunification efforts, completion of a structured risk re-assessment and reunification assessment is no longer required. The findings of the risk re-assessment and reunification assessment shall be used in developing a Family Services Case Plan with the family.

(b) For those cases in which children enter foster care and reunification is the permanent plan, the structured risk re-assessment and reunification assessment shall support the current case plan.

History Note: Authority G.S. 7B-907; 143B-153;
Eff. August 2, 1994;
Amended Eff. April 1, 2003;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SUBCHAPTER 70C - INTERSTATE LAWS

SECTION .0100 - INTERSTATE LAWS

10A NCAC 70C .0101 SCOPE

Any sending agency who intends to place a child into or out of North Carolina shall submit a request to the Division of Social Services. The Division has the authority to request supporting or additional information necessary to carry out the purpose and policy of the compact and to require assurance that the placement meets all applicable North Carolina child placement statutes.

*History Note: Authority G.S. 110-50; 110-52; 110-57.1; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70C .0102 REQUEST FOR SERVICES IN OTHER STATES

- (a) Upon receipt of a request from a North Carolina agency to send a child to another state, the Children's Services Section shall determine if any of the North Carolina interstate placement laws apply. If the laws do not apply, the request will be forwarded.
- (b) If any of the laws do apply, the Children's Services Section shall review the adequacy of information submitted, shall make appropriate suggestions, and shall transmit the request to the appropriate state.
- (c) The Children's Services Section shall review the information and disposition on the placement resource submitted by the receiving state and shall forward the information to the appropriate agency in North Carolina. If the placement has been approved, the Children's Services Section must be informed of the plans made for the child. If the placement is denied, the Children's Services Section will notify the sending agency.
- (d) The Children's Services Section shall review the progress reports on placement from the receiving state, shall make appropriate suggestions, and shall transmit the report to the sending agency.
- (e) Upon receipt of concurrence that agency supervision is no longer required, the sending agency shall send notification for termination to the Children's Services Section.

*History Note: Authority G.S. 110-50; 110-52; 110-57.1; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70C .0103 REQUEST FOR SERVICE IN NORTH CAROLINA

- (a) Upon receipt of an out-of-state request to send a child to North Carolina, the Children's Services Section shall determine if any of the North Carolina interstate laws apply. If the laws do not apply, the request will be forwarded.
- (b) If any of the laws do apply, the Children's Services Section shall review for adequacy of information submitted, shall make appropriate suggestions, and shall forward the request to the appropriate agency.
- (c) The Children's Services Section shall review the evaluation of the placement resource and make a disposition regarding placement. The sending state shall inform the Children's Services Section of plans for the child.
- (d) The Children's Services Section shall review progress reports, make appropriate suggestions, and transmit all reports to the sending state.
- (e) Upon receipt of recommendation that agency or court supervision is no longer required, the sending state must provide written notification for termination including court order.

History Note: Authority G.S. 110-50; 110-52; 110-57.1; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SUBCHAPTER 70D - PAYMENT OF GRANTS-IN-AID TO PRIVATE CHILD-CARING INSTITUTIONS

SECTION .0100 - PAYMENT OF GRANTS-IN-AID TO PRIVATE CHILD-CARING INSTITUTIONS

10A NCAC 70D .0101 PURPOSE
10A NCAC 70D .0102 DEFINITIONS
10A NCAC 70D .0103 ADMINISTRATION OF STATE FUNDS
10A NCAC 70D .0104 PAYMENT OF FUNDS
10A NCAC 70D .0105 STANDARDS FOR PAYMENT

History Note: Authority G.S. 143B-153(2)(d);
Eff. July 1, 1983;
Amended Eff. July 1, 1992;
Rules Expired on August 17, 2017 for failure to report pursuant to G.S. 150B-21.3A(b).

10A NCAC 70D .0106 PHASE IN
10A NCAC 70D .0107 COST CONTAINMENT

History Note: Authority G.S. 143B-153(2)(d);
Eff. July 1, 1992;
Rules Expired on August 17, 2017 for failure to report pursuant to G.S. 150B-21.3A(b).

SUBCHAPTER 70E – LICENSING OF FAMILY FOSTER HOMES

SECTION .0100 - FOSTER MUTUAL HOME ASSESSMENT

10A NCAC 70E .0101 PURPOSE
10A NCAC 70E .0102 METHOD OF MUTUAL HOME ASSESSMENT
10A NCAC 70E .0103 ASSESSMENT PROCESS
10A NCAC 70E .0104 USE OF REFERENCES
10A NCAC 70E .0105 PERIODIC REASSESSMENT OF HOME

History Note: Authority G.S. 131D, Art. 1A; 131D-10.5; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. July 18, 2002; May 1, 1990;
Repealed Eff. September 1, 2007.

10A NCAC 70E .0106 AGENCY FOSTER PARENT AGREEMENT

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1983;
Amended Eff. July 18, 2002; May 1, 1990;
Repealed Eff. September 1, 2007.

SECTION .0200 – FORMS

10A NCAC 70E .0201 LICENSE APPLICATION
10A NCAC 70E .0202 AGENCY FOSTER PARENTS' AGREEMENT
10A NCAC 70E .0203 DEPARTMENT OF SOCIAL SERVICES INTERCOUNTY AGREEMENT

History Note: Authority G.S. 131D, Art. 1A; 131D-10.5; 143B-153;
 Eff. February 1, 1976;
 Readopted Eff. October 31, 1977;
 Amended Eff. July 18, 2002; May 1, 1990;
 Repealed Eff. September 1, 2007.

SECTION .0300 –DEFINITIONS

10A NCAC 70E .0301 DEFINITIONS
10A NCAC 70E .0302 FAMILY FOSTER HOME: QUALIFICATIONS

History Note: Authority G.S. 131D, Art. 1A; 131D-10.3; 131D-10.5; 143B-153;
 Eff. July 1, 1982;
 Temporary Amendment Eff. February 1, 2002;
 Amended Eff. July 18, 2002;
 Temporary Amendment Eff. July 1, 2003;
 Amended Eff. August 1, 2004;
 Repealed Eff. September 1, 2007.

SECTION .0400 – STANDARDS FOR LICENSING

10A NCAC 70E .0401 CLIENT RIGHTS AND CARE OF FOSTER CHILDREN
10A NCAC 70E .0402 CRITERIA FOR THE FAMILY
10A NCAC 70E .0403 PHYSICAL FACILITY

History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1982;
 Amended Eff. May 1, 1990; May 1, 1994; July 1, 1983;
 Temporary Amendment Eff. February 14, 2002;
 Amended Eff. July 18, 2002;
 Repealed Eff. September 1, 2007.

10A NCAC 70E .0404 LICENSING COMPLIANCE VISITS

History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1983;
 Amended Eff. July 18, 2002; July 1, 1997; May 1, 1990;
 Repealed Eff. September 1, 2007.

10A NCAC 70E .0405 CRIMINAL HISTORIES

History Note: Authority G.S. 131D-10.5; 143B-153;
 Temporary Adoption Eff. January 1, 1996;
 Eff. April 1, 1997;
 Temporary Amendment Eff. October 28, 1997;
 Amended Eff. April 1, 1999;
 Temporary Amendment Eff. February 1, 2002;
 Amended Eff. July 18, 2002;
 Repealed Eff. September 1, 2007.

SECTION .0500 - LICENSING REGULATIONS AND PROCEDURES

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| 10A NCAC 70E .0501 | RESPONSIBILITY |
| 10A NCAC 70E .0502 | NEW LICENSES |
| 10A NCAC 70E .0503 | RENEWAL |
| 10A NCAC 70E .0504 | CHANGE IN FACTUAL INFORMATION ON THE LICENSE |
| 10A NCAC 70E .0505 | TERMINATION |
| 10A NCAC 70E .0506 | REVOCATION OR DENIAL |
| 10A NCAC 70E .0507 | LICENSING AUTHORITY FUNCTION |
| 10A NCAC 70E .0508 | KINDS OF LICENSES |
| 10A NCAC 70E .0509 | OUT-OF-STATE FACILITIES AND FAMILY FOSTER HOMES |

History Note: Authority G.S. 131D, Art. 1A; 131D-10.5; 143B-153; (See S.L. 2002-164);
Eff. July 1, 1982;
Amended Eff. May 1, 1990; February 1, 1986; April 1, 1984; July 1, 1983;
Temporary Amendment Eff. February 1, 2002;
Amended Eff. July 18, 2002;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. May 1, 2004 (this amendment replaces the amendment approved by RRC on October 16, 2003;
Repealed Eff. September 1, 2007.

10A NCAC 70E .0510 REPORTS OF ABUSE AND NEGLECT

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. April 1, 1987;
Amended Eff. July 18, 2002;
Repealed Eff. September 1, 2007.

10A NCAC 70E .0511 CRIMINAL HISTORY CHECKS **10A NCAC 70E .0512 TRAINING REQUIREMENTS**

History Note: Authority G.S. 131D-10.3; 131D-10.5; 143B-153; S.L. 1993, c. 769, s. 25.11;
Temporary Adoption Eff. January 1, 1996 (Rule .0511);
Eff. April 1, 1997;
Temporary Amendment Eff. October 28, 1997;
Amended Eff. July 18, 2002; April 1, 1999;
Repealed Eff. September 1, 2007.

SECTION .0600 – GENERAL

10A NCAC 70E .0601 SCOPE

- (a) The North Carolina Department of Health and Human Services, Division of Social Services is the licensing authority for family foster homes and therapeutic foster homes.
- (b) The rules in this Subchapter apply to the licensing of family foster homes and therapeutic foster homes and those persons who receive children for the purpose of placement in family foster homes and therapeutic foster homes.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0602 DEFINITIONS

The following definitions shall apply to the rules in Subchapter 70E:

- (1) "Agency" means a child placing agency as defined in G.S. 131D-10.2 that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes.

- (2) "Family Foster Home" has the meaning as defined in G.S. 131D-10.2(8).
- (3) "Family Foster Care" means foster care, as defined in G.S. 131D-10.2(9), that is provided in a family foster home.
- (4) "Licensing Authority" means the North Carolina Division of Social Services.
- (5) "Owner" means any person who holds an ownership interest of five percent or more of an applicant. A person includes a sole proprietor, co-owner, partner or shareholder, principal or affiliate, or any person who is the applicant or any owner of the applicant.
- (6) "Supervising Agency" means a county department of social services or a private child-placing agency that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes. Supervising agencies are responsible for recruiting, training, and supporting foster parents. Supervising agencies recommend the licensure of foster homes to the licensing authority.
- (7) "Therapeutic Foster Care" means a foster home where the foster parent has received additional training in providing care to children with behavioral mental health or substance abuse problems.
- (8) The "reasonable and prudent parent standard" has the meaning set forth in 131D-10.2A

History Note: Authority G.S. 131D-10.1; 131D-10.2A; 131D-10.3; 131D-10.5; 143B-153;
 Eff. September 1, 2007;
 Amended Eff. August 1, 2017;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0700 – LICENSING REGULATIONS AND PROCEDURES

10A NCAC 70E .0701 LICENSING AUTHORITY FUNCTION

- (a) The supervising agency shall submit the licensing application for family foster care and therapeutic foster care to the licensing authority. When the licensing authority receives licensing materials, the licensing authority shall review the licensing materials relative to standards, policies, and procedures for licensing. The licensing authority shall communicate with the supervising agency submitting the materials if additional information, clarification or materials are needed to make a decision regarding license approval.
- (b) A license is valid for the period of time stated on the license for the number of children specified and for the place of residence identified on the license.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
 Eff. September 1, 2007;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0702 RESPONSIBILITY

- (a) Each supervising agency providing foster care services shall assess its applicants and licensees in accordance with 10A NCAC 70E .0802 through .0805. Supervising agencies shall submit to the licensing authority information and reports that are used as the basis of either issuing or renewing a license.
- (b) The supervising agency shall submit the following information to the licensing authority within 30 days after any of the following events occur:
 - (1) changes in household income;
 - (2) criminal charges of any household member;
 - (3) changes in the membership of the household;
 - (4) change of address; and
 - (5) changes in physical or mental health.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
 Eff. September 1, 2007;
 Amended Eff. August 1, 2017; November 1, 2009;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0703 NEW LICENSES

- (a) The supervising agency shall submit all licensing materials to the licensing authority dated within 180 days prior to submitting an application for a new license. The supervising agency shall submit medical examinations of the members of the foster home to the licensing authority dated within 12 months prior to submitting an application for a new license.
- (b) The supervising agency shall submit all licensing application materials required for a license to the licensing authority at one time. The licensing authority shall return incomplete licensing applications to the supervising agency.
- (c) The licensing authority shall issue a new license, if approved according to the rules in this Section, effective the date the application and all required materials are received by the licensing authority.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Amended Eff. August 1, 2011; November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .0704 RELICENSURE AND RENEWAL

- (a) Materials for renewing a license are due to the licensing authority prior to the date the license expires.
- (b) All relicensing materials shall be completed and dated within 180 days prior to the date the supervising agency submits materials for licensure to the licensing authority. Medical examinations of the members of the foster home shall be completed and dated within 12 months prior to submitting materials for relicensure.
- (c) All relicensing materials shall be submitted at one time to the licensing authority. The licensing authority shall return incomplete relicensure applications to the supervising agency.
- (d) If materials are submitted after the foster home license expires, a license is issued by the licensing authority effective the date the licensing materials are approved by the licensing authority.
- (e) When a foster home license is terminated for failure to submit relicensure materials, the licensing authority shall relicense the home if the relicensure materials are submitted to the licensing authority within one year of the date the license was terminated and all requirements are met. After one year, the supervising agency shall submit a new licensure application to the licensing authority.
- (f) When a foster home license has been terminated in good standing and the foster family wishes to be licensed again, the licensing authority shall renew the license if there are no changes or the changes meet the requirements of the Rules of this Section. The period of time for this renewed license is from the date the request is received by the licensing authority to the end date of the license period in effect when the license was terminated.
- (g) Unless previously licensed foster parents who have not been licensed within the last 24 consecutive months demonstrate mastery of the parenting skills listed in 10A NCAC 70E .1117(1) to the satisfaction of the supervising agency and documented to the licensing authority, the foster parents shall complete the 30 hours of pre-service training specified in 10A NCAC 70E .1117(1).
- (h) Unless previously licensed therapeutic foster parents who have not been licensed within the last 24 consecutive months demonstrate mastery of the therapeutic skills listed in 10A NCAC 70E .1117(2) to the satisfaction of the supervising agency and documented to the licensing authority, the therapeutic foster parents shall complete the 10 hours of pre-service training specified in 10A NCAC 70E .1117(2).
- (i) The supervising agency shall provide documentation to the licensing authority that trainings for first aid, CPR, and universal precautions are updated.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Amended Eff. August 1, 2011; November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .0705 CHANGE IN FACTUAL INFORMATION ON THE LICENSE

- (a) A license may be changed during the time it is in effect if the change is in compliance with licensing standards.
- (b) The supervising agency shall submit supportive data to the licensing authority for the following:
 - (1) changes in age range, number of children, and sex; or
 - (2) change in residence

(c) A foster home license may not be changed to a residential child-care facility license. The foster home license shall be terminated and materials shall be submitted in accordance with 10A NCAC 70I or 10A NCAC 70J in order to be licensed as a residential child-care facility.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .0706 FOSTER HOME TRANSFER PROCEDURES

(a) A foster home licensed and in good standing with the licensing authority may transfer from the supervision of a county department of social services or a private child-placing agency to the supervision of another county department of social services or private child-placing agency upon request. Procedures for transferring licenses include:

- (1) the current supervising agency providing copies of the most recent mutual home assessment, training, and licensing documents to the receiving supervising agency;
- (2) the current supervising agency notifying the custodian(s) of the foster children placed in the home of the transfer;
- (3) the receiving supervising agency notifying the custodian(s) of the foster children placed in the home of the transfer;
- (4) a Foster Care Facility License Action Request Form from the previous supervising agency that is marked terminated shall be submitted to the licensing authority;
- (5) a Foster Care Facility License Action Request Form from the receiving supervising agency that is marked new license shall be submitted to the licensing authority;
- (6) a cover letter from the previous supervising agency stating they are aware of the transfer shall be submitted to the licensing authority;
- (7) a cover letter from the receiving supervising agency requesting transfer shall be submitted to the licensing authority; and
- (8) a mutual home assessment written by the receiving supervising agency shall be submitted to the licensing authority.

(b) The materials in Paragraph (a) of this Rule shall be submitted to the licensing authority within 90 days after the foster parents request to transfer to another supervising agency.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .0707 TERMINATION

(a) Licenses terminate at the end of the two year license period unless all relicensing materials have been received by the licensing authority prior to the license expiration date.

(b) The licensing authority shall terminate a license before the end of the two year license period if requested by the foster parents.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Amended Eff. November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .0708 REVOCATION AND DENIAL

(a) The licensing authority may revoke or deny licenses when an agency authorized by law to investigate allegations of abuse or neglect finds the foster parent has abused or neglected a child.

(b) The licensing authority may revoke or deny a license when the foster home is not in compliance with licensing standards in this Subchapter.

(c) The licensing authority shall base the revocation or denial on the following:

- (1) a child's circumstances;
 - (2) a child's permanency plan;
 - (3) the nature of the non-compliance; and
 - (4) the circumstances of the placement.
- (d) Foster parents shall be notified in writing of the reasons for the licensing authority's decision to revoke or deny a license. When a license has been revoked, foster parents shall submit their license to the supervising agency so it can be returned to the licensing authority.
- (e) The licensing authority may revoke or deny licensure to an applicant who has a finding that will place the applicant on the following:
- (1) Health Care Personnel Registry pursuant to G.S. 131E-256; or
 - (2) North Carolina Sex Offender and Public Protection Registry pursuant to Article 27A Part 2 of G.S. 14.
- (f) The licensing authority may also deny licensure to an applicant under any of the following circumstances:
- (1) the applicant was the owner of a licensable facility or agency pursuant to Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 of the General Statutes, and that a facility or agency had its license revoked;
 - (2) the applicant is the owner of a licensable facility or agency and that facility or agency incurred a penalty for a Type A or B violation under G.S. 122C, Article 3;
 - (3) the applicant is the owner of licensable facility or agency that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a), or G.S. 131D, Article 1A, or had its license summarily suspended or denied under G.S. 110, Article 7;
 - (4) the applicant was the owner of a licensable facility or agency pursuant to G.S. 122C, G.S. 131D, or G.S. 110, Article 7, who voluntarily relinquished that facility or agency's license after the initiation of revocation or summary suspension proceedings, or there is a pending appeal of a denial, revocation, or summary suspension of that facility or agency's license; or
 - (5) the applicant has as any part of its governing body or management an owner who previously held a license that was revoked or summarily suspended pursuant to G.S. 122C, G.S. 131D, or G.S. 110, Article 7.
- (g) The denial of licensure pursuant to Paragraph (f) of this Rule shall be in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h). A copy of these statutes may be obtained through the internet at <http://www.ncleg.net/Statutes/Statutes.html>.
- (h) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to revoke or deny a license. If the action is reversed on appeal, the application shall be approved back to the date of the denied application if all qualifications are met.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
 Eff. September 1, 2007;
 Amended Eff. December 1, 2009;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0709 KINDS OF LICENSES

- (a) Full License. A full license shall be issued for no more than two years when all licensing requirements are met.
- (b) Provisional License.
- (1) A provisional license shall be issued for no more than six months while some below standard component is being corrected.
 - (2) A provisional license for the same below standard program component shall not be renewed.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
 Eff. September 1, 2007;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0710 OUT-OF-STATE FACILITIES AND FOSTER HOMES

The use of out-of-state residential child-care facilities and foster homes for the placement of children in the custody of a North Carolina county department of social services shall be in accordance with the following:

- (1) Prior to placement into an out-of-state foster home, group home, child-caring institution, maternity home or any other residential child-care facility, the county department of social services placing the child in the out-of-state facility shall determine that the foster home, group home, child-caring institution, maternity home, or any other residential child-care facility is licensed according to the standards of that state.
- (2) The county department of social services shall monitor the licensing and relicensing of the out-of-state foster home, group home, child-caring institution, maternity home or any other residential child-care facility to ensure that no child for whom they have responsibility is in an unlicensed foster home, group home, child-caring institution, maternity home or any other residential child-care facility.
- (3) The county department of social services shall submit to the licensing authority written documentation that an out-of-state foster home, group home, child-caring institution, maternity home or any other residential child-care facility has been licensed and that an Interstate Compact for the Placement of Children Form for the child to be placed out of state has been signed by both states in order for the foster home, group home, child-caring institution, maternity home or any other residential child-care facility to be issued a license identification number for foster care reimbursement purposes.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0800 - MUTUAL HOME ASSESSMENT

10A NCAC 70E .0801 PURPOSE

- (a) The supervising agency shall conduct a mutual home assessment study of the foster home to determine if the home meets the requirements for licensure and is suitable for family foster care of children needing family foster care services or therapeutic foster care of children needing therapeutic foster care services.
- (b) The supervising agency shall provide information to applicants that will make it possible for the applicants to make a knowledgeable decision about their interest in pursuing licensure. The supervising agency shall learn enough about the applicants to determine whether the applicants can meet the needs of children and care for children in accordance with licensing requirements. The supervising agency shall also learn enough about the applicants to determine the kind of child they can best serve.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0802 METHOD OF MUTUAL HOME ASSESSMENT

- (a) The mutual home assessment shall be carried out in a series of planned discussions between the licensing worker of the supervising agency, the prospective foster parent applicants and other members of the household. The family shall be seen by the licensing social worker in the family's home and in the supervising agency's office.
- (b) In an application involving a single applicant, there shall be two separate face-to-face interviews occurring on two different dates. In an application involving joint applicants, there shall be a separate face-to-face interview with each applicant and an additional two face-to-face interviews with both applicants. The two face-to-face interviews shall occur on two different dates. There shall be separate face-to-face interviews with each member of the household 10 years of age or older. Training and group sessions do not count as face-to-face interviews. The assessment process shall be a joint effort of the supervising agency and the applicants to determine the applicants' suitability for providing foster care and the kind of child the applicants can best parent.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Amended Eff. August 1, 2011;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0803 ASSESSMENT PROCESS

(a) The supervising agency shall advise the applicants at the first contact with the agency of the North Carolina licensing requirements for foster care. The supervising agency shall make a decision whether to continue a mutual home assessment.

(b) The supervising agency shall inform the applicants about the services, policies, procedures, standards, and expectations of the agency regarding the provision of foster care services. The applicants shall weigh the responsibilities entailed in providing foster care services and make a decision whether to continue a mutual home assessment.

(c) Mutual Assessment of the Home and the Family:

- (1) The mutual home assessment shall be presented and recorded in such a way that other staff of the supervising agency can make use of the family as a resource for children. The assessment of the home shall indicate whether the home is in compliance with licensing standards.
- (2) A mutual home assessment shall include a family history of applicants, including information about parents, siblings, marriages and family support systems; ability to cope with problems, stress, frustrations, crises, and loss; disciplinary methods used by the applicants' parents; personal experiences of abuse and neglect and domestic violence; criminal convictions; drug or alcohol abuse; emotional stability and maturity; ability to give and receive affection; religious orientation, if any; and educational and employment history.
- (3) A mutual home assessment shall be made of the applicants' skills and abilities to provide care for children as set forth in 10A NCAC 70E .1104(a).
- (4) All members of the household shall be assessed with respect to their commitment to providing care for children.
- (5) The foster home shall be assessed to determine if there is space to accommodate the number of children recommended for the license capacity.
- (6) The foster home applicants shall be assessed with respect to their willingness to participate in shared parenting requirements.
- (7) The foster home applicants shall be assessed with respect to their financial ability to provide foster care.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .0804 USE OF REFERENCES

References shall be used to supplement the information obtained through interviews and observation regarding the applicants. All adult members of the foster home shall provide three references to the supervising agency.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .0805 PERIODIC REASSESSMENT OF HOME

(a) A family or therapeutic foster home shall be reassessed annually by the supervising agency.

(b) Reassessment shall include a mutual assessment with the foster parents of their strengths, skills, and abilities to provide care for children, including ways in which they have met the needs of children placed in their home and areas in which they need further development.

(c) Any changes in physical set up and in the foster parents' capacities for providing foster care since the original home assessment or previous reassessments shall be documented in the family's record.

(d) Reassessment shall be used as a tool for biennial relicensing of the home.

History Note: Authority G.S. 131D-10.3; 131D-10.5; 143B-153;

Eff. September 1, 2007;
Amended Eff. August 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0806 AGENCY FOSTER PARENT AGREEMENT

The supervising agency Foster Parents Agreement, defining each party's rights and obligations shall be reviewed and signed by the foster parents and the licensing worker at the time of the initial licensing and no less than biennially thereafter.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0900 – FORMS

10A NCAC 70E .0901 LICENSE APPLICATION

Application for a license shall be made on a form provided by the licensing authority. The supervising agency director or his/her designee shall sign the form and thereby indicate both the home meets the licensing standards, and the supervising agency intends to use the home in accordance with the license and provide services to the foster parents. The foster parents shall sign the application indicating their agreement with the information provided, declaring it is true and accurate and understand that according to G.S. 132-1, the information may be furnished to others upon request. The form shall be submitted to the licensing authority at least biennially.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0902 AGENCY FOSTER PARENTS' AGREEMENT

(a) Foster parents shall sign an agreement pursuant to which the foster parents shall:

- (1) allow a representative of the supervising agency to visit the home in conjunction with licensing procedures, foster care planning, and placement;
- (2) accept children into the home only through the supervising agency and not through other individuals, agencies, or institutions;
- (3) treat a child placed in the home as a member of the family and, when so advised by the supervising agency, support encourage, and enhance the child's relationship with the child's parents or guardian;
- (4) maintain contact and exchange information with the supervising agency about matters affecting the adjustment of any child placed in the home. The foster parents shall agree to keep these matters confidential and discuss them only with the supervising agency staff member or with other professionals designated by the agency;
- (5) obtain the permission of the supervising agency if the child is to be out of the home for a period exceeding 72 hours;
- (6) report to the supervising agency any change of address before it occurs and any of the following within 72 hours of its occurrence:
 - (A) changes in the membership of the household;
 - (B) changes in physical or mental health of any household member;
 - (C) criminal charges against any household member; and
 - (D) changes in the financial resources or income of the household;
- (7) make no independent plans for a child to visit the home of the child's parents, guardian, or relatives without prior consent from the supervising agency;
- (8) adhere to the supervising agency's plan of medical care, both for routine care and treatment and for emergency care and hospitalization;

- (9) provide any child placed in the home with supervision that is appropriate for the child's age, intelligence, emotional make up, and past experiences and adhere to the supervision requirements specified in the out-of-home family services agreement or person-centered plan; and
 - (10) agree to comply with Title VI Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the Multiethnic Placement Act, which are incorporated by reference including subsequent amendments and editions.
- (b) The supervising agency shall sign an agreement under which the supervising agency shall:
- (1) assume responsibility for the overall planning for the child and assist the foster parents in meeting their day-to-day responsibility towards the child;
 - (2) inform the foster parents concerning the agency's procedures and financial responsibilities for obtaining medical care and hospitalization;
 - (3) pay the foster parents a monthly room and board payment and, if applicable, a respite care payment for children placed in the home;
 - (4) discuss with the foster parents any plans to remove a child from the foster home;
 - (5) give the foster parents notice before removing a child from the foster home;
 - (6) visit the foster home and child according to the out-of-home family services agreement or person-centered plan and be available to give needed services and consultation concerning the child's welfare;
 - (7) respect the foster parents' preferences in terms of sex, age range, and number of children placed in the home;
 - (8) provide or arrange for training for the foster parents;
 - (9) include foster parents as part of the decision-making team for a child;
 - (10) allow foster parents to review and receive copies of their licensing record; and
 - (11) notify foster parents of their right to obtain personal liability insurance in accordance with G.S. 58-36-44.
- (c) The agreement shall also contain all other provisions mutually agreed by the parties.
- (d) The foster parents and a representative of the supervising agency shall sign and date the agreement initially and at each relicensure. The foster parents and the supervising agency shall retain copies of the agreements.

History Note: Authority G.S. 131D-10.1; 131D-10.2A; 131D-10.3; 131D-10.5; 143B-153; Eff. September 1, 2007; Amended Eff. August 1, 2017; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .0903 DEPARTMENT OF SOCIAL SERVICES INTERCOUNTY AGREEMENT

- (a) Before children are placed in a foster home in a county (the supervising county) other than the county of their home (the responsible county), the two county departments of social services shall agree in writing that the supervising county shall:
- (1) accept responsibility for supervising the child;
 - (2) not initiate placement planning for the child without prior agreement from the responsible county, except when an emergency placement in another foster home or licensed facility is necessary;
 - (3) immediately inform the responsible county when an emergency placement in another foster home or licensed facility precludes prior approval;
 - (4) engage in no treatment or planning relationship with the child's parents, guardian, or relatives, except upon request of the responsible county;
 - (5) keep the case confidential; and
 - (6) submit to the responsible county, at intervals specified in the agreement, a written evaluation of the child's adjustment.
- (b) In the agreement, the responsible county shall agree to:
- (1) make payments for room and board and difficulty of care or respite care, if applicable, to the supervising county in the amounts and at the times specified in the agreement;
 - (2) take responsibility for placement of the child;
 - (3) make restitution, in accordance with a plan specified in the agreement, for damage that the child causes to the foster parents' property;
 - (4) inform the supervising county concerning future planning for the child; and

- (5) write the room and board check in a manner specified in the agreement, in order to protect confidentiality.
- (c) The agreement shall specify the manner in which payment for clothes, medical costs, and allowances shall be made.
- (d) The agreement shall specify the dates between which the agreement shall be effective. The agreement shall be signed by the directors of the two county departments of social services. The responsible county and the supervising county shall each have a signed copy of the agreement. The responsible county shall provide the children's services program representative with a copy of the signed agreement, if requested.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
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SECTION .1000 - CAPACITY

10A NCAC 70E .1001 FOSTER HOME

- (a) No more than five children shall reside in any family foster home at any time. These five children include the foster parent's own children, children placed for family foster care, licensed capacity for in-home day care children, children kept for babysitting or any other children residing in the home. Children kept for in-home day care and babysitting are considered residents of the home.
- (b) No more than four children including no more than two foster children shall reside in any therapeutic foster home at any time. The four children include the foster parent's own children, children placed for therapeutic foster care, children placed for family foster care or any other children living in the home. Therapeutic foster parents shall not provide in-home day care or baby sitting services in the therapeutic foster home.
- (c) Exceptions to the capacity standards in Paragraphs (a) and (b) of this Rule may be made:
- (1) if written documentation is submitted to the licensing authority for family foster care that siblings will be placed together and the foster home complies with Subparagraphs (3) and (4) of this Paragraph. The out-of-home family services agreement for each sibling shall specify that siblings will be placed together and shall also address the foster parents' skill, stamina, and ability to care for the children;
 - (2) if written documentation is submitted to the licensing authority for therapeutic foster care that siblings will be placed together and the foster home complies with Subparagraphs (3) and (4) of this Paragraph. The person-centered plan or out-of-home family services agreement for each sibling shall specify that siblings shall be placed together and shall also address the foster parents' skill, stamina, and ability to care for the children;
 - (3) if written documentation is submitted to the licensing authority that the foster home complies with 10A NCAC 70E .1108; and
 - (4) if written documentation is submitted to the licensing authority that the foster home complies with 10A NCAC 70L .0102.
- (d) Family foster homes and therapeutic foster homes shall not provide Community Alternative Programs services for Disabled Adults (CAP/DA) as defined in Section 1915(c) of the Social Security Act, unless the disabled adult was placed in the foster home as a Community Alternatives Programs for Children (CAP C) client as defined in Section 1915(c) of the Social Security Act prior to his/her 18th birthday. The disabled adult shall be included in the capacity for the foster home. Family foster homes and therapeutic foster homes shall not provide supervised living services as defined by 10A NCAC 27G .5601.
- (e) Members of the household 18 years old and over and not receiving foster care services are not included in capacity, but there shall be physical accommodations in the home to provide them room and board.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
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SECTION .1100 – STANDARDS FOR LICENSING

10A NCAC 70E .1101 CLIENT RIGHTS

(a) Foster parents shall ensure that each foster child:

- (1) has clothing to wear that is appropriate to the weather;
- (2) is allowed to have personal property;
- (3) is encouraged to express opinions on issues concerning care;
- (4) is provided care in a manner that recognizes the child's cultural values and traditions;
- (5) is provided the opportunity for spiritual development and is not denied the right to practice his or her religious beliefs;
- (6) is not identified as a foster child in any way;
- (7) is not forced to acknowledge dependency on or gratitude to the foster parents;
- (8) is encouraged to contact and have telephone conversations with family members unless contraindicated in the child's visitation and contact plan;
- (9) is provided training and discipline that is appropriate for the child's age, intelligence, emotional makeup, and past experience;
- (10) is not subjected to cruel or abusive punishment, as established in G.S. 7B 101(1) and (15);
- (11) is not subjected to corporal punishment;
- (12) is not deprived of a meal or contacts with family for punishment or placed in isolation time-out except when isolation time-out means the removal of a child to an unlocked room or area from which the child is not physically prevented from leaving. The foster parent may use isolation time-out as a behavioral control measure when the foster parent provides it within hearing distance of a foster parent. The length of the isolation time-out shall be appropriate for the child's age, intelligence, emotional makeup, and past experiences;
- (13) is not subjected to verbal abuse, threats, or humiliating remarks about himself or herself or his or her family;
- (14) is provided a daily routine in the home that promotes a positive mental health environment and provides an opportunity for normal activities with time for rest and play;
- (15) is provided training in nutrition and personal hygiene. Each child shall be provided food with nutritional content for normal growth and health. Diets prescribed by a licensed medical provider shall be provided;
- (16) is provided medical care in accordance with the treatment prescribed for the child;
- (17) of mandatory school age, as established in G.S. 115C-378(a), maintains regular school attendance unless the child has been excused by the authorities;
- (18) is encouraged to participate in neighborhood and group activities, to have friends visit the home, and to visit in the homes of friends;
- (19) assumes responsibility for himself or herself and for household duties that are appropriate for the child's age intelligence, emotional makeup, and past experiences. Household tasks shall not interfere with school, sleep, or study periods;
- (20) is not permitted to do any task that violates child labor laws, as established in G.S. 95-25.5 and Fair Labor Standards Act (FLSA), incorporated by reference including subsequent amendments and editions, or not appropriate for the child's age, intelligence, emotional makeup, and past experiences;
- (21) is provided supervision that is appropriate for the child's age, intelligence, emotional makeup, and experience;
- (22) if less than eight years of age or weighs less than 80 pounds, is properly secured in a child passenger restraint system in accordance with the manufacturer's instructions;
- (23) is protected from disclosure of confidential information about the child or the child's family. Such confidential information shall not be shared unless lawfully authorized; and
- (24) is encouraged to participate in extracurricular, recreational, enrichment, cultural, and social activities in accordance with G.S. 131D-10.2A.

(b) Foster parents shall initially and at relicensure sign a Discipline Agreement that specifically acknowledges their agreement as specified in Subparagraphs (a)(9), (10), (11), (12), and (13) of this Rule, as well as discipline requirements outlined in the out-of-home family services agreement or person-centered plan. The foster parents and the supervising agency shall retain copies of these agreements.

History Note: Authority G.S. 131D-10.1; 131D-10.2A; 131D-10.3; 131D-10.5; 143B-153;

Eff. September 1, 2007;
Amended Eff. August 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1102 MEDICATION

Foster parents are responsible for the following regarding medication:

- (1) General requirements:
 - (a) retain the manufacturer's label with expiration dates visible on non-prescription drug containers not dispensed by a pharmacist;
 - (b) administer prescription drugs to a child only on the written order of a person authorized by law to prescribe drugs;
 - (c) allow prescription medications to be self-administered by children only when authorized in writing by the child's licensed medical provider;
 - (d) allow non-prescription medications to be administered to a child taking prescription medications only when authorized by the child's licensed medical provider; allow non-prescription medications to be administered to a child not taking prescription medication, with the authorization of the parents, guardian, legal custodian, or licensed medical provider;
 - (e) allow injections to be administered by unlicensed persons who have been trained by a registered nurse, pharmacist, or other person allowed by law to train unlicensed persons to administer injections;
 - (f) record in a Medication Administration Record (MAR) provided by the supervising agency all drugs administered to each child. The MAR shall include the following: child's name; name, strength, and quantity of the drug; instructions for administering the drug; date and time the drug is administered, discontinued, or returned to the supervising agency or the person legally authorized to remove the child from foster care; name or initials of person administering or returning the drug; child requests for changes or clarifications concerning medications; and child's refusal of any drug; and
 - (g) follow-up for child requests for changes or clarifications concerning medications with an appointment or consultation with a licensed medical provider.
- (2) Medication disposal:
 - (a) return prescription medications to the supervising agency or person legally authorized to remove the child from foster care; and
 - (b) return discontinued prescription medications to a pharmacy or the supervising agency for disposal, in accordance with 10A NCAC 70G .0510(c).
- (3) Medication storage:
 - (a) store prescription and over-the-counter medications in a locked cabinet in a clean, well-lighted, well-ventilated room other than bathrooms, kitchen, or utility room between 59° F (15° C) and 86° F (30° C);
 - (b) store medications in a refrigerator, if required, between 36° F (2° C) and 46° F (8° C). If the refrigerator is used for food items, medications shall be kept in a separate, locked compartment or container within the refrigerator; and
 - (c) store prescription medications separately for each child.
- (4) Psychotropic medication review:
 - (a) arrange for any child receiving psychotropic medications to have his/her drug regimen reviewed by the child's licensed medical provider at least every six months;
 - (b) report the findings of the drug regimen review to the supervising agency; and
 - (c) document the drug review in the MAR along with any prescribed changes.
- (5) Medication errors:
 - (a) report drug administration errors or adverse drug reactions to a licensed medical provider or pharmacist; and
 - (b) document the drug administered and the drug reaction in the MAR.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;

Amended Eff. November 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1103 PHYSICAL RESTRAINTS

(a) Foster parents who utilize physical restraint holds shall not engage in discipline or behavior management that includes:

- (1) protective or mechanical restraints;
- (2) a drug used as a restraint, except as outlined in Paragraph (b) of this Rule;
- (3) the seclusion of a child in a locked room; or
- (4) physical restraint holds except for a child who is at imminent risk of harm to himself, herself, or others until there is no longer any risk of imminent harm to any party.

(b) Foster parents shall not administer drugs to a foster child for the purpose of punishment, foster parent convenience, substitution for supervision, or for the purpose of restraining the child. A drug used as a restraint means a medication used only to control behavior or to restrict a child's freedom of movement and is not a standard medication to treat a psychiatric condition.

(c) Before a foster parent administers physical restraint holds, each foster parent shall complete training that includes 16 hours of initial training in behavior management, including techniques for de-escalating problem behavior, the use of physical restraint holds, monitoring of vital indicators, and debriefing children and foster parents involved in physical restraint holds. Foster parents authorized to use physical restraint holds shall annually complete eight hours of behavior management training, including techniques for de-escalating problem behavior. This training shall count toward the training requirements as set forth in 10A NCAC 70E .1117(6). Only foster parents trained in the use of physical restraint holds may administer physical restraint holds.

(d) Instructors who train foster parents shall have met the following qualifications and training requirements:

- (1) demonstrate competence by scoring 100 percent on testing in a training program aimed at preventing, reducing, and eliminating the need for restrictive interventions;
- (2) demonstrate competence by scoring 100 percent on testing in a training program teaching the use of physical restraint;
- (3) demonstrate competence by scoring a passing grade on testing in an instructor training program as determined by the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services;
- (4) the instructors' training shall be competency-based and shall include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives, and measurable methods to determine passing or failing the course;
- (5) the content of the instructor training shall be approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services;
- (6) be retrained annually and demonstrate competence in the use of physical restraints;
- (7) be trained in CPR such as those provided by the American Red Cross, American Heart Association, or equivalent organizations. Division staff shall determine that an organization is substantially equivalent if the organization is already approved by the Department or meets the same standard of care as the American Heart Association or American Red Cross. The Division shall not accept web-based trainings for certification in CPR;
- (8) have been coached in teaching the use of restrictive interventions two times with a positive review by the coach, and instructors shall teach a program on the use of physical restraints once annually; and
- (9) complete a refresher instructor training at least every two years;

(e) In administering physical restraints, the following shall apply:

- (1) foster parents shall use only those physical restraint holds approved by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, pursuant to 10A NCAC 27E .0108. Approved physical restraint holds can be found at the following web site: <https://www2.ncdhhs.gov/mhddsas/providers/trainingandconferences/restraints.htm>;
- (2) a foster parent shall not use physical restraints that will cause a child harm, given their medical condition or any medications that they are taking;
- (3) no child shall be restrained using a physical object;
- (4) no child or group of children shall be allowed to participate in the physical restraint of another child;

- (5) physical restraint holds shall:
 - (A) not be used for purposes of discipline or convenience;
 - (B) be used only when there is imminent risk of harm to the child or others and less restrictive approaches have failed;
 - (C) be administered in the least restrictive manner possible to protect the child or others from imminent risk of harm; and
 - (D) end when there is no longer any risk of imminent harm to any party;
 - (6) The foster parent shall:
 - (A) ensure that any physical restraint hold used on a child is administered by a trained foster parent with a second trained adult in attendance. Concurrent with the administration of a physical restraint hold and for a minimum of 15 minutes subsequent to the termination of the hold, a foster parent shall monitor the child's breathing, ascertain the child is verbally responsive and has motor control and ensure the child remains conscious without any complaints of pain. The supervising agency may seek a waiver from the licensing authority for a foster parent to administer a physical restraint hold without a second trained adult in attendance. The licensing authority shall grant the waiver if it receives a written waiver request; written approval from the child's parent, guardian, or custodian that the administering of a physical restraint hold without a second trained person present is acceptable; written approval from the supervising agency that the foster parent is authorized to administer a physical restraint hold without a second trained person present; documentation that there is approval by the child and family team; and documentation in the person-centered plan or out-of-home family services agreement that it is acceptable for the foster parent to administer a physical restraint hold without a second trained person present;
 - (B) terminate the physical restraint hold or adjust the position to ensure that the child's breathing and motor control are not restricted if at any time during the administration of a physical restraint hold the child complains of being unable to breathe or loses motor control;
 - (C) immediately seek medical attention for the child if at any time it appears to be necessary;
 - (D) conduct an interview with the foster child about the incident following the use of a physical restraint hold;
 - (7) The supervising agency shall interview the foster parent administering the physical restraint about the incident following the use of a physical restraint and shall document the incident in a report. Each report shall include:
 - (A) the child's name, age, height, and weight;
 - (B) the type of hold utilized;
 - (C) the duration of the hold;
 - (D) the trained foster parent administering the hold;
 - (E) the trained adult witnessing the hold;
 - (F) the less restrictive alternatives that were attempted prior to utilizing physical restraint;
 - (G) the child's behavior that necessitated the use of physical restraint; and
 - (H) whether the child's condition required medical attention; and
 - (8) Physical restraints where a person ends up in a prone or face down position shall be prohibited.
- (f) Foster parents shall annually receive written approval from the executive director of the supervising agency or his or her designee before administering physical restraint holds. This written approval shall be based upon the executive director's evaluation of the foster parent's historical use of physical restraints. The foster parent shall retain a copy of the written approval and a copy shall be placed in the foster home record.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
 Eff. September 1, 2007;
 Amended Eff. August 1, 2017;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

(a) Foster parents shall be persons whose behaviors, circumstances, and health are conducive to the safety and well-being of children. Foster parents shall be selected on the basis of demonstrating strengths in the skill areas of Subparagraphs (1) through (12) of this Paragraph which permit them to undertake and perform the responsibilities of meeting the needs of children, in providing continuity of care, and in working with the supervising agency. Foster parents shall demonstrate skills in:

- (1) assessing individual and family strengths and needs and building on strengths and meeting needs;
- (2) using and developing effective communication;
- (3) identifying the strengths and needs of children placed in the home;
- (4) building on children's strengths and meeting the needs of children placed in the home;
- (5) developing partnerships with children placed in the home, parents or the guardians of the children placed in the home, the supervising agency and the community to develop and carry out plans for permanency;
- (6) helping children placed in the home develop skills to manage loss and skills to form attachments;
- (7) helping children placed in the home manage their behaviors;
- (8) helping children placed in the home maintain and develop relationships that will keep them connected to their pasts;
- (9) helping children placed in the home build on positive self-concept and positive family, cultural, and racial identity;
- (10) providing a safe and healthy environment for children placed in the home which keeps them free from harm;
- (11) assessing the ways in which providing family foster care or therapeutic foster care affects the family; and
- (12) making an informed decision regarding providing family foster care or therapeutic foster care.

(b) Age. A license may only be issued to persons 21 years of age and older.

(c) Health. The foster family shall be in good physical and mental health as evidenced by:

- (1) a medical examination completed by a licensed medical provider on each member of the foster home within the last 12 months prior to the initial licensing application date, and biennially thereafter;
- (2) documentation that each adult member of the household has had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. The foster parents' children are required to be tested only if one or more of the parent's tests positive for TB;
- (3) a medical history form completed on each member of the household at the time of the initial licensing application and on any person who subsequently becomes a member of the household;
- (4) no indication of alcohol abuse, drug abuse, or illegal drug use by a member of the foster family;
- (5) no indication that a member of the foster family is a perpetrator of domestic violence;
- (6) no indication that a member of the foster family has abused, neglected, or exploited a disabled adult;
- (7) no indication that a member of the foster family has been placed on the North Carolina Sex Offender and Public Protection Registry pursuant to Article 27A Part 2 of G.S. 14;
- (8) no indication that a member of the foster family has been placed on the Health Care Personnel Registry pursuant to G.S. 131E-256; and
- (9) no indication that a member of the foster family has been found to have abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child.

(d) Education. Foster parent applicants shall have graduated from high school or received a GED (Graduate Equivalency Diploma) or shall have an ability to read and write as evidenced by their ability to administer medications as prescribed by a licensed medical provider, maintain medication administration logs and maintain progress notes.

(e) Required Applicants. Foster parent applicants who are married are presumed to be co-parents in the same household and both shall complete all licensing requirements. Adults 21 years of age or older, living in currently licensed or newly licensed foster homes who have responsibility for the care, supervision, or discipline of the foster child shall complete all licensing requirements. The supervising agency shall assess each adult's responsibility for the care, supervision, or discipline of the foster child.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153; Eff. September 1, 2007;

Amended Eff. November 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1105 CONFLICT OF INTEREST

(a) County departments of social services and private child-placing agencies shall not supervise foster homes of members of their board of directors, governance structure, social services board, and county commission.

(b) County departments of social services and private child-placing agencies shall not supervise foster homes of agency employees and relatives of agency employees. Relatives include birth and adoptive parents, blood and half blood relative and adoptive relative including brother, sister grandparent, great-grandparent, great-great grandparent, uncle, aunt, great-uncle, great-aunt, great-great uncle, great-great aunt, nephew, niece, first cousin, stepparent, stepbrother, stepsister and the spouse of each of these relatives.

(c) Private child-placing agencies shall not supervise foster homes of their agency owners.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;

Eff. September 1, 2007;

Amended Eff. November 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1106 DAY CARE CENTER OPERATIONS

If a licensed foster parent operates or plans to operate a day care center, the following criteria shall be met:

- (1) the foster home living quarters shall not be part of the day care operation;
- (2) there shall be a separate entrance to the day care operation; and
- (3) staff specified in day care center rules shall be available to provide care for the day care children.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;

Eff. September 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1107 RELATIONSHIP TO SUPERVISING AGENCY

(a) Foster parents shall agree to work with the supervising agency in the following ways:

- (1) work with the child and the child's parent or guardian in the placement process, reunification process, adoption process, and any change of placement process;
- (2) consult with social workers, mental health personnel, licensed medical providers, and other persons authorized by the child's parent, guardian, or custodian who are involved with the child;
- (3) maintain confidentiality regarding children and their parent or guardian;
- (4) keep records regarding the child's illnesses, behaviors, social needs, educational needs, and family visits and contacts; and
- (5) report to the supervising agency any changes as required by 10A NCAC 70E .0902.

(b) In addition to Paragraph (a) of this Rule, foster parents who provide therapeutic foster care services shall:

- (1) be trained as set out in 10A NCAC 70E .1117;
- (2) allow weekly supervision and support from a qualified professional as defined in 10A NCAC 27G .0104(19); and
- (3) allow weekly supervision and support from a qualified professional as outlined in 10A NCAC 70G .0503(r).

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;

Eff. September 1, 2007;

Amended Eff. August 1, 2017; November 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1108 FIRE AND BUILDING SAFETY

(a) Each foster home shall be in compliance with all applicable portions of the NC Residential Code in effect at the time the foster home was constructed or last renovated. Information regarding the purchase of all applicable volumes of The North Carolina State Residential Code and referenced standards and codes, can be accessed by reviewing the following web site: (www.ncdoi.com - click on Code Services, click on Code Book Sales) or calling the Code Section within the Department of Insurance at 919-661-5880.

(b) All homes shall be protected from all fire hazards including the following:

- (1) all hallways, doorways, entrances, ramps, steps, and corridors shall be kept clear and unobstructed at all times;
- (2) an evacuation plan shall be developed, and all persons in the home shall be knowledgeable of the plan;
- (3) a mounted "ABC" fire extinguisher with a rating not less than 1-A shall be installed and readily available in the residence;
- (4) homes built prior to July 1975 shall have a battery or electric smoke alarm installed outside every sleeping area. Homes built between July 1975 and June 30, 1999, shall have electric smoke alarms placed outside sleeping areas as required by the NC Residential Code in effect at construction time. Homes built after June 30, 1999 shall have smoke alarms in every sleeping room, outside bedrooms and other areas, interconnected as required in the NC Residential Code;
- (5) a Carbon Monoxide (CO) detector shall be installed in homes that use fuel oil products, coal, wood or gas to heat, cool, cook, operate a hot water heater or gas logs;
- (6) all homes shall have telephone service;
- (7) no egress door shall have a double keyed dead bolt; and
- (8) extension cords shall not be used as a substitute for permanent wiring. Extension cords shall be used only for portable appliances and shall be listed by Underwriters Laboratory (UL).

Before a home is licensed, it shall be inspected and receive a passing rating on the fire and building safety inspection report completed by the local fire inspector. Before a home is relicensed, it shall have a current fire and building safety inspection report with a passing rating completed by the local fire inspector.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Amended Eff. November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .1109 HEALTH REGULATIONS

The supervising agency shall have a discussion regarding water quality and sanitation with the applicants. The supervising agency shall document the date the discussion was held and include a statement that the family is not aware of any health hazards caused by the family's water and sanitation facilities. The supervising agency shall ask the family about water testing that has been done and any immediate or past problems concerning water quality and sanitation. As part of the on-site visit, the supervising agency shall observe that the home has running water. As part of the on-site visit, the supervising agency shall observe that the home has a sanitary toilet and bathing facility. Licensure of a foster home shall not be recommended if the supervising agency has any reason to believe the water supply is not safe or the toilet and bathing facilities are not sanitary.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .1110 ENVIRONMENTAL REGULATIONS

- (a) The home and yard shall be maintained and repaired so that they are not hazardous to the children in care.
- (b) The house shall be kept free of uncontrolled rodents and insects.
- (c) Windows and doors used for ventilation shall be screened.
- (d) The kitchen shall be equipped with an operable stove and refrigerator, running water and eating, cooking, and drinking utensils to accommodate the household members. The eating, cooking, and drinking utensils shall be cleaned and stored after each use.
- (e) Household equipment and furniture shall be in good repair.

- (f) Flammable and poisonous substances, medications, and cleaning materials shall be stored out of the reach of children placed for foster care.
- (g) Explosive materials, ammunition, and firearms shall each be stored separately, in locked places.
- (h) Documentation that household pets have been vaccinated for rabies shall be maintained by the foster parents.
- (i) Each home shall have heating, air-cooling, or ventilating capability to maintain a range between 65° F (18.3° C) and 85° F (29.4° C).
- (j) Rooms including toilets, baths, and kitchens without operable windows, shall have mechanical ventilation to the outside.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1111 ROOM ARRANGEMENTS

- (a) Each home shall have a family room to meet the needs of the family including children placed for foster care.
- (b) The kitchen shall be large enough for preparation of food and cleaning of dishes. Each home shall have a dining area to meet the needs of the family including children placed for foster care.
- (c) Bedrooms shall be identified on a floor plan as bedrooms and shall not serve dual functions.
- (d) Children shall not be permitted to sleep in an unfinished basement or in an unfinished attic.
- (e) Each child shall have his/her own bed. Each bed shall be provided with a supported mattress, two sheets, blanket, bedspread, and be of size to accommodate the child. No day bed, convertible sofa, or other bedding of a temporary nature shall be used for the exclusive sleeping area of the child except for temporary care for up to two weeks. The sleeping room shall not be shared by children of the opposite sex except by children age five and under. The sleeping arrangements shall provide space within the bedroom for the bed and the child's personal possessions. When children share a bedroom, a child under six shall not share a room with a child over 12, except when siblings are placed together. No more than four children shall share a room.
- (f) Separate and accessible drawer space and closet space for personal belongings and clothing shall be available for each child.
- (g) The home shall have indoor, operable sanitary toilet, hand-washing, and bathing facilities. Homes shall be designed in a manner that will provide children privacy while bathing, dressing, and using toilet facilities.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1112 EXTERIOR SETTING AND SAFETY

The exterior spaces around the foster home, including any yard spaces shall be clear of any dangerous objects or hazardous items including access to water, such as swimming pools, beaches, rivers, lakes, or streams. Access to such hazards shall be avoided by either a fence at least 48 inches high with a locked gate around the hazard, or by a fence at least 48 inches high with a locked gate around the yard and exterior space of the home while still providing play space for children. Access to water in above ground swimming pools shall be prevented by locking and securing the ladder in place or storing the ladder in a place inaccessible to the children. The supervising agency shall observe and document that the foster parents have taken measures to protect foster children from having unsupervised access to swimming pools, beaches, rivers, lakes, streams, other water sources, or other hazards.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1113 LICENSING COMPLIANCE VISITS

Quarterly Visits. Licensing social workers of supervising agencies shall visit with the foster family on at least a quarterly basis for the specific purpose of assessing licensing requirements. Two of the quarterly visits each year

shall take place in the foster home. The licensing social worker may require the remaining visits to occur at a location of the licensing social worker's preference.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .1114 CRIMINAL HISTORIES

(a) An applicant shall not be licensed if the applicant, or any member of the applicant's household 18 years of age or older, refuses to consent to a criminal history check required by G.S. 131D, Article 1A.

(b) An applicant or any member of the applicant's household is not eligible for licensure if the applicant or any member of the applicant's household has been convicted of a felony involving:

- (1) child abuse or neglect;
- (2) spouse abuse;
- (3) a crime against a child or children (including child pornography); or
- (4) a crime involving violence, including rape, sexual assault, or homicide but not including other physical assault or battery.

(c) An applicant or any member of the applicant's household is not eligible for licensure if the applicant or any member of the applicant's household has within the last five years been convicted of a felony involving:

- (1) physical assault;
- (2) battery; or
- (3) a drug-related offense.

(d) An applicant or any members of the applicant's household with criminal convictions except those specified in Paragraph (b) of this Rule may be considered for licensure based on the following factors:

- (1) nature of the crime;
- (2) length of time since the conviction;
- (3) circumstances surrounding the commission of the offense or offenses;
- (4) number and type of prior offenses;
- (5) evidence of rehabilitation;
- (6) age of the individual at the time of the commission of the offense or offenses; and
- (7) letter of support for licensure from the executive director of the agency.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70E .1115 RESPONSIBLE INDIVIDUALS LIST

(a) An applicant is not eligible for licensure if the applicant has within the last five years been substantiated for abuse or serious neglect and is placed on the Responsible Individuals List as defined in North Carolina General Statute 7B-311.

(b) After five years, an applicant who is on the Responsible Individuals List may be considered for licensure based on the following factors:

- (1) nature of the substantiation;
- (2) length of time since the substantiation;
- (3) circumstances surrounding the substantiation;
- (4) evidence of rehabilitation;
- (5) history of convictions and violations; and
- (6) letter of support for licensure from the executive director of the agency.

(c) The supervising agency shall provide documentation to the licensing authority of the results of Child Abuse and Neglect Central Registry Checks of states where the applicant has resided the past five years.

*History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
Eff. September 1, 2007;
Amended Eff. August 1, 2011;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70E .1116 CRIMINAL HISTORY CHECKS

(a) The supervising agency shall complete the following activities at initial licensure for new foster parent applicants and any member of the prospective foster parents' household who is 18 years of age or older:

- (1) furnish the written notice as required by G.S. 131D-10.3A(e);
- (2) obtain a signed consent form for a criminal history check and submit the signed consent form to the Department of Health and Human Services, Criminal Records Check Unit;
- (3) obtain two sets of fingerprints on SBI identification cards and forward both sets of fingerprints to the Department of Health and Human Services, Criminal Records Check Unit. Once an individual's fingerprints have been submitted to the Department of Health and Human Services, Criminal Records Check Unit, additional fingerprints shall not be required;
- (4) conduct a local criminal history check through accessing the Administrative Office of the Courts and the Department of Corrections Offender Population Unified System and submit the results of the criminal history checks to the licensing authority;
- (5) obtain a signed statement that:
 - (A) the individual has no criminal, social or medical history which would adversely affect their capacity to work with children and adults;
 - (B) obtain a signed statement that the individual has not abused or neglected a child, been a respondent in a juvenile court proceeding that resulted in the removal of a child, or had child protective services involvement that resulted in the removal of a child; and
 - (C) obtain a signed statement that the applicant has not abused, neglected, or exploited a disabled adult and has never committed an act of domestic violence upon another person;
- (6) conduct a search of the North Carolina Sex Offender and Public Protection Registry; and
- (7) conduct a search of the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256.

(b) The supervising agency shall conduct a local criminal history check through accessing the Administrative Office of the Courts and the North Carolina Department of Public Safety, Division of Adult Correction, Offender Information and submit the results of the criminal history checks to the licensing authority at relicensure for foster parents and any member of the prospective foster parents' household 18 years of age or older.

(c) Every two years, the supervising agency shall require that foster parents and any adult member of the household provide:

- (1) a signed statement that the individual has no criminal, social, or medical history which would adversely affect their capacity to work with children and adults;
- (2) a signed statement that the individual has not abused or neglected a child, been a respondent in a juvenile court proceeding that resulted in the removal of a child, or had child protective services involvement that resulted in the removal of a child;
- (3) a signed statement that the applicant has not abused, neglected, or exploited a disabled adult and has never committed an act of domestic violence upon another person; and
- (4) a signed statement that the applicant is not listed on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256.

History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.3A; 131D-10.5; 143B-153;

Eff. September 1, 2007;

Amended Eff. August 1, 2017;

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10A NCAC 70E .1117 TRAINING REQUIREMENTS

Each supervising agency shall provide, or cause to be provided, preservice and in-service training for all prospective and licensed foster parents as follows:

- (1) Prior to licensure or within six months from the date a provisional license is issued, each applicant shall complete 30 hours of preservice training. Preservice training shall include the following:
 - (a) general orientation to foster care adoption process;
 - (b) communication skills;
 - (c) understanding the dynamics of foster care;

- (d) separation and loss;
 - (e) attachment and trust;
 - (f) child and adolescent development;
 - (g) behavior management;
 - (h) working with birth families and maintaining connections;
 - (i) lifebook preparation;
 - (j) planned moves and the impact of disruption;
 - (k) the impact of placement on foster and adoptive families;
 - (l) teamwork to achieve permanence
 - (m) cultural sensitivity;
 - (n) confidentiality;
 - (o) health and safety;
 - (p) trauma informed care; and
 - (q) the Reasonable and Prudent Parent Standard as defined in G.S. 131D-10.2A.
- (2) Prior to licensure or within six months from the date a provisional license is issued, therapeutic foster parent applicants shall receive ten hours of preservice training in behavioral mental health treatment services in addition to the training required by Item (1) of this Rule, including the following:
- (a) the role of the therapeutic foster parent;
 - (b) safety planning; and
 - (c) managing behaviors.
- (3) During the initial two years of licensure, each therapeutic foster parent shall receive additional training in the following areas:
- (a) development of the person-centered plan;
 - (b) the dynamics of emotionally disturbed and substance abusing youth and families;
 - (c) the symptoms of substance abuse;
 - (d) the needs of emotionally disturbed and substance abusing youth and families; and
 - (e) crisis intervention.
- (4) Foster parents shall complete certification in first-aid, cardiopulmonary resuscitation (CPR) and universal precautions provided by either the American Heart Association, the American Red Cross, or equivalent organizations before a foster child is placed with the foster family. Division staff shall determine that an organization is substantially equivalent if the organization is already approved by the Department or meets the same standard of care as the American Heart Association or American Red Cross. First-aid, CPR, and universal precautions training shall be renewed as required by the American Heart Association, the American Red Cross, or equivalent organizations. Successfully completed shall mean demonstrating competency, as evaluated by the instructor who has been approved by the American Heart Association, the American Red Cross, or other organizations approved by the Division of Social Services to provide first-aid, CPR, and universal precautions training. Training in CPR shall be appropriate for the ages of children in care. Documentation of successful completion of first-aid, CPR, and universal precautions shall be maintained by the supervising agency. The Division shall not accept web-based trainings for certification in first-aid, CPR, or universal precautions.
- (5) Child-specific training shall be provided to the foster parents as required in the out-of-home family services agreement or person-centered plan as a condition of the child being placed in the foster home. If the child or adolescent requires treatment for abuse, for example, if the child or adolescent engages in reactive, sexually reactive, or sexual offender behaviors, specific treatment shall be identified in his or her person-centered plan. Training of therapeutic foster parents is required in all aspects of reactive and offender-specific sexual treatment and shall be made available by a provider who meets the requirements specified for a qualified professional as defined in 10A NCAC 27G .0104. When the child or adolescent requires treatment for substance abuse, specific treatment shall be identified in his/her person-centered plan. Training and supervision of therapeutic foster parents are required in all aspects of substance abuse and shall be made available by a provider who meets the requirements specified for a qualified substance abuse prevention professional as defined in 10A NCAC 27G .0104. This training shall count towards the training requirements of Item (6) of this Rule.

- (6) Prior to licensure renewal, each foster parent shall complete twenty hours of in-service training. This training may be child-specific or may concern issues relevant to the general population of children in foster care. In order to meet this requirement:
 - (a) each supervising agency shall provide, or cause to be provided, 10 hours of in-service training for foster parents annually;
 - (b) the training shall include subjects that would enhance the skills of foster parents and promote stability for children;
 - (c) a foster parent may complete training provided by a community college, a licensed supervising agency, or other departments of State or county governments and, upon approval by the supervising agency, such training shall count towards meeting the requirements specified in this Item; and
 - (d) each supervising agency shall document in the foster parent record the type of activity the foster parent has completed pursuant to this Item.
- (7) A foster family caring for a child with HIV (human immunodeficiency virus) or AIDS (acquired immunodeficiency syndrome) shall complete six hours of training on issues relevant to HIV or AIDS annually. This training shall count towards the training requirements Item (6) of this Rule.
- (8) Training for physical restraint holds pursuant to 10A NCAC 70E .1103.

History Note: Authority G.S. 131D-10.1; 131D-10.2A; 131D-10.3; 131D-10.5; 131D-10.6A; 143B-153; Eff. September 1, 2007;
 Amended Eff. August 1, 2017; November 1, 2009;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SUBCHAPTER 70F – CHILD PLACING AGENCIES AND RESIDENTIAL MATERNITY HOMES

SECTION .0100 – GENERAL

10A NCAC 70F .0101 SCOPE

The rules in this Subchapter apply to agencies that receive children for the purpose of placement in family foster homes, therapeutic foster homes, adoptive homes, and residential maternity homes. In addition, if agencies provide therapeutic foster care services, the rules in 10A NCAC 27G .0203 and .0204; 10A NCAC 70E; and 10A NCAC 70G apply. The North Carolina Department of Health and Human Services, Division of Social Services, is the licensing authority for child-placing agencies for adoption, child-placing agencies for foster care, and residential maternity homes.

History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153;
 Eff. February 1, 1986;
 Amended Eff. January 1, 2002; July 1, 1990;
 Temporary Amendment Eff. February 1, 2002;
 Amended Eff. October 1, 2008; July 18, 2002;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70F .0102 LICENSURE

History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 131D-10.10; 143B-153;
 Eff. February 1, 1986;
 Amended Eff. July 18, 2002; July 1, 1990;
 Temporary Amendment Eff. July 1, 2003;
 Amended Eff. October 1, 2008; August 1, 2004;
 Repealed Eff. August 1, 2011.

SECTION .0200 - ORGANIZATION AND ADMINISTRATION

10A NCAC 70F .0201 GOVERNANCE

(a) A private child-placing agency and residential maternity home shall have a governing body that exercises authority and has responsibility for its operation, policies, and practices. The private child-placing agency and maternity home shall notify the licensing authority of the type and structure of the governing body.

(b) A private child-placing agency and a residential maternity home that operates under articles of incorporation shall file the articles of incorporation with the Department of the Secretary of State (<http://www.secretary.state.nc.us>). An official copy of the articles of incorporation shall be submitted to the licensing authority.

(c) In the case of non-profit or for-profit corporations, the governing body shall:

- (1) be composed of no fewer than six members to include men and women;
- (2) provide for a system of rotation for board members and limitation to the number of consecutive terms a member may serve;
- (3) establish standing committees;
- (4) provide orientation for new members; and
- (5) meet at least four times annually with a quorum present.

(d) An agency shall submit to the licensing authority a list of members of the governing body. This list shall indicate the name, address, and term of membership of each member and shall identify each officer and the term of that office.

(e) A governmental agency shall identify the statutory basis for its authority to operate a child-placing agency or a residential maternity home.

(f) The agency shall permanently maintain meeting minutes of the governing body and committees.

*History Note: Authority G.S. 131D-1; 131D-10.5; 143B-153;
Eff. February 1, 1986;
Amended Eff. November 1, 2009; October 1, 2008; July 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70F .0202 RESPONSIBILITIES OF THE GOVERNING BODY

(a) The governing body shall provide leadership for the agency and shall approve the agency's policies and programs.

(b) The governing body shall employ an executive director who is located in the agency's administrative office within the geographical boundaries of North Carolina and shall delegate responsibility for the administration and operation of the agency to that director, including the employment and discharge of all agency staff.

(c) The governing body shall:

- (1) require the executive director provide a signed statement that the executive director has no criminal, social, or medical history that would adversely affect his or her capacity to work with children and adults;
- (2) ensure that the criminal histories of an executive director are completed;
- (3) ensure that searches of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256 are completed;
- (4) submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70A .0102, to determine if the executive director has had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (5) make all determinations concerning an individual's fitness for employment based on the requirements of this Paragraph prior to employment;
- (6) require that the executive director provide a signed statement prior to employment that he or she has not abused or neglected child, has not been a respondent in a juvenile court proceeding that resulted in the removal of a child, and has not had child protective services involvement that resulted in the removal of a child; and
- (7) require that the executive director provide a signed statement that he or she has not abused, neglected, or exploited a disabled adult and that he or she has never committed an act of domestic violence upon another person.

Agencies or applicants that do not have a governing body shall provide this information directly to the licensing authority.

- (d) The executive director is not eligible for employment if he or she has been convicted of a felony involving:
- (1) child abuse or neglect;
 - (2) spouse abuse;
 - (3) a crime against a child or children, including child pornography; or
 - (4) a crime of rape, sexual assault, or homicide.
- (e) The executive director is not eligible for employment if within the last five years he or she has been convicted of a felony involving:
- (1) assault;
 - (2) battery; or
 - (3) a drug-related offense.
- (f) The governing body shall annually evaluate the executive director's performance, except a sole proprietor or partner is exempt from this Rule if he or she serves as executive director.
- (g) The governing body shall approve the annual budget of anticipated income and expenditures necessary to provide the services described in its statement of purpose. Child-placing agencies and residential maternity homes receiving foster care payments or state maternity home funds shall submit an annual audit of their financial statements to the Department of Health and Human Services, Controller's Office, Cost Analysis Branch, Rate Setting Unit and shall comply with 10A NCAC 70D .0105(a)(5).
- (h) The governing body shall annually evaluate the effectiveness of the agency's service to its clients. This evaluation shall include the agency's services to ensure client safety.
- (i) The governing body shall establish in writing confidentiality policies and procedures for control and access to and receipt, use, or release of information about its clients.
- (j) The governing body of child-placing agencies providing foster care services shall develop a written disaster plan that is provided to agency personnel and foster parents. The disaster plan shall be prepared and updated at least annually. The governing body of residential maternity homes shall comply with 10A NCAC 70K .0315(g).
- (k) The governing body shall develop a plan, in the event of the closing of the agency, that shall contain:
- (1) the date of projected closing;
 - (2) the name, address, email, and phone number of the contact person responsible for accessing the agency's records;
 - (3) the physical location of the records; and
 - (4) how the agency plans to keep records secure and confidential.
- (l) The governing body shall develop and implement policies and procedures to comply with Title VI Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, incorporated by reference including subsequent amendments and editions.
- (m) The governing body shall insure that the agency complies with the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-82, as amended by the Interethnic Adoption Provisions (IEP) of 1996, which is incorporated by reference, including subsequent amendments and editions.
- (n) The governing body shall comply with the terms and conditions of State and Federal requirements to participate in procurement contracts and covered non-procurement transactions as required by 45 C.F.R. 82.510 and 49 C.F.R. 29.630, which is incorporated by reference, including subsequent amendments and editions.

*History Note: Authority G.S. 131D-10.5; 131D-10.6; 131D-10.10; 143B-153;
Eff. February 1, 1986;
Amended Eff. July 1, 1990;
Temporary Amendment Eff. February 1, 2002;
Amended Eff. August 1, 2017; June 1, 2010; November 1, 2009; October 1, 2008; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70F .0203 FINANCES, FEES AND INSURANCE

- (a) Child-placing agencies and residential maternity homes shall have a written line item budget, showing planned expenditures and revenues available to operate the agency for a 12 month period. A copy of the budget shall be submitted to the licensing authority prior to initial licensure and biennially thereafter.
- (b) Child-placing agencies and residential maternity homes receiving foster care maintenance payments of state funds or state maternity home funds shall submit an annual audit of their financial statements to the Department of Health and Human Services, Controller's Office in compliance with 10A NCAC 70D .0105(a)(5).

(c) Child-placing agencies and residential maternity homes shall have a written policy on fees for services which shall be inclusive of all fees and charges. No cost beyond the written policy shall be imposed. The agency policy shall describe the relationship between fees and services provided and the conditions under which fees are charged or waived. The agency shall make the policy available to applicants for services at the time an application for service is made and to the public upon request.

(d) Adoption agencies that provide international adoption services shall inform prospective adoptive parents of the estimated or actual expenses associated with an international adoption that includes:

- (1) application fees;
- (2) preplacement assessment (homestudy) fees;
- (3) pre-adoption service fees;
- (4) government and facilitator fees;
- (5) placement service fees;
- (6) post-placement and post-adoption service fees;
- (7) travel and other costs and fees in the child's country of origin; and
- (8) additional costs associated with the adoption.

(e) Child-placing agencies and residential maternity homes shall notify the licensing authority, parents, guardian, and legal custodian (if applicable) of its status related to liability insurance for the agency and staff to applicants for services at the time an application for service is made.

(f) The executive director shall report to the governing body at least quarterly, or more frequently if requested by any member of the governing body, on present financial status and anticipated problems.

*History Note: Authority G.S. 131D-10.5; 131D-10.10; 143B-153;
Eff. February 1, 1986;
Amended Eff. June 1, 2010; October 1, 2008; July 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70F .0204 AGENCY SETTING

(a) The agency shall maintain an administrative office within the geographical boundaries of North Carolina from which the activities carried out under the North Carolina license are handled.

(b) The agency shall provide and maintain office space, equipment and supplies to ensure the following:

- (1) confidentiality and safekeeping of records;
- (2) privacy for interviewing and conferences; and
- (3) availability of visiting rooms for families and children.

(c) The current license shall be posted at all times in a conspicuous place in the primary administrative North Carolina office of the agency.

(d) The administrative office of a child-placing agency for foster care and a child-placing agency for adoption shall not be located in a private residence that is occupied, a group home or maternity home that is occupied, a crisis pregnancy center or any other similar occupied dwelling, business, or facility. The office of a residential maternity home may be located in the maternity home.

*History Note: Authority G.S. 131D-1; 131D-10.5; 143B-153;
Eff. February 1, 1986;
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70F .0205 RESPONSIBILITY TO LICENSING AUTHORITY

(a) The agency shall submit, biennially to the licensing authority, the information and materials to document compliance with the licensure rules and to support issuance of a license.

(b) The agency shall submit to the licensing authority a biennial statistical report of program activities that shall include information such as agency governance structure, financial data, staff employed, and clients served during the licensure period.

(c) The agency shall provide written notification to the licensing authority of a change in the executive director within 72 hours.

- (d) The agency shall provide written notification to the licensing authority of any changes in policies and procedures to assure that the changes are in compliance with the rules in Subchapters 70E, 70F, 70G, 70H, or 70K. The agency shall not institute any changes in policies and procedures until after it receives written approval from the licensing authority.
- (e) Child-placing agencies for foster care shall comply with requirements related to the handling and reporting of critical incidents, in accordance with 10A NCAC 70G .0513. Residential maternity homes shall comply with requirements related to the handling and reporting of critical incidents in accordance with 10A NCAC 70K .0210.
- (f) If there is a death of a child or resident in placement in a home supervised by the agency, the executive director or his or her designee shall notify the licensing authority within 72 hours.
- (g) The agency shall provide to the licensing authority at the time of license application the legal name and social security number of each individual who holds at least a five percent interest in the agency.
- (h) The agency shall provide to the licensing authority written notification of a change in the legal name of any person holding an interest in the agency of at least five percent within 30 days following the changes.
- (i) The agency shall notify the local management entity within 24 hours of placement that a child may require Mental Health, Developmental Disability or Substance Abuse Services.
- (j) If a child-placing agency for foster care is monitored by a local management entity, the agency shall provide data to the local management entity as required by Department of Health and Human Services for monitoring and reporting to the General Assembly.
- (k) The agency shall notify the licensing authority within 24 hours if the agency receives notice of debarment that prohibits the agency from participating in State and Federal procurement contracts and covered non-procurement transactions.

*History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153;
Eff. February 1, 1986;
Amended Eff. July 18, 2002; July 1, 1990;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. August 1, 2017; October 1, 2008; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70F .0206 PERSONNEL POLICIES

- (a) The agency shall have written policies for all employees (full-time, part-time and contracted) which include the following:
- (1) written job descriptions and titles for each position defining the qualifications, duties, and lines of authority;
 - (2) salary scales;
 - (3) a description of employee benefits;
 - (4) opportunities for professional growth through supervision, orientation, in-service training, and staff development;
 - (5) procedures for annual evaluation of the work and performance of each staff member which includes provision for employee participation in the evaluation process;
 - (6) a description of the termination procedures established for resignation, retirement, or discharge; and
 - (7) a written grievance procedure for employees.
- (b) The agency shall have a personnel file for each employee (full-time, part-time, and contracted) which includes the following:
- (1) the application for employment, including record of work experience;
 - (2) documentation of at least three references;
 - (3) applicable professional credentials or certifications (prior to employment certified college transcripts shall be obtained for positions requiring college degrees);
 - (4) signed statement indicating the employee's understanding of and willingness to comply with confidentiality requirements;
 - (5) signed statement that the employee has no criminal, social, or medical history which would adversely affect the employee's capacity to work with children and adults;
 - (6) criminal record checks certified by the Clerk of Superior Court;
 - (7) results of the search of the North Carolina Sex Offender and Public Protection Registry;

- (8) results of the search of the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256);
 - (9) results of the Responsible Individuals List as defined in 10A NCAC 70A .0102 that indicate the employee has not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
 - (10) signed statement that the applicant has not abused or neglected a child, has been a respondent in a juvenile court proceeding that resulted in the removal of a child, or had child protective services involvement that resulted in the removal of a child;
 - (11) signed statement that the applicant has not abused, neglected, or exploited a disabled adult;
 - (12) signed statement that the applicant has not been a domestic violence perpetrator;
 - (13) log of training;
 - (14) written approval letter from executive director or his or her designee authorizing staff to administer physical restraint holds, if applicable;
 - (15) annual performance evaluations;
 - (16) documentation of disciplinary actions;
 - (17) documentation of grievances files;
 - (18) employee's starting and termination dates; and
 - (19) reason for termination.
- (c) The agency shall have written procedures which safeguard the confidentiality of the personnel records.

*History Note: Authority G.S. 131D-1; 131D-10.5; 131D-10.6; 143B-153;
 Eff. February 1, 1986;
 Amended Eff. November 1, 2009; October 1, 2008; July 1, 1990;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70F .0207 STAFF

- (a) The agency shall verify prior to employment the personal qualifications of employees through at least three references.
- (b) The agency shall require that each applicant provide a signed statement that the applicant has no criminal, social or medical history which would adversely affect the applicant's capacity to work with children and adults. Prior to employment, the agency shall submit authorization to the licensing authority to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the applicant has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. The agency shall require that each applicant provide a signed statement that the applicant has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. Prior to employment, a certified criminal record check for the applicant shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The agency shall require that each applicant provide a signed statement that the applicant has not abused, neglected, or exploited a disabled adult, and has not been a domestic violence perpetrator.
- (c) Employees are not eligible for employment if they have been convicted of a felony involving:
 - (1) child abuse or neglect;
 - (2) spouse abuse;
 - (3) a crime against a child or children (including child pornography); or
 - (4) a crime of rape, sexual assault, or homicide.
- (d) The employee is not eligible for employment if within the last five years he or she has been convicted of a felony involving:
 - (1) assault;
 - (2) battery; or
 - (3) a drug-related offense.
- (e) The agency shall employ staff qualified to perform administrative, supervisory, direct care, social work, therapeutic, and placement services.
- (f) The agency shall have staff to keep correspondence, records, bookkeeping and files current and in good order. The staff shall maintain strict confidentiality concerning contents of the case records.

(g) The agency shall maintain a roster of members of the staff listing position, title, and qualifications and a current organizational chart showing administrative structure and staffing, including lines of authority. The organizational chart shall be submitted prior to initial licensure and biennially thereafter.

(h) An agency which uses volunteers and interns as unpaid staff to work directly with clients shall:

- (1) have written job descriptions and select only those persons qualified to meet the requirements of those jobs;
- (2) require three references relevant to the role and responsibilities to be assumed;
- (3) designate a staff member to supervise and evaluate volunteers and interns;
- (4) develop and implement a plan for the orientation and training of volunteers and interns in the philosophy of the agency and the needs of the clients and their families; and
- (5) require that each volunteer and intern provide a signed statement that they have no criminal, social or medical history that would adversely affect their capacity to work with children and adults. The agency shall submit authorization to the licensing authority to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the intern or volunteer has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. Prior to beginning volunteer or intern duties, a certified criminal record check shall be obtained and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256). The agency shall require that each volunteer or intern provide a signed statement that the volunteer or intern has not abused or neglected a child, been a respondent in a juvenile court proceeding that resulted in the removal of a child, or had child protective services involvement that resulted in the removal of a child. The agency shall require that each volunteer or intern provide a signed statement that the volunteer or intern has not abused, neglected, or exploited a disabled adult and has not been a domestic violence perpetrator.

(i) Volunteers or interns are not eligible to serve as volunteers or interns if they have been convicted of a felony involving:

- (1) child abuse or neglect;
- (2) spouse abuse;
- (3) a crime against a child or children (including child pornography); or
- (4) a crime of rape, sexual assault, or homicide.

(j) Volunteers or interns are not eligible to serve as volunteers or interns, if within the last five years they have been convicted of a felony involving:

- (1) assault;
- (2) battery; or
- (3) a drug-related offense.

(k) The agency shall require that each employee provide a signed statement that the employee has no criminal, social or medical history that will adversely affect the employee's capacity to work with children and adults every two years as long as the employee is employed. Every two years as long as the employee is employed, the agency shall submit authorization to the Division of Social Services to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the employee has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. Every two years as long as the employee is employed the agency shall require that each employee provide a signed statement that the employee has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. Every two years as long as the employee is employed, a certified criminal record check for each employee shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The agency shall require that every two years as long as the employee is employed each employee provide a signed statement that the employee has not abused, neglected, or exploited a disabled adult, and has not been a domestic violence perpetrator.

(l) The employing agency shall make all determinations concerning the individual's fitness for employment, volunteering and internship based on the requirements of this Rule.

*History Note: Authority G.S. 131D-10.5; 131D-10.6; 131D-10.10; 143B-153;
Eff. February 1, 1986;
Amended Eff. August 1, 2011; June 1, 2010; October 1, 2008; July 18, 2002;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70F .0208 CONFIDENTIALITY

- (a) The agency shall develop and enforce a policy on confidentiality that:
- (1) identifies the individuals with access to or control over confidential information;
 - (2) specify that persons who have access to records or specified information in a record be limited to persons authorized pursuant to law, including:
 - (A) the client;
 - (B) the parents, guardian, or legal custodian if the client is a minor;
 - (C) agency staff;
 - (D) auditing, licensing, or accrediting personnel; and
 - (E) those persons for whom the agency has obtained a signed consent for release of confidential information;
 - (3) requires that when a client's information is disclosed, a signed written consent for release of information is obtained from the parent, guardian, legal custodian, or client if age 18 or older;
 - (4) provides for a secure place for the storage of records with confidential information;
 - (5) informs any individual with access to confidential information of the provisions of this Rule;
 - (6) ensures that, upon employment and whenever revisions are made to the policy, staff sign a compliance statement that indicates an understanding of the requirements of confidentiality;
 - (7) permits a client to review his or her case record in the presence of agency personnel on the agency premises, in a manner that protects the confidentiality of other family members or other individuals referenced in the record, unless agency personnel determines the information in the client's case record would be harmful to the client;
 - (8) in cases of perceived harm to the client, documents in writing any refusal to share information with the client, parents, guardian, or legal custodian;
 - (9) maintains a confidential case record for each client;
 - (10) maintain confidential personnel records for all employees (full-time, part-time and contracted); and
 - (11) maintain confidential records for all volunteers and interns;
- (b) A child-placing agency for foster care and a residential maternity home may destroy in its office:
- (1) the closed record of a child or resident who has been discharged from foster care or residential maternity care for a period of three years unless included in a federal or state fiscal audit or program audit that is unresolved, in which case the agency may destroy the record in its office when released from all audits; and
 - (2) a record three years after a child or resident has reached the age of 21, unless included in a federal fiscal audit or program audit that is unresolved, in which case the agency may destroy the record in its office when released from all audits.
- (c) All individual children, birth parents, and adoptive family records shall be permanently retained by the agency. After a period of seven years, the files may be microfilmed or scanned in accordance with provisions of G.S. 8-45.1, following which the original files may be destroyed by a shredding process. The adoption agency may destroy in its office the closed records of applicants who were not accepted or who did not have a child placed with them three years after the date of their application, unless included in a federal or state fiscal audit or program audit that is unresolved, then the agency may destroy the record in its office when released from all audits.

*History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153;
Temporary Adoption Eff. February 1, 2002;
Eff. July 18, 2002;
Amended Eff. August 1, 2017; October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70F .0209 CLIENT RIGHTS
10A NCAC 70F .0210 GRIEVANCE PROCEDURES
10A NCAC 70F .0211 SEARCHES
10A NCAC 70F .0212 MEDICATION ADMINISTRATION

10A NCAC 70F .0213 HOME-SCHOOLING

History Note: Authority G.S. 131D-10.5; 143B-153;
Temporary Adoption Eff. February 1, 2002;
Eff. July 18, 2002;
Repealed Eff. October 1, 2008.

10A NCAC 70F .0214 NORMALCY FOR FOSTER CHILDREN

(a) Child placing agencies and residential maternity homes shall develop and follow policies and procedures to implement the reasonable and prudent parent standard established in G.S. 131D-10.2A.

(b) The agency shall demonstrate compliance with policies and procedures that include:

- (1) appointment of a designated official to apply the reasonable and prudent parent standard when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities;
- (2) documentation of any reasonable and prudent parent standard decision;
- (3) training for residential maternity home staff, child placing agency staff, and foster parents in the reasonable and prudent parent standard; and
- (4) supervision and support to staff and foster parents in implementing the reasonable and prudent parent standard.

History Note: Authority G.S. 131D-10.2A; 131D-10.5; 131D-10.6; 143B-153;
Eff. August 1, 2017.

SUBCHAPTER 70G – CHILD PLACING AGENCIES: FOSTER CARE

SECTION .0100 – GENERAL

10A NCAC 70G .0101 SCOPE

10A NCAC 70G .0102 ORGANIZATION AND ADMINISTRATION

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. February 1, 1986;
Amended Eff. July 18, 2002; July 1, 1990;
Repealed Eff. October 1, 2008.

SECTION .0200 - MINIMUM LICENSING STANDARDS

10A NCAC 70G .0201 PERSONNEL

10A NCAC 70G .0202 INTAKE PROCEDURES AND PRACTICES

10A NCAC 70G .0203 CASE PLAN

10A NCAC 70G .0204 PLACEMENT SERVICES

10A NCAC 70G .0205 RECORDS

History Note: Authority G.S. 131D-10.5; 143B-153; S.L. 1999-237;
Eff. February 1, 1986;
Amended Eff. July 1, 1990;
Repeal Eff. October 1, 2008.

10A NCAC 70G .0206 ASSESSMENT AND TREATMENT/HABILITATION OR SERVICE PLAN

10A NCAC 70G .0207 CLIENT RECORDS FOR CHILDREN RECEIVING MENTAL HEALTH TREATMENT SERVICES

10A NCAC 70G .0208 MEDICATION REQUIREMENTS

10A NCAC 70G .0209 BEHAVIOR MANAGEMENT AND DISCIPLINE

History Note: Authority G.S. 131D-10.5; 143B-153; S.L. 1999-237;
Eff. February 18, 2008;
Amended Eff. July 1, 1990;
Repealed Eff. October 1, 2008.

SECTION .0300 – BEST PRACTICE STANDARDS

10A NCAC 70G .0301 STAFFING REQUIREMENTS

10A NCAC 70G .0302 TRAINING REQUIREMENTS

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. September 1, 2007;
Repealed Eff. October 1, 2008.

SECTION .0400 – GENERAL

10A NCAC 70G .0401 SCOPE

The rules in this Subchapter apply to persons who receive children for the purpose of placement in family foster homes and therapeutic foster homes. Persons licensed or seeking a license to provide family foster care and therapeutic foster care services for children shall comply with 10A NCAC 70C, 70D, 70E, 70F and 70G. In addition, persons licensed or seeking a license to provide therapeutic foster care services shall comply with 10A NCAC 27G .0203 and .0204. The North Carolina Department of Health and Human Services, Division of Social Services is the licensing authority for child-placing agencies for foster care.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70G .0402 DEFINITIONS

The following definitions shall apply to the rules in Subchapter 70G:

- (1) "Agency" means a child placing agency as defined in G.S. 131D-10.2 that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes.
- (2) "Family Foster Home" has the meaning as defined in G.S. 131D-10.2(8).
- (3) "Family Foster Care" means foster care, as defined in G.S. 131D-10.2(9), that is provided in a family foster home.
- (4) "Guardian" means:
 - (a) an individual as defined in G.S. 7B-600 who is appointed by the court to serve as the guardian of the person for a juvenile;
 - (b) an individual appointed by the clerk of court in North Carolina to exercise all the powers conferred by G.S. 35A-1241, including a standby guardian appointed under Article 21A of Chapter 35A whose authority has actually commenced; and
 - (c) an individual appointed in another jurisdiction according to the law of that jurisdiction who has the powers consistent with G.S. 35A-1241.
- (5) "Legal Custodian" means a person or agency that has been awarded legal custody of a juvenile by a court of competent jurisdiction.
- (6) "Licensing Authority" means the North Carolina Division of Social Services.
- (7) "Out-of-Home Family Services Agreement" means a document prepared by a county department of social services regarding a child in the custody of a county department of social services who receives family foster care services or therapeutic foster care services. This agreement defines the primary permanency plan, identifies the family's strengths and needs, sets objectives and case activities to assist the family in resolving those issues that place the child at risk, specifies consequences if the plan does not succeed, and establishes the alternative permanency plan if the primary plan does not succeed.

- (8) "Owner" means any person who holds the ownership interest of five percent or more of the applicant. A person includes a sole proprietor, co-owner, partner or shareholder, principal or affiliate, or any person who is the applicant or any owner of the applicant.
- (9) "Parent" means the birth parent or adoptive parent.
- (10) "Person-Centered Plan" means a document prepared by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services regarding a child receiving therapeutic foster care services that includes all planning for treatment, services, and support.
- (11) "Supervising Agency" means a county department of social services or a private child- placing agency that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes. Supervising agencies are responsible for recruiting, training, and supporting foster parents. Supervising agencies recommend the licensure of foster homes to the licensing authority.
- (12) "Social worker" means an individual who has earned a bachelor's, master's, or doctorate degree in social work from a social work program accredited by the Council on Social Work Education (CSWE) as provided in the Social Worker Certification and Licensure Act (G.S. 90B).
- (13) "Therapeutic Foster Care" means a foster home in which the foster parent has received additional training in providing care to children with behavioral, mental health, or substance abuse problems.
- (14) The "reasonable and prudent parent standard" has the meaning set forth in G.S. 131D 10.2A.

History Note: Authority G.S. 131D-10.1; 131D 10.2A; 131D-10.3; 131D-10.5; 143B-153; Eff. October 1, 2008; Amended Eff. August 1, 2017; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70G .0403 LICENSURE

(a) License.

- (1) Licensure is required in accordance with G.S. 131D-10.3 and with rules in Subchapters 70F and 70G of this Chapter.
- (2) Licenses shall be in effect for two years unless suspended or revoked. Appeal procedures specified in 10A NCAC 70L .0301 apply for persons seeking an appeal of the licensing authority's decision to deny, suspend, or revoke a license.
- (3) Child-placing agencies for foster care licensed after September 1, 2011 shall have a three year or longer accreditation from either the Council on Accreditation (COA), The Joint Commission, formerly known as the Joint Commission on Accreditation of Healthcare Organizations (TJC), The Commission on Accreditation and Rehabilitation Facilities (CARF) or The Council on Quality and Leadership (CQL).
- (4) Applicants shall inform the licensing authority of any current licenses or licenses held in the past five years for child-placing agencies, maternity homes, or residential child-care facilities in other states. Applicants shall provide written documentation from the licensing authority in other states regarding violations, penalties, or probationary status imposed in other states.

(b) Changes in any information on the license.

- (1) The licensing authority shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 70F and 70G of this Chapter.
- (2) A child-placing agency for foster care shall notify the licensing authority in writing of its request for a change in license, including information that is necessary to assure the change is in compliance with the rules in Subchapters 70F and 70G of this Chapter.

(c) Termination.

- (1) When a child-placing agency for foster care voluntarily discontinues operations, either temporarily or permanently, the child-placing agency for foster care shall notify the licensing authority in writing of the date, reason and anticipated length of closing.
- (2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.
- (3) When the license of a child-placing agency for foster care is terminated, the agency shall meet all requirements of a new agency prior to being licensed.

(d) Adverse licensure action.

- (1) The licensing authority shall deny, suspend or revoke a license when a child-placing agency for foster care is not in compliance with the rules in Subchapters 70F and 70G of this Chapter unless the agency within 10 working days from the date the agency received the deficiency report from the licensing authority submits a plan of correction. The plan of correction shall specify the following:
 - (A) the measures that will be put in place to correct the deficiency;
 - (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
 - (C) the individual or individuals who will monitor the corrective action; and
 - (D) the date the deficiency will be corrected which is no later than 60 days from the date the routine monitoring was concluded.
 - (2) The licensing authority shall notify a child-placing agency for foster care in writing of the decision to deny, suspend or revoke a license.
 - (3) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.
- (e) Licensure shall be denied when any of the following conditions apply:
- (1) the applicant owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C; or any combination thereof, and any one of the following conditions exist:
 - (A) A single violation has been assessed in the six months prior to the application.
 - (B) Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
 - (C) Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.
 - (D) Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.
 - (2) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license and 60 months have not passed from the date of the revocation or summary suspension;
 - (3) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that is owned by the applicant;
 - (4) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; and G.S. 110, Article 7 and the rules adopted under these laws and 60 months have not passed from the date of the revocation or summary suspension;
 - (5) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256; or
 - (6) the applicant is an individual who has a finding on the Responsible Individual's List as described in 10A NCAC 70A .0102.

History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153;
 Eff. September 1, 2011;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0500 - MINIMUM LICENSING STANDARDS

10A NCAC 70G .0501 PERSONNEL

(a) The executive director shall manage and administer the agency in accordance with licensing requirements and policies of the governing body. The executive director shall meet the requirements of a Social Services Program Administrator I as defined by the North Carolina Office of State Human Resources. A copy of these requirements can be found at the following web site: (<http://www.oshr.nc.gov/state-employee-resources/classifications/job-classification>). The college or university degree shall be from a college or university listed at the time of the degree

in the Higher Education Directory. This information can be obtained by calling Higher Education Publications, Inc. or at: <http://www.hepinc.com>.

(b) The Social Work Supervisor or Case Manager Supervisor shall supervise, evaluate, and monitor the work and progress of the Social Work or Case Management staff. The Social Work Supervisor or Case Manager Supervisor shall meet the requirements of a Social Work Supervisor II as defined by the North Carolina Office of State Human Resources. A copy of these requirements can be found at (<http://www.oshr.nc.gov/state-employee-resources/classification/job-classification>). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. This information can be obtained by calling Higher Education Publications, Inc. or at: <http://www.hepinc.com>. Social Work Supervisors or Case Management Supervisors shall receive 24 hours of continuing education annually.

(c) The Social Worker or Case Manager shall provide intake services and casework or group work services for children and their families, conduct home-finding and assessment studies related to foster parents and planning, and coordinate the services and resources affecting foster children and their families. The Social Worker or Case Manager shall meet the requirements of a Social Worker II as defined by the North Carolina Office of State Human Resources. A copy of these requirements can be found at the following web site: (<http://www.oshr.nc.gov/state-employee-resources/classification/job-classification>). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. This information can be obtained through Higher Education Publications, Inc. at: <http://www.hepinc.com>. Social Workers or Case Managers shall receive 24 hours of continuing education annually.

(d) Social Workers or Case Managers serving children in family foster homes shall serve no more than 15 children. Social Workers or Case Managers serving children in therapeutic foster homes shall serve no more than 12 children. Social Workers or Case Managers providing foster home licensing services (in this Rule, "licensing workers") shall serve no more than 32 foster families. Agencies providing family foster care services may combine the duties of the social worker or case manager and licensing worker and serve no more than ten children and ten foster families. Agencies providing therapeutic foster care services may combine the duties of the social worker or case manager and licensing worker and serve no more than eight children and eight foster families.

(e) Supervision of social workers or case managers shall be assigned as follows:

| Supervisors Required | Social Workers or Case Managers |
|--|--|
| 0 | 0-4 (executive director serves as social work or case manager supervisor) |
| 1 | 5 |
| 2 | 6-11 |
| 3 | 12-17 |
| There shall be one additional supervisor for every one to five additional social workers or case managers. | |

(f) The agency shall ensure that the Social Work Supervisors or Case Management Supervisors and Social Workers or Case Managers receive training in the areas of child development, permanency planning methodology, family systems and relationships, child sexual abuse, trauma-informed care, and the reasonable and prudent parent standard.

History Note: Authority G.S. 131D-10.2A; 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. August 1, 2017; June 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70G .0502 APPLICATION PROCEDURES AND PRACTICES

(a) The policies for acceptance of an applicant for services shall be in writing and shall relate to the stated purpose of the agency.

(b) Acceptance of an applicant for services shall be limited to those for whom the agency is qualified by staff, program and services to provide services.

- (c) There shall be an application for services to place a child signed by the parent, guardian, legal custodian, or authorized representative of the legal custodian.
- (d) The child shall be accepted for placement by a written placement agreement signed by the parent, guardian, legal custodian or authorized representative of the legal custodian.

*History Note: Authority G.S. 131D-10.5; 143B-153; 143B-154;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70G .0503 PLACEMENT SERVICES

- (a) The agency shall assist the parents or guardian to assume or resume their parental roles and responsibilities as specified in the out-of-home family services agreement or person-centered plan.
- (b) The agency shall assist the parents or guardian to gain access to the services necessary to accomplish the goals and objectives specified in the out-of-home family services agreement or person-centered plan.
- (c) The agency shall encourage contacts between parents or guardian and children after placement, in accordance with the visitation and contact plan.
- (d) The agency shall have a signed agreement with the parents, guardian, or legal custodian of the child in care that includes the expectations and responsibilities of the agency and the parents, guardian, or legal custodian for carrying out the steps to meet the out-of-home family services agreement or goals of the person-centered plan, the financial arrangements for the child in care, and visitation and contact plans.
- (e) The agency shall select the most appropriate form of family foster care or therapeutic foster care for the child consistent with the needs of the child, parents, and guardian. The agency shall provide for any services the child may need and, when placing the child, shall select the least restrictive and most appropriate setting closest to the child's home.
- (f) The agency shall document any need to place a child in a family foster home or therapeutic foster home that is beyond a radius of 150 miles from the agency and the child's parents or guardian.
- (g) The agency, when selecting care, shall maintain the child's connections to their neighborhood, community, faith, extended family, tribe, school, and friends.
- (h) The agency shall involve the parents or guardian in the selection of the placement. In accordance with G.S. 7B-903.1(d), when the supervising agency intends to change a child's placement, it shall give the parent or guardian notice of its intention unless precluded by emergency circumstances. Where emergency circumstances exist, the supervising agency shall notify the parent or guardian within 72 hours of the placement change.
- (i) Each family foster home or the therapeutic foster home in which a foster child is placed shall be licensed by the Division of Social Services.
- (j) The agency social worker for the child shall become acquainted with the child and family prior to placement, except when a child is placed on an emergency basis or if the child is an infant.
- (k) The agency social worker shall help the child understand the reasons for placement and prepare him or her for the new environment. The social worker shall, except when placing under emergency conditions, arrange at least one preplacement visit for the child and shall be available to the child, the parents or guardian, and the foster parents for supportive services.
- (l) The agency shall supervise the care of the child and shall coordinate the planning and services for the child and family, as stated in the out-of-home family services agreement or person-centered plan.
- (m) Children in family foster homes and therapeutic foster homes shall have a monthly face-to-face contact by the social worker or case manager or more if specified in the out-of-home family services agreement or person-centered plan. The parents or guardian of children in family foster care and therapeutic foster care shall have a monthly face-to-face contact by the social worker or case manager unless the out-of-home family services agreement or person-centered plan indicates a different schedule of face-to-face contacts.
- (n) The agency social worker or case manager shall meet with the children and the parents, guardian, or legal custodian, either separately or together based on the out-of-home family services agreement or person-centered plan, to assess and work on the following:
 - (1) progress in resolving problems which precipitated placement;
 - (2) parent and child relationship difficulties;
 - (3) adjustment to separation;
 - (4) adjustment to placement;
 - (5) achievement of out-of-home family services agreement goals or person-centered plan goals; and

- (6) the reasonable and prudent parent standard.
- (o) The agency shall refer the child's parents or guardian to other agencies in the community if they require services the agency does not provide and these services are specified in the out-of-home family services agreement or person-centered plan. The agency shall receive reports from the agency providing services regarding the parents' or guardian's progress or lack of progress.
- (p) The agency shall make provisions for social work, mental health, and health care, as stated in the out-of-home family services agreement or person-centered plan.
- (q) The agency shall give foster parents assistance, training, consultation, and emotional support in caring for children and in resolving problems related to their role as foster parents. Foster parents shall have one face-to-face contact per month by the social worker or case manager unless the out-of-home family services agreement or person-centered plan indicates a different schedule of face-to-face contacts for each foster child placed in the home. Phone support and 24-hour on-call support shall be provided to foster parents. Therapeutic foster care parents shall have at least 60 minutes of supervision by a qualified professional as defined in 10A NCAC 27G .0104 on a weekly basis for each therapeutic foster child placed in the foster home unless the person centered plan indicates a different schedule of supervision for each therapeutic foster child placed in the home. At least 50 percent of the supervision shall be face-to-face in the foster home unless specified differently in the person centered plan. Therapeutic foster parents providing treatment to children or youths with substance abuse treatment needs shall receive supervision from a qualified substance abuse professional as defined in 10A NCAC 27G .0104. The agency shall provide each foster parent with a Foster Parent Handbook that outlines agency procedures, requirements and expectations.

*History Note: Authority G.S. 131D-10.2; 131D-10.2A; 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. August 1, 2017; November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70G .0504 OUT-OF-HOME FAMILY SERVICES AGREEMENT FOR CHILDREN RECEIVING FAMILY FOSTER CARE SERVICES

- (a) The agency shall develop a written out-of-home family services agreement within 30 days of admission of a child in a family foster home. The out-of-home family services agreement shall be developed in cooperation with parents, guardian or legal custodian, and, when possible, the child and foster parents. The out-of-home family services agreement shall be based upon an assessment of the needs of the child, parents or guardian. The out-of-home family services agreement shall include goals stated in specific, realistic, and measurable terms and plans that are action oriented, including responsibilities of staff, parents or guardian, other family members, legal custodian, foster parents, and the child. The agreement shall address the following services to be provided or arranged:
- (1) the visitation plan designed to maintain links with the family;
 - (2) the expectations of the family, agency, placement provider, and community members;
 - (3) target dates; and
 - (4) expected outcomes.
- (b) The out-of-home family services agreement shall be reviewed by the agency within 60 days of placement, the second out-of-home family services agreement review shall occur within 90 days of the first review, and subsequent reviews shall be held every six months. Parents, guardian, legal custodian, the foster parents, the child, and individuals or agencies designated as providing services shall participate in the reviews to determine the child's and parents' or guardian's progress or lack of progress towards meeting the goals and objectives and to determine changes that need to be made in the out-of-home family services agreement.
- (c) If the legal custodian is a county department of social services, the agency, the department of social services, the parents or guardian, the foster parents, other service providers, and the child shall develop a single out-of-home family services agreement. A copy of the child's out-of-home family services agreement shall be provided to the parents, guardian, the executive director of the agency or his or her designee, and the foster parents by the county department of social services serving as the legal custodian. The child's out-of-home family services agreement shall be provided to other agencies and individuals listed as providing services to the child and to his or her parents or guardian. An age-appropriate version of the out-of-home family services agreement shall be written and provided to each child by the legal custodian.
- (d) The child-placing agency and foster parents shall be informed of court reviews, child and family team meetings, agency reviews and permanency planning action team meetings. The Out-of-Home Family Services Agreement

(DSS-5240 or DSS-5241) and the Transitional Living Plan may serve as the out-of-home family services agreement for the agency if the documents reflect input and participation by the parents, agency and foster parents.

History Note: Authority G.S. 131D-10.5; 131D-10.10; 143B-153;
Eff. October 1, 2008;
Amended Eff. August 1, 2017; November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70G .0505 PERSON-CENTERED PLAN FOR CHILDREN RECEIVING THERAPEUTIC FOSTER CARE SERVICES

(a) When therapeutic foster care services are provided, the agency shall complete an assessment for each child prior to the delivery of services that shall include:

- (1) the child's presenting problem;
- (2) the child's needs and strengths;
- (3) the provisional or admitting diagnosis with an established diagnosis determined within 30 days of placement,
- (4) a social, family and medical history; and
- (5) evaluations or assessments, such as psychiatric, psychological, substance abuse, medical, vocational and educational, as appropriate to the child's needs.

(b) When services are provided prior to the establishment and implementation of the person-centered plan, strategies to address the child's presenting problem shall be documented.

(c) The person-centered plan shall be developed based on the assessment, in partnership with the child, parents, guardian and the legal custodian if applicable. A preliminary person-centered plan shall be developed within 24 hours following placement. A person-centered plan shall be developed within 30 days of placement for children who are expected to receive services beyond 30 days of placement.

(d) The person-centered plan for each therapeutic foster child shall include:

- (1) outcomes that are anticipated to be achieved by the provision of the service and a projected date of achievement;
- (2) strategies for achieving the outcomes;
- (3) staff responsibilities;
- (4) responsibilities of the child, parents, guardian or legal custodian and the responsibilities of the foster parents;
- (5) a schedule for review of the person-centered plan at least annually in consultation with the child, parents, guardian or legal custodian;
- (6) basis for an evaluation or assessment of outcome achievement; and
- (7) written consent or agreement by the child, parents, guardian and legal custodian if applicable or a written statement by the agency stating the reason such consent could not be obtained.

(e) If a child is in the custody of a county department of social services and is placed in a therapeutic foster home, an out-of-home family services agreement shall also be completed. The outcomes, objectives and strategies of the person-centered plan and the out-of-home family services agreement shall be consistent and compatible.

History Note: Authority G.S. 131D-10.5;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70G .0506 CLIENT RECORDS

(a) The agency shall maintain an individual record for each child receiving foster care services that contains:

- (1) an application for services that includes:
 - (A) demographic information about the child, including name, address, sex, race, birth date, birth place, educational information, medical information, and client record number;
 - (B) demographic information about the parents or guardian of the child, including names, addresses, telephone numbers, birth dates, races, religion, and marital status;
 - (C) demographic information about the siblings and other relatives of the child, including names, addresses, and telephone numbers;

- (D) the reasons the child was removed from the home of his or her parents;
- (E) a record of the child's prior placements with names and addresses of foster parents and other caregivers and dates of care provided by each foster parent or caregiver, and
- (F) the services the agency shall provide the child and his or her parents or guardian;
- (2) legal documents of importance to the child, including a birth certificate and court dispositions;
- (3) pre-admission medical examination report or a medical examination report completed within two weeks of admission (unless the child's health indicates the completion of a medical examination report sooner) and copies of subsequent medical examination reports;
- (4) medical reports including medical history, cumulative health history, immunization records, and available psychological and psychiatric reports; and if applicable:
 - (A) documentation of mental illness, developmental disabilities, or substance abuse diagnosis coded according to the latest edition of the Diagnostic and Statistical Manual of Mental Disorders;
 - (B) documentation of screening and assessment;
 - (C) medication orders and Medication Administration Record (MAR);
 - (D) documentation of medication administration errors;
 - (E) documentation of adverse drug reactions; and
 - (F) orders and copies of lab tests;
- (5) educational assessments, records, and reports of school-age children;
- (6) intake study that includes initial social assessment and background of parents or guardian and the circumstances leading to the decision to place the child;
- (7) one of the following:
 - (A) a signed out-of-home family services agreement and reviews that reflect the status of the child, parents, or guardian, and any progress or lack of progress in the goals;
 - (B) a person-centered plan and reviews that reflect the status of the child, parents, or guardian, and any progress or lack of progress in the goals; or
 - (C) a person-centered plan along with an out-of-home family services agreement and reviews that reflect the status of the child, parents, or guardian, and any progress or lack of progress in the goals;
- (8) documentation of services provided;
- (9) documentation that reports the dates and content of social worker's or case manager's visits with the child;
- (10) documentation of the agency's involvement with the parents, guardian, or legal custodian, including services offered, delivered, or rejected;
- (11) documentation that includes the content of any administrative or service reviews;
- (12) a visitation and contact plan that specifies the child's contacts with parents, guardian, siblings and other family members, and individuals who may have contact with the child;
- (13) consents for release of information;
- (14) a signed statement from the parents, guardian, or legal custodian, granting permission to seek emergency care from a hospital or licensed medical provider;
- (15) emergency information for each child that shall include the name, address, and telephone number of the person to be contacted in case of sudden illness or accident and the name, address, and telephone number of the child's preferred licensed medical provider;
- (16) authorization from the parents, guardian, legal custodian, or licensed medical provider to administer non-prescription medications;
- (17) consents for time-limited audio-visual recordings signed by the parents, guardian, or legal custodian, and the child if 12 years of age or older;
- (18) documentation of searches for drugs, weapons, contraband, or stolen property, including date and time of the search, and action taken by foster parents and the agency, name of foster parent informing the agency, the date and time the agency is informed of the search, the date and time of the notification to the child's parents, guardian, or legal custodian; and
- (19) discharge summary including date and time of discharge, the name, address, telephone number, and relationship of the person or agency to whom the child was discharged, a summary of services provided during care and needs which remain to be met, and plans for the services needed to meet these goals.

(b) The agency shall document events and enter information required by the Rule in the record of the child within five days of the event or receipt of the information by the agency.

(c) The agency shall keep separate records for each family foster home that contains:

- (1) the agency application;
- (2) the mutual home assessment;
- (3) the medical examination reports;
- (4) the fire inspection safety report;
- (5) the environmental conditions checklist;
- (6) proof of high school diploma or GED of each foster parent;
- (7) the dates and content of contacts with the foster family by an agency representative;
- (8) the training record that includes all required and ongoing training;
- (9) the foster parent agreement signed by foster parents and agency representative;
- (10) the discipline agreement signed by foster parents and agency representative;
- (11) three references relevant to the role and responsibilities of a foster parent;
- (12) the annual assessment of strengths and needs of the foster family in providing foster care to children;
- (13) a chronological record of all placements of children receiving care in the home, including the dates of their care and an assessment of the care;
- (14) the written approval letter from executive director or his or her designee authorizing foster parents to administer physical restraint holds, if applicable;
- (15) a signed statement by the foster parents and adult members of the household that they have not been found to have abused or neglected a child or have not been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child;
- (16) a signed statement by the foster parents and adult members of the household that they have not been confirmed or substantiated for abusing, neglecting, or exploiting a disabled adult;
- (17) documentation of the results of the search of the Responsible Individual's List as described in 10A NCAC 70A .0102 for all adult members of the household that indicate they have not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (18) signed statement by the foster parents and adult members of the household that they have never committed an act of domestic violence upon another person;
- (19) documentation of the results of the search of the North Carolina Sex Offender and Public Protection Registry of all adult members of the household;
- (20) documentation of the results of the search of the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256 of all adult members of the household;
- (21) copies of waivers, authorized by 10A NCAC 70L .0102;
- (22) when closed, a summary containing reasons for the closing of the home and an assessment of the strengths and needs of the foster family in providing foster care to children;
- (23) documentation of the results of criminal record checks of all adult members of the household;
- (24) fingerprint clearance letters of all adult members of the household;
- (25) documentation of the results of child abuse and neglect registry checks of every state where the foster parent resided in the past five years; and
- (26) documentation of the results of the search of the North Carolina Department of Public Safety, Division of Adult Correction, Offender Information for all adult members of the household.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. August 1, 2017; May 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70G .0507 CLIENT RIGHTS

(a) The agency shall develop and implement policies and procedures to protect the individual rights and dignity of children and families who are provided services by the agency.

(b) The agency shall have a client's and family's rights policy that complies with 10A NCAC 70E .1101(a).

(c) The agency shall have a policy that prohibits direct involvement by a child in soliciting funds for the agency.

- (d) The agency shall have a policy that prohibits the child's participation in any activities involving audio or visual recording and research without the voluntary signed, time-limited consent of the parents, guardian or legal custodian, and the child if 12 years of age or older.
- (e) Each agency shall ensure that information about AIDS or related conditions is disclosed only in accordance with the communicable disease laws specified in G.S. 130A-143.
- (f) The agency shall have a policy to comply with the reasonable and prudent parent standard in accordance with G.S. 131D-10.2A.

*History Note: Authority G.S. 131D-10.2A; 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. August 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70G .0508 GRIEVANCE PROCEDURES

- (a) The agency shall provide to each child and parents, guardian or legal custodian, upon placement:
 - (1) a written description of policies and procedures that the child and parents, guardian or legal custodian follow to register complaints;
 - (2) information about client's and parents', guardian's or legal custodian's rights;
 - (3) the process for appealing a decision or action of the agency; and
 - (4) the process of resolution of a complaint.
- (b) Upon resolution of a grievance, the agency shall maintain a copy of the complaint and the resolution in the child's record.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70G .0509 SEARCHES

- (a) The agency shall have written policies and procedures regarding foster parents conducting searches of children's rooms and possessions that shall be discussed with the parents, guardian or legal custodian, and child prior to or upon placement.
- (b) The search policies and procedures shall include:
 - (1) circumstances under which searches are conducted;
 - (2) persons who are allowed to conduct searches;
 - (3) provision for documenting searches and informing the agency, parents, guardian and legal custodian of searches; and
 - (4) provision for removing and disposing of items seized as a result of searches.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70G .0510 HEALTH SERVICES

- (a) The agency shall have written policies and procedures regarding foster parents administering medications to children placed in their home that shall be discussed with each child and the child's parents, guardian, or legal custodian prior to or upon placement.
- (b) These policies and procedures shall address medication:
 - (1) administration;
 - (2) dispensing, packaging, labeling, storage, and disposal;
 - (3) review;
 - (4) education and training;
 - (5) documentation, including medication orders, Medication Administration Record (MAR), orders and copies of lab tests, and medication administration errors and adverse drug reactions; and

- (6) record in a medical administration record (MAR), provided by the supervising agency, all medications administered to each child. The MAR shall include the following: child's name; the name, strength, and quantity of the medications; instructions for administering the medications; the date and time the medication is administered, discontinued, or returned to the supervising agency or the person legally authorized to remove the child from foster care; the name or initials of the person administering or returning the medications; the child's request for changes or clarifications concerning medications; and the child's refusal of any prescribed medications.
- (c) Upon discharge of a child from foster care, the foster parents or the agency shall return prescription medication to the person or agency legally authorized to remove the child from foster care. Unwanted, out-dated, improperly labeled, damaged, adulterated, or discontinued prescription medications shall be disposed in accordance with the Federal Drug Administration guidelines found at: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm101653.htm>, incorporated by reference with subsequent amendments and editions.
- (d) The agency shall ensure that each child started or maintained on a medication by a licensed medical provider receives either oral or written education regarding the prescribed medication by the licensed medical provider or his or her designee. In instances where the ability of the child to understand the education is questionable, as determined by a licensed medical or mental health provider, the agency shall ensure that a responsible person receives either oral or written education regarding the prescribed medication by the licensed medical provider or his or her designee and provides either oral or written instructions to the child. The agency shall ensure that the medication education provided is sufficient to enable the child or other responsible person to make an informed consent, to safely administer the medication and to encourage compliance with the prescribed regimen.
- (e) The agency shall ensure that each child shall have a current medical examination. Medical examinations completed by a licensed medical provider (physician, physician's assistant or nurse practitioner)(in this Rule, "licensed medical provider") within 12 months prior to the admission of the child in foster care shall be considered current. If a child has not had a medical examination by a licensed medical provider within 12 months prior to admission, the agency shall arrange a medical examination for the child within two weeks after admission or sooner if indicated by the child's health condition. The medical examination report shall include a signed statement by a licensed medical provider specifying the child's medical condition and medications prescribed and indicating the presence of any communicable disease which may pose a risk of transmission in the foster home. If a child is in the custody of a county department of social services, is already scheduled to have a medical examination completed annually, and is entering a foster home the schedule of annual medical examinations are not required to be changed. A copy of the most recent medical examination report shall be obtained from the responsible county department of social services by the agency.
- (f) The agency shall obtain and record a developmental history for each child.
- (g) Children shall have had a dental examination by a licensed dentist within one year prior to admission or arrangements shall be made for an exam within six weeks after admission and annually thereafter. The agency shall document dental services in the child's record.

*History Note: Authority G.S. 131D-10.5;
Eff. October 1, 2008;
Amended Eff. August 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70G .0511 HOME-SCHOOLING

- (a) The agency shall have written policies and procedures regarding foster parents providing home-schooling to children placed in their home that shall be discussed with the child and the child's parents, guardian or legal custodian prior to or upon placement.
- (b) The home-schooling policies and procedures shall include:
- (1) a requirement for the foster parents to meet the provisions of Part 3 of Article 39 of Chapter 115C of the General Statutes;
 - (2) an educational assessment of the child that establishes the need for home-schooling;
 - (3) expectation of the child's placement to remain stable for the time period of home-schooling; and
 - (4) parental or guardian consent, if the parents' or guardian's consent can be obtained and consent of the legal custodian.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70G .0512 PHYSICAL RESTRAINT HOLDS, BEHAVIOR MANAGEMENT AND DISCIPLINE

(a) If a foster parent or agency staff member uses a physical restraint hold, the agency staff shall, within 72 hours of an incident involving a physical restraint, review the incident report to ensure that correct steps were followed and forward the report to the parents, guardian or legal custodian and the licensing authority on a report form developed by the licensing authority.

(b) Agencies shall submit a report to the licensing authority by the 10th day of each month indicating the number of physical restraint holds used during the previous month on each child and any injuries that resulted.

(c) Agencies shall maintain reports of physical restraint holds in a manner consistent with the agency's risk management policies (clinical decisions and activities undertaken to identify, evaluate, and reduce the risk of injury to clients, staff, and visitors and reduce the risk of loss to the agency) and shall make the reports available to the licensing authority upon request.

(d) Agencies shall provide foster parents and agency staff authorized to use physical restraint holds with 16 hours of training in behavior management, including techniques for de-escalating problem behavior; the appropriate use of physical restraint holds; monitoring of vital indicators; and debriefing children, foster parents, and agency staff involved in physical restraint holds. , Agencies shall provide foster parents and agency staff authorized to use physical restraint holds with eight hours of behavior management training annually, including techniques for de-escalating problem behavior. Instructors who train foster parents and agency staff shall have met the following qualifications and training requirements:

- (1) demonstrate competence by scoring 100 percent on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions;
- (2) demonstrate competence by scoring 100 percent on testing in a training program teaching the use of physical restraint; and by scoring a passing grade on testing in an instructor training program;
- (3) the training shall be competency-based and shall 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 shall be approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services;
- (5) trainers shall be retrained annually and demonstrate competence in the use of physical restraints;
- (6) be trained in CPR such as those provided by the American Red Cross, American Heart Association, or equivalent organizations. Division staff shall determine that an organization is substantially equivalent if the organization is already approved by the Department or meets the same standard of care as the American Heart Association or American Red Cross. The Division shall not accept web-based trainings for certification in CPR;
- (7) have been coached in teaching the use of restrictive interventions two times with a positive review by the coach;
- (8) teach a program on the use of physical restraints once annually; and
- (9) complete a refresher instructor training every two years.

(e) Foster parents and agency staff shall only use physical restraint holds approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.

(f) Physical restraints that place a person in a prone or face-down position are prohibited.

(g) The executive director of the agency or his or her designee shall issue approvals to administer physical restraint holds to foster parents and agency staff, pursuant to the rules in this Chapter. A copy of this letter shall be placed in the foster home record of foster parents and the personnel file of agency staff members.

(h) Agencies shall complete an annual review of the discipline and behavior management policies and techniques to verify that the physical restraint holds being used are being applied properly and safely. The review of the policies and techniques shall be documented and submitted to the licensing authority at the time of relicensure as part of the reapplication process.

History Note: Authority G.S. 131D-10.5; 131D-10.5A; 143B-153;
Eff. October 1, 2008;

*Amended Eff. August 1, 2017; November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70G .0513 CRITICAL INCIDENTS

(a) The agency shall have written policies and procedures for reporting critical incidents.

(b) The agency shall follow policies and procedures for handling any suspected incidents of abuse or neglect of a child involving staff, subcontractors, volunteers, interns, or foster parents in a foster home supervised by the agency. The policies and procedures shall include:

- (1) a provision for reporting any suspicion of abuse or neglect to the appropriate county department of social services for investigation;
- (2) a provision for recording any suspected incident of abuse or neglect and for reporting it to the executive director or to the governing body;
- (3) a provision for notifying parents, guardian, or legal custodian;
- (4) a provision for preventing a recurrence of the alleged incident pending the investigative assessment;
- (5) a policy concerning personnel action to be taken when the incident involves a staff member, subcontractor, volunteer, or intern;
- (6) a policy concerning the action to be taken when the incident involves a foster parent;
- (7) a provision for submitting a critical incident report to the licensing authority within 72 hours of the incident being accepted for an investigation by a county department of social services; and
- (8) a provision for submitting written notification to the licensing authority within 72 hours of the case decision by the county department of social services conducting the investigative assessment.

(c) Critical incident reports shall be submitted to the licensing authority by the executive director or his or her designee on a form provided by the licensing authority within 72 hours of the critical incident. Critical incidents involving a child in placement in a foster home supervised by the agency shall include the following:

- (1) a death of a child;
- (2) reports of abuse and neglect;
- (3) an admission to a hospital;
- (4) a suicide attempt;
- (5) a runaway lasting more than 24 hours; and
- (6) an arrest for violations of state, municipal, county or federal laws.

(d) Documentation of critical incidents shall include:

- (1) the name of child or children involved;
- (2) the date and time of incident;
- (3) a brief description of incident;
- (4) the action taken by staff;
- (5) a need for medical attention;
- (6) the name of staff involved and person completing the report;
- (7) the name of child's parent, guardian or legal custodian who was notified and the date and time of notification; and
- (8) the approval of supervisory or administrative staff reviewing the report.

(e) If there is a death of a child in placement in a foster home supervised by the agency, the executive director or his or her designee shall notify the parent, guardian, or legal custodian and the licensing authority within 72 hours of the death of the child.

(f) Critical incident reports shall be maintained in manner consistent with the agency's risk management policies and shall include clinical decisions and activities undertaken to identify, evaluate, and reduce the risk of injury to clients, staff, and visitors and reduce the risk of loss to the agency and shall be made available to the licensing authority upon request.

(g) When a foster parent determines that a foster child under the age of 18 is missing, they shall notify the appropriate law enforcement authority within 24 hours.

*History Note: Authority G.S. 131D-1; 131D-10.5; 131D-10.5A; 143B-153; P.L. 113-183;
Eff. October 1, 2008;
Amended Eff. August 1, 2017; November 1, 2009;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SUBCHAPTER 70H - CHILD-PLACING AGENCIES: ADOPTION

SECTION .0100 - APPLICABILITY

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| 10A NCAC 70H .0101 | APPLICABILITY |
| 10A NCAC 70H .0102 | ORGANIZATION AND ADMINISTRATION |
| 10A NCAC 70H .0103 | INTAKE PROCEDURES AND PRACTICES |
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| 10A NCAC 70H .0110 | SERVICES TO ADOPTIVE APPLICANTS AND FAMILIES |
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| 10A NCAC 70H .0112 | RECORDS |

History Note: Authority G.S. 48-2-502; 48-3-204; 48-3-303; 110-57.1; 131D-10.3; 131D-10.5; 143B-153; Eff. February 1, 1986; Amended Eff. June 1, 1990; Temporary Amendment Eff. Amended Eff. April 1, 1997; January 1, 1997; July 1, 1996; Eff. December 6, 1996; Amended Eff. March 1, 1992; November 1, 1996; Recodified from 10 NCAC 41P .0001 Eff. December 6, 1996 (70H .0101); Recodified from 10 NCAC 41P .0002 Eff. December 6, 1996 (70H .0102); Recodified from 10 NCAC 41P .0003 Eff. December 6, 1996 (70H .0103); Recodified from 10 NCAC 41P .0004 Eff. December 6, 1996 (70H .0104); Recodified from 10 NCAC 41P .0005 Eff. December 6, 1996 (70H .0105); Recodified from 10 NCAC 41P .0006 Eff. December 6, 1996 (70H .0106); Recodified from 10 NCAC 41P .0007 Eff. December 6, 1996 (70H .0107); Recodified from 10 NCAC 41P .0008 Eff. December 6, 1996 (70H .0108); Recodified from 10 NCAC 41P .0009 Eff. December 6, 1996 (70H .0109); Recodified from 10 NCAC 41P .0110 Eff. December 6, 1996 (70H .0110); Recodified from 10 NCAC 41P .0011 Eff. December 6, 1996 (70H .0111); Recodified from 10 NCAC 41P .0012 Eff. December 6, 1996 (70H .0112); Repealed Eff. October 1, 2008.

10A NCAC 70H .0113 FEES

- (a) County departments of social services may charge reasonable fees for the preparation of a preplacement assessment or report to the court in accordance with G.S. 48-3-304(a) and G.S. 48-2-504(a). No fee shall be charged except pursuant to a written fee agreement which must be signed by the parties to be charged prior to the beginning of the preparation. The fee agreement shall not be based on the outcome of the report or the adoption proceeding.
- (b) Maximum fees for the preparation of the reports shall not exceed:
- (1) One thousand five hundred dollars (\$1500) for the preplacement assessment and report to the court; and
 - (2) Two hundred dollars (\$200.00) for report to the court only.
- (c) No fee shall be charged when one or more of the following circumstances exists:
- (1) The head of household for the prospective adoptive family is an AFDC or SSI recipient;
 - (2) The family unit's income is below the State's Established Income (or 150% of the 1992 Federal Poverty Level); or

- (3) The family has identified an adoptee who is in the custody and placement responsibility of the Department of Social Services, and provided that the adoptive family continues to pursue the adoption of the identified child.
- (d) Fees for the above reports may be reduced or waived if it can be documented in the case record that the prospective adoptive family cannot pay the required fee. Unless reduced or waived, the entire fee shall be paid in accordance with local policy.

*History Note: Authority G.S. 48-2-404; 48-3-304;
Temporary Adoption Eff. July 1, 1996;
Recodified from 10 NCAC 41P .0013 Eff. December 6, 1996;
Eff. April 1, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70H .0114 LICENSURE

(a) License.

- (1) Licensure is required in accordance with G.S. 131D-10.3 and with rules in Subchapters 70F and 70H of this Chapter.
- (2) Licenses shall be in effect for two years unless suspended or revoked. Appeal procedures specified in 10A NCAC 70L .0301 apply for persons seeking an appeal of the licensing authority's decision to deny, suspend, or revoke a license.
- (3) Child-placing agencies for adoption licensed after September 1, 2011 shall have a three year or longer accreditation from either the Council on Accreditation (COA), The Joint Commission, formerly known as the Joint Commission on Accreditation of Healthcare Organizations (TJC), The Commission on Accreditation and Rehabilitation Facilities (CARF) or The Council on Quality and Leadership (CQL).
- (4) Applicants shall inform the licensing authority of any current licenses or licenses held in the past five years for child-placing agencies, maternity homes, or residential child-care facilities in other states. Applicants shall provide written documentation from the licensing authority in other states regarding violations, penalties, or probationary status imposed in other states.

(b) Changes in any information on the license.

- (1) The licensing authority shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 70F and 70H of this Chapter.
- (2) A child-placing agency for adoption shall notify the licensing authority in writing of its request for a change in license, including information that is necessary to assure the change is in compliance with the rules in Subchapters 70F and 70H of this Chapter.

(c) Termination.

- (1) When a child-placing agency for adoption voluntarily discontinues operations, either temporarily or permanently, the child-placing agency for adoption shall notify the licensing authority in writing of the date, reason and anticipated length of closing.
- (2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.
- (3) When the license of a child-placing agency for adoption is terminated, the agency shall meet all requirements of a new agency prior to being licensed.

(d) Adverse licensure action.

- (1) The licensing authority shall deny, suspend or revoke a license when a child-placing agency for adoption is not in compliance with the rules in Subchapters 70F and 70H of this Chapter unless the agency within 10 working days from the date the agency received the deficiency report from the licensing authority submits a plan of correction. The plan of correction shall specify the following:
 - (A) the measures that will be put in place to correct the deficiency;
 - (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
 - (C) the individual or individuals who will monitor the corrective action; and
 - (D) the date the deficiency will be corrected which are no later than 60 days from the date the routine monitoring was concluded.
- (2) The licensing authority shall notify a child-placing agency for adoption in writing of the decision to deny, suspend or revoke a license.

- (3) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.
- (e) Licensure shall be denied when any of the following conditions apply:
 - (1) the applicant owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C; or any combination thereof, and any one of the following conditions exist:
 - (A) A single violation has been assessed in the six months prior to the application.
 - (B) Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
 - (C) Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.
 - (D) Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.
 - (2) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license and 60 months have not passed from the date of the revocation or summary suspension;
 - (3) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that is owned by the applicant;
 - (4) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; and G.S. 110, Article 7 and the rules adopted under these laws and 60 months have not passed from the date of the revocation or summary suspension;
 - (5) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256; or
 - (6) the applicant is an individual who has a finding on the Responsible Individual's List as described in 10A NCAC 70A .0102.

History Note: Authority G.S. 131D-10.3; 131D-10.5; 143B-153;
 Eff. September 1, 2011;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0200 – SCOPE

10A NCAC 70H .0201 SCOPE

- (a) Rules in 10A NCAC 70H shall apply to all persons intending to provide adoption services which includes:
 - (1) the provision of casework and other supportive services to biological parents considering adoption;
 - (2) provision of casework and other supportive services to the child considered for adoption;
 - (3) provision of casework and other supportive services to adoptive applicants through pre-placement studies;
 - (4) selection of home and placement process;
 - (5) supervision after placement;
 - (6) fulfillment of social and legal responsibilities;
 - (7) compilation and preservation of complete case records; and
 - (8) provision of post-adoption consultation services.
- (b) County departments of social services shall comply with requirements of 10A NCAC 70M.
- (c) The North Carolina Department of Health and Human Services, Division of Social Services, is the licensing authority for adoption child-placing agencies.

History Note: Authority G.S. 131D-10.3; 131D-10.5; 143B-153;
 Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0300 - APPLICABILITY

10A NCAC 70H .0301 ORGANIZATION AND ADMINISTRATION

Persons licensed or seeking license to provide adoption services shall comply with requirements of 10A NCAC 70F, Chapter 48 of the General Statutes of North Carolina, and G.S. 7B-3800, the Interstate Compact on Placement of Children.

History Note: Authority G.S. 48-3-204; 131D-10.3; 131D-10.5; 143B-153; Eff. October 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70H .0302 CONFLICT OF INTEREST

(a) County departments of social services and private child-placing agencies shall not supervise adoptive placements of members of their board of directors, governance structure, social services board, and county commission.

(b) County departments of social services and private child-placing agencies shall not supervise adoptive placements of agency employees and relatives of agency employees. Relatives include birth and adoptive parents, blood and half blood relative and adoptive relative including brother, sister grandparent, great-grandparent, great-great grandparent, uncle, aunt, great-uncle, great-aunt, great-great uncle, great-great aunt, nephew, niece, first cousin, stepparent, stepbrother, stepsister and the spouse of each of these relatives.

(c) Private child-placing agencies shall not supervise adoptive placements of agency owners.

History Note: Authority G.S. 48-3-204; 131D-10.3; 131D-10.5; 143B-153; Eff. October 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0400 – MINIMUM LICENSING STANDARDS

10A NCAC 70H .0401 PERSONNEL

(a) The executive director is responsible for the general management and administration of the agency in accordance with licensing requirements and policies of the governing body. The executive director shall meet the requirements of a Social Services Program Administrator I as defined by the North Carolina Office of State Personnel. A copy of these requirements can be obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site: (http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-04099/PDF_Files/04077.pdf). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. This information can be obtained by calling Higher Education Publications, Inc. at 1-888-349-7715. Social work supervisors shall receive 24 hours of continuing education annually.

(b) The social work supervisor is responsible for supervising, evaluating, and monitoring the work and progress of the social work staff. The social work supervisor shall meet the requirements of a Social Work Supervisor II as defined by the North Carolina Office of State Personnel. A copy of these requirements can be obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site: (http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-04099/PDF_Files/04016.pdf). The college or university degree shall be from a college or university listed at the time of the degree in the] Higher Education Directory. This information can be obtained by calling Higher Education Publications, Inc. at 1-888-349-7715. Social work supervisors shall receive 24 hours of continuing education annually.

(c) The social worker is responsible for intake services, providing casework or group work services for children and their families, conducting home-finding and assessment studies related to foster parents and planning and coordinating the services and resources affecting children and their families. The social worker shall meet the requirements of a Social Worker II as defined by the North Carolina Office of State Personnel. A copy of these requirements can be obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the

following web site: (http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-04099/PDF_Files/04012.pdf). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. This information can be obtained by calling Higher Education Publications, Inc. at 1-888-349-7715. Social workers shall receive 24 hours of continuing education annually.

(d) Social workers counseling birth families, preparing and assessing adoptive applicants for infant placements and supporting these families shall serve no more than 50 families.

(e) Social workers preparing children ages six and above or children having special needs shall serve no more than 15 children.

(f) Social workers preparing and assessing adoptive applicants for the placement of children ages six and above or children who have special needs shall serve no more than 20 families.

(g) Social workers preparing and assessing families for international adoptions shall serve no more than 35 families.

(h) Supervision of adoption social workers shall be assigned as follows:

| Supervisors Required | Social Workers |
|----------------------|---|
| 0 | 0-4 (executive director serves as social work supervisor) |
| 1 | 5 |
| 2 | 6-11 |
| 3 | 12-17 |

There shall be one additional supervisor for every one to five additional social workers.

(i) Staff members of the adoption agency may maintain dual employment or serve as volunteers with maternity homes or crisis pregnancy centers as long as the adoption agency does not provide services to the clients of the maternity home or crisis pregnancy center or accept or arrange releases for adoption for the children of the clients of the maternity home or crisis pregnancy center. Staff members, owners, officers and directors of the adoption agency may serve on the board of directors of maternity homes or crisis pregnancy centers as long as the adoption agency does not provide services to the clients of the maternity home or crisis pregnancy center or accept or arrange releases for adoption for the children of the clients of the maternity home or crisis pregnancy center.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. June 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70H.0402 INTAKE PROCEDURES AND OUT-OF-HOME FAMILY SERVICES AGREEMENT

(a) The policies for acceptance of an applicant for adoption services shall be defined in writing and shall relate to the stated purpose of the agency. Acceptance of an applicant for services shall be limited to those for whom the agency is qualified by staff, program and services to give appropriate services.

(b) Applicants for international adoptions shall receive information that includes the following topics:

- (1) the characteristics of children who need adoptive families;
- (2) the criteria by which the adoption agency and sending countries determine eligibility for adoptive parents;
- (3) the adoption services that will be available, when they will be available and how long they will be available;
- (4) steps in the adoption process;
- (5) immigration and obtaining citizenship;
- (6) average waiting time;
- (7) risks associated with international adoptions;
- (8) adoption requirements of the sending county; and
- (9) the use of other organizations or individuals to provide services.

(c) The agency shall develop a written out-of-home family services agreement for children within 30 days of acceptance as a client if the child is placed in foster care and a permanent placement has not been achieved. The out-

of-home family services agreement shall be developed in cooperation with the child and the child's parents, guardian or legal custodian when possible.

(d) The out-of-home family services agreement shall include goals stated in specific, realistic and measurable terms and plans that are action oriented, including specific responsibilities of staff, family members and the child.

(e) The out-of-home family services agreement shall be based upon an assessment of the needs of the child and the child's parents.

(f) The out-of-home family services agreement shall be reviewed within 60 days of placement, the second out-of-home family services agreement review shall occur within 90 days of the first review and subsequent reviews shall be held every six months to determine the child's and family's progress or lack of progress towards meeting the goals, and to determine changes that need to be made in the out-of-home family services agreement.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70H .0403 PLACEMENT SERVICES TO FAMILIES AND CHILDREN

(a) Those persons providing as part of their adoption services program unplanned pregnancy services shall:

- (1) respect the client's choice of alternatives to the unplanned pregnancy;
- (2) assure the clients of confidential handling of and restricted access to the case record;
- (3) offer alternate plans of care for the child and give supportive services or make appropriate referrals to other resources for clients who do not release the child for adoption; and
- (4) assist the client in obtaining maternity home care during her pregnancy.

(b) The agency shall help those parents reaching the decision to relinquish their children to the agency for adoptive placement to have an understanding of the meaning of adoption and its potential impact on the child's and their lives. The agency may notify the birth parents when a placement has occurred and when an adoption decree is issued if the birth parents and adoptive parents are in agreement about this notification.

(c) At the point a parent executes the document for relinquishment of a child for adoption, the agency shall ascertain that the parent has an understanding of the effects of this action and of the time period allowed for revocation of the relinquishment document. When the agency has received the parent's relinquishment document, the executive director shall indicate acceptance of the relinquishment document by signing the appropriate form for this purpose. A copy of the relinquishment document for adoption and of the agency's acceptance document shall be given to the parent. The executive director shall designate the agency's supervisor of adoptions or the adoptions social worker handling the case to accept the document for relinquishment of a child for adoption in the event the executive director is not available to accept the relinquishment document. An agency shall acquire legal and physical custody of a minor for purposes of adoptive placement only by means of a relinquishment pursuant to Chapter 48 of the General Statutes or by terminating the rights and duties of a parent or guardian of the minor.

(d) In addition to providing services to the child, agencies providing adoption services shall include a child in the selection of an adoptive home and in preparation for adoptive placement.

History Note: Authority G.S. 48-3-204; 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70H .0404 ADOPTIVE HOME APPLICATION

The agency shall provide an application form for prospective adoptive parents and shall determine in response to the completed application whether, within the scope of the agency's program, it is appropriate to conduct a preplacement assessment with the applicants. While the age of applicants is among the factors that may be considered in determining whether the agency conducts a preplacement assessment with the applicants, there shall be no fixed chronological age at which applicants are automatically rejected for study.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70H .0405 PREPLACEMENT ASSESSMENT

(a) The agency shall complete a preplacement assessment within 90 days after the application for adoption has been approved and the request for the assessment has been received. In a case involving a single adoptive applicant, there shall be two separate face-to-face interviews occurring on two different dates. In a case involving joint applicants, there shall be a separate face-to-face interview with each applicant and an additional two face-to-face interviews with both applicants. At least one interview shall be conducted in the applicants' home. There shall be separate face-to-face interviews with each member of the household ten years of age or older. The assessment process shall be a joint effort of the adoption agency and the applicants to determine the kind of child the applicants can best parent. Any assessment that was completed 18 months or more before placement of a child occurs shall be updated to include current information about the family. Any agency updating a preplacement assessment not originally completed by that agency assumes responsibility for the entire assessment, and the new assessment shall reflect that it is the responsibility of the agency conducting the update. Physical examinations of family members shall be current to within 18 months of the assessment.

(b) The agency shall assess the following areas and shall record the information in the adoptive applicants' record:

- (1) the applicants' reasons for wanting to adopt;
- (2) the strengths and needs of each member of the household;
- (3) the attitudes and feelings of the family, extended family, and other individuals involved with the family toward accepting adoptive children, and parenting children not born to them;
- (4) the attitudes of the applicants toward the birth parents and in regard to the reasons the child is in need of adoption;
- (5) the applicants' attitudes toward child behavior and discipline;
- (6) the applicants' plan for discussing adoption with the child;
- (7) the emotional stability and maturity of applicants;
- (8) the applicants' ability to cope with problems, stress, frustrations, crises, and loss;
- (9) the applicants' ability to give and receive affection;
- (10) the applicants' child-caring skills and willingness to acquire additional skills needed for the child's development;
- (11) the applicants' ability to provide for the child's physical and emotional needs;
- (12) whether the applicant has ever been convicted of a crime other than a minor traffic violation;
- (13) the strengths and needs of birth children or previously adopted children;
- (14) the applicant's physical and mental health, including any addiction to alcohol or drugs;
- (15) financial information provided by the applicant, including property and income;
- (16) the applicants' personal character references;
- (17) the applicant's religious orientation, if any;
- (18) the location and physical environment of the home;
- (19) the plan for child care if parents work;
- (20) recommendations for adoption in regard to the number, age, sex, characteristics, and special needs of children who could be best served by the family;
- (21) any previous request for an assessment or involvement in an adoptive placement and the outcome of the assessment or placement;
- (22) whether the individual has ever been a respondent in a domestic violence proceeding or a proceeding concerning a minor who was allegedly abused, neglected, dependent, undisciplined or delinquent, and the outcome of the proceeding or whether the individual has been found to have abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child;
- (23) documentation of the results of the search of the Responsible Individual's List as defined in 10A NCAC 70A .0102 for all adult members of the household that indicates they have not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (24) documentation of the results of Child Abuse and Neglect Central Registry Checks of states where the applicant has resided the past five years;
- (25) whether the applicant has located a parent interested in placing a child for adoption with the applicant, and a brief, non identifying description of the parent and the child;
- (26) the applicants' age, date of birth, nationality, race or ethnicity;

- (27) the applicant's marital and family status and history, including the presence of any children born to or adopted by the applicant, and any other children in the household;
- (28) the applicant's educational and employment history and any special skills; and
- (29) any additional fact or circumstance that may be relevant to a determination of the applicant's suitability to be an adoptive parent, including the quality of the home environment and the level of functioning of any children in the household.

When any of the information listed in this Paragraph is not reasonably available, the preplacement assessment shall state why the information is unavailable.

(c) The assessment shall be prepared and typed by the agency and shall be reviewed by the agency's adoption review committee, signed and dated by an authorized agency representative when complete and final, and shall become part of the applicants' permanent record. The agency's adoption review committee shall be composed of a minimum of three members, including an agency representative in a management position in children's services, the child's social worker(s) responsible for the placement and adoption functions of the child's case, and an at-large member selected by the agency.

(d) Once the agency has made a decision regarding the suitability of the applicant as an adoptive placement, the preplacement assessment shall include documentation of the factors which support that determination. If the agency determines that the applicant is not suitable to be an adoptive parent, the assessment shall state the specific concerns that support the determination. A specific concern is one that reasonably indicates the placement of any minor, or a particular minor, in the home of the applicant would pose a significant risk of harm to the well-being of the minor.

(e) The agency preparing the preplacement assessment may redact from the assessment provided to the placing parent or guardian information reflecting the prospective adoptive parent's financial account balances and information about the prospective adoptive parent's extended family members, including surnames, names of employers, names of schools attended, social security numbers, telephone numbers and addresses.

History Note: Authority G.S. 48-2-502; 48-3-303; 131D-10.5; 143B-153;
 Eff. October 1, 2008;
 Amended Eff. August 1, 2011; November 1, 2009;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70H .0406 NOTIFICATION REGARDING PREPLACEMENT ASSESSMENT

(a) The agency shall notify the client who was the subject of a preplacement assessment whether the assessment was favorable or unfavorable within 30 days after the agency completes the assessment.

(b) The agency shall share with the client the specific reasons a child cannot be placed in their home if the preplacement assessment is unfavorable.

(c) The client may request an internal review by the executive director of the adoption agency if the client disagrees with the unfavorable preplacement assessment.

(d) The client may file a response with the Division of Social Services, Adoption Unit, and the adoption agency after exhausting the agency's procedures for internal review. The Division of Social Services, Adoption Unit, shall acknowledge receipt of the response within 30 days, but has no authority to take any action with respect to the response. A copy of the response shall be attached to the unfavorable preplacement assessment.

(e) The Division of Social Services, Adoption Unit shall notify the county department of social services of an unfavorable preplacement assessment and the county department of social services shall take appropriate action regarding any child placed in the home of the prospective adoptive parent who is the subject of an unfavorable assessment.

History Note: Authority G.S. 48-3-303; 131D-10.5; 143B-153;
 Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70H .0407 SERVICES TO ADOPTIVE APPLICANTS AND FAMILIES

(a) The agency shall provide to adoptive applicants a written statement of the adoption services it provides and of its procedure for selecting a prospective adoptive parent for a child, including the role of the child's parent or guardian and any criteria requested by the child's parent or guardian in the selection process. This statement shall include a schedule of any fees or expenses charged by the agency and a summary of the provisions of Chapter 48 of

the General Statutes that pertain to the requirements and consequences of a relinquishment and to the selection of a prospective adoptive parent. An agency which prepares preplacement assessments shall state whether it is available to provide post-placement services, including the report to the court pursuant to G.S. 48-2-501, and whether it can provide adoption services to the adoptee and adoptive parents after the decree of adoption has been entered.

(b) The agency shall discuss the children available for adoption with the adoptive applicants. The selection of a prospective adoptive parent for a minor shall be made by the agency.

(c) Following completion of a preplacement assessment, the agency shall prepare the adoptive applicants for the placement of a particular child. Preparation shall include:

- (1) information about the needs and expectations of the child and of the adoptive family;
- (2) information to the extent allowed by law as specified in G.S. 48-3-205 about the child's background and the health history of the child's birth parents and other relatives; and
- (3) visits with the child prior to placement.

(d) An agency social worker shall visit in the home of the adoptive family after the placement of a child and prior to the decree of adoption. The first visit shall occur within two weeks after placement. Frequency of visits thereafter shall be determined by the child's and family's needs. Observations made during the visits shall be used in making recommendations to the court in regard to the decree of adoption.

(e) When applicable, the agency shall take steps necessary to assure that the adoptive placement is in compliance with the Interstate Compact on the Placement of Children, G.S. 7B-3800.

History Note: Authority G.S. 48-2-502; 48-3-203; 48-3-204; 48-3-205; 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70H .0408 LEGAL PROCESS

(a) The agency shall instruct the adoptive parents in procedures regarding the legal process for adoption and shall instruct them to file their adoption petition pursuant to G.S. 48-2-302(a) within 30 days of placement of the child for adoption unless that time is extended by the clerk.

(b) The agency shall prepare and file the required consents and other documents and reports with the court at the appropriate times once the adoption petition has been filed.

(c) During the process of preparing court reports, the petitioner, and each member of the petitioner's home shall be interviewed by the agency social worker in the petitioner's home. An additional interview shall be conducted in the presence of the petitioner and the adoptee to observe interactions between them. The report to the court shall be in writing and contain the information required by G.S. 48-2-502(b).

(d) The agency shall give the petitioner a copy of each report filed with the court and retain a copy. In an agency adoption, pursuant to G.S. 48-2-502(b), the agency shall not release to the petitioner a copy of any court order, judgment, decree, or pending legal proceeding containing identifying information that could reasonably be expected to lead directly to the identify of the adoptee at birth or any former parent or family member of the adoptee.

History Note: Authority G.S. 48-2-302; 48-2-502; 48-10-105; 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70H .0409 RECORDS

(a) The agency shall keep separate records for each adoptive applicant and family that contain the following:

- (1) application form;
- (2) certified copies of marriage certificates, if applicable;
- (3) certified documentation of marriage termination, if applicable;
- (4) current medical records on all family members and psychological or psychiatric reports, if applicable;
- (5) references from at least three sources;
- (6) preplacement assessment conducted by the agency;
- (7) copies of correspondence to, from, and in regard to the applicants;

- (8) summary and dates and content of contacts prior to and following approval for adoption until the decree of adoption is entered;
 - (9) copies of information given to the applicant and family concerning the child or children to be placed for adoption with them;
 - (10) copies of all legal documents pertaining to the adoption; and
 - (11) summary containing the placement decision, pre-placement and post-placement contacts with the family and child.
- (b) In the event the applicants were not accepted or did not have a child placed with them, the record shall contain a narrative indicating the reasons and the manner in which the decision was presented to the applicants. The agency may destroy in office the closed records of applicants who were not accepted or who did not have a child placed with them three years after the date of their application or application denial, unless included in a federal or state fiscal or program audit that is unresolved. The agency may destroy the record in office when released from all audits.
- (c) All individual children, birth parents and adoptive family records shall be permanently retained by the agency. After a period of seven years, the files may be microfilmed or scanned in accordance with provisions of G.S. 8-45.1, following which the original files may be destroyed by a shredding process.
- (d) All children, birth parents and adoptive applicant and family records shall be kept in locked quarters and information from the files may be divulged only in compliance with provisions of G.S. 48-9-103 and G.S. 48-9-105.

*History Note: Authority G.S. 48-3-303; 131D-10.5; 143B-153;
 Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

SUBCHAPTER 70I - MINIMUM LICENSING STANDARDS FOR RESIDENTIAL CHILD-CARE

SECTION .0100 - GENERAL LICENSING REQUIREMENTS

10A NCAC 70I .0101 LICENSING ACTIONS

- (a) All rules in 10A NCAC 70I apply to residential child-care facilities.
- (b) License.
 - (1) The Department of Health and Human Services, Division of Social Services, hereafter referred to as the "licensing authority," shall issue a license when it determines that a residential child-care facility is in compliance with rules in Subchapters 70I and in the case of specialized residential child care programs, 70J of this Chapter.
 - (2) A license shall be issued for a period of two years.
 - (3) A residential child-care facility shall not be licensed under both G.S. 131D and G.S. 122C.
 - (4) Residential child-care facilities initially licensed after August 1, 2011 shall have a three year or longer accreditation from either the Council on Accreditation (COA), The Joint Commission (TJC), The Commission on Accreditation of Rehabilitation Facilities (CARF), or The Council on Quality and Leadership (CQL).
- (c) Changes in any information on the license.
 - (1) A residential child-care facility shall send a written request for a change in its license to the licensing authority. The request shall include information that is necessary to assure the change is in compliance with the rules in Subchapters 70I and 70J of this Chapter.
 - (2) The licensing authority shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 70I and 70J.
- (d) Termination.
 - (1) When a residential child-care facility voluntarily discontinues child-caring operations, either temporarily or permanently, the residential child-care facility shall notify the licensing authority in writing of the date, reason, and anticipated length of closing.
 - (2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.

- (3) If a license issued pursuant to this Subchapter is terminated for more than 60 days, the facility shall meet all requirements for a new facility before being relicensed.
- (4) Any existing licensed residential child-care facility that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.

(e) Adverse Licensure Action.

- (1) The licensing authority shall deny, suspend, or revoke a license when a residential child-care facility is not in compliance with the rules in Subchapters 70I and 70J unless the residential child-care facility, within 10 business days from the date the residential child-care facility initially received the deficiency report from the licensing authority, submits a plan of correction. The plan of correction shall specify the following:
 - (A) the measures that will be put in place to correct the deficiency;
 - (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
 - (C) the individual or individuals who will monitor the corrective action; and
 - (D) the date the deficiency will be corrected, which shall be no later than 60 days from the date the residential child-care facility submits a plan of correction.
- (2) The licensing authority shall notify a residential child-care facility in writing of the decision to deny, suspend, or revoke a license.
- (3) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend, or revoke a license.

(f) Licensure Restriction.

- (1) An applicant who meets any of the following conditions shall have his or her licensure denied:
 - (A) the applicant owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122, or any combination thereof, and any one of the following conditions exist:
 - (i) A single violation has been assessed in the six months prior to the application.
 - (ii) Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
 - (iii) Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.
 - (iv) Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.
 - (B) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license and 60 months have not passed from the date of the revocation or summary suspension;
 - (C) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that is owned by the applicant;
 - (D) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; and G.S. 110, Article 7 and the rules adopted under these laws and 60 months have not passed from the date of the revocation or summary suspension;
 - (E) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256; or
 - (F) the applicant is an individual who has a finding on the Responsible Individual's List as described in 10A NCAC 70A .0102.
- (2) The denial of licensure pursuant to this Paragraph shall be in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h). A copy of these statutes may be obtained through the internet at <http://www.ncleg.net/Statutes/Statutes.html>.
- (3) The facility or agency shall inform the licensing authority of any current licenses or licenses held in the past five years for residential child-care facilities, child-placing agencies, or maternity homes in other states. The agency shall provide written notification from the licensing authority in other states regarding violations, penalties, or probationary status imposed in that state. The

licensing authority shall take this information into consideration when granting a North Carolina license.

*History Note: Authority G.S. 131D-10.3; 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c. 237, s. 11.30);
Temporary Amendment Eff. July 1, 2003;
Amended Eff. May 1, 2004 (this amendment replaces the amendment approved by RRC on December 18, 2003);
Amended Eff. August 1, 2011; September 1, 2007;
Readopted Eff. October 1, 2017.*

10A NCAC 70I .0102 LICENSING PROCESS

- (a) The license process for a residential child-care facility shall consist of an application phase, an investigatory phase and a decision making phase.
- (b) Application Phase. An applicant shall apply for a license to operate a residential child-care facility to the licensing authority prior to the first child being accepted for full-time care. An applicant shall apply for renewal of a license to operate a residential child-care facility to the licensing authority prior to the expiration of the current license.
- (c) Investigatory Phase. During the investigatory phase, the applicant shall submit to the licensing authority information on the proposed program and projected methods of operation. For proposed private and public residential child-care facilities, the licensing authority staff, together with those seeking licensure, shall complete the investigatory phase
- (d) Decision Regarding Licensure. An applicant shall submit all the materials required by Subchapters 70I and 70J, to the licensing authority prior to the decision to issue a license to operate.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

SECTION .0200 – MINIMUM LICENSURE STANDARDS

10A NCAC 70I .0201 DEFINITIONS

In addition to the definitions found in G.S. 131D–10.2, the following definitions apply to the rules in Subchapters 70I and 70J of this Chapter.

- (1) "Child-caring institution" means a private residential child-care facility or group home that cares for foster children or a public residential child-care facility or group home that cares for no more than 25 children. This number includes the caregivers' own children and other relative children under the age of 18 residing in the facility. The composition of the facility shall include:
 - (a) no more than two children under the age of two;
 - (b) four children under the age of six; and
 - (c) six children under the age of 12.Child-caring institutions shall not include detention facilities, forestry camps, children's foster care camps, residential therapeutic (habilitative) camps, training schools, or any other facility operated for the detention of children who are determined by a court to be delinquent or undisciplined. A child-caring institution shall not provide day care, nor shall it be available to adults in the community who wish to rent rooms.
- (2) "Children's foster care camp" means the term "children's camp" as defined in G.S. 131D-2.
- (3) "Direct service personnel" means staff responsible for the direct services provided to children and their families, including child-care workers, residential counselors, house/teaching parents, social workers, recreation and education staff.
- (4) "Emergency shelter care" means 24 hour care provided in a residential child-care facility for a period not to exceed 90 days, in accordance with 10A NCAC 70J .0200.
- (5) "Executive director" means the person who is in charge of the agency and who is responsible for developing and supervising the program of residential child-care and services.

- (6) "Foster child" means an individual less than 18 years of age who has not been emancipated under North Carolina law, and who is dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined, delinquent, or otherwise in need of care away from home and not held in detention, or one who is 18 and not yet 21 years of age and continues to reside in a residential child-care facility and meets the requirements in G.S. 108A-48.
- (7) "Full license" means a license issued for two years when all licensing requirements are met.
- (8) "License" means written permission granted to a corporation, agency, or county government by the licensing authority to engage in the provision of full-time residential child-care or child-placing activities based upon an initial determination, and biennially thereafter, that the corporation, agency, or a county government has complied with standards set forth in this Subchapter.
- (9) "Licensing authority" means the North Carolina Department of Health and Human Services, Division of Social Services.
- (10) "Licensed medical provider" means a physician, physician's assistant, or certified nurse practitioner.
- (11) "Out-of-home family services agreement" means a document developed with the child's custodian that identifies a child's permanency plan (return to parents, placement with relatives, guardianship, or adoption). The out-of-home family services agreement describes a child's needs, goals, and objectives in a residential child-care facility and the tasks and assignments of the staff of the residential child-care facility to meet a child's and family's needs, goals, and objectives. The out-of-home family services agreement shall specify what must change in order for the parents to meet the needs of the child. Basic goal planning steps include:
 - (a) involving the family in the process;
 - (b) identifying goals that are both realistic and achievable;
 - (c) using family strengths when outlining objectives and activities to attain the goals;
 - (d) spelling out the steps necessary for success;
 - (e) documenting who will do what and when they will do it; and
 - (f) providing for review by parents or guardian, the legal custodian, the child, and any individual or agency providing services.
- (12) "Owner" means any individual who is a sole proprietor, co-owner, partner or shareholder holding an ownership or controlling interest of five percent or more of the applicant entity. Owner includes a "principal" or "affiliate" of the residential child-care facility.
- (13) "Private agency residential child-care facility" means a residential child-care facility under the auspices of a licensed child-placing agency or another private residential child-care facility.
- (14) "Private residential child-care facility" means a residential child-care facility under the control, management, and supervision of a private non-profit or for-profit corporation, sole proprietorship, or partnership that operates independently of a licensed child-placing agency or any other residential child-care facility.
- (15) "Provisional license" means a license issued for a maximum of six months enabling a facility to operate while some below standard component of the program is being corrected. A provisional license for the same below standard program component shall not be renewed.
- (16) "Public agency residential child-care facility" means a residential child-care facility under the control, management, or supervision of a county department of social services.
- (17) "Public residential child-care facility" means a residential child-care facility under the control, management, or supervision of a county government other than a county department of social services.
- (18) "Social worker" means an individual who has a bachelor's, master's, or doctorate degree in social work from a social work program accredited by the Council on Social Work Education (CSWE) as provided in the Social Worker Certification and Licensure Act (G.S. 90B). Agencies may use terms such as "case manager" or "case manager supervisor" to refer to these individuals.
- (19) "Staff" means full-time, part-time, and contracted staff persons.
- (20) The "reasonable and prudent parent standard", has the meaning set forth in G.S. 131D-10.2A.
- (21) "Visitation and contact plan" means a document that is developed by the child's custodian for each child that specifies whom the child may visit with and have contact with and the circumstances under which the visits and contacts shall take place.
- (22) "Volunteer" means a person working in a staff position for an agency who is not paid.

History Note: Authority G.S. 131D-10.2A; 131D-10.3; 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. July 18, 2002;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. October 1, 2008; August 1, 2004;
Readopted Eff. October 1, 2017.

10A NCAC 70I .0202 RESPONSIBILITY TO LICENSING AUTHORITY

- (a) A residential child-care facility shall biennially submit to the licensing authority the information and materials required by rules in Subchapters 70I and 70J of this Chapter to document compliance and to support issuance of a license.
- (b) A residential child-care facility shall submit to the licensing authority a biennial statistical report of program activities that shall include information such as agency governance structure, financial data, staff employed, and clients served during the licensure period.
- (c) A residential child-care facility shall provide written notification to the licensing authority, prior to a change in the executive director.
- (d) A residential child-care facility shall provide written notification to the licensing authority, prior to any proposed changes in policies and procedures to assure that the changes are in compliance with the rules in Subchapters 70I and 70J of this Chapter. The residential child-care facility shall receive written approval from the licensing authority before instituting any changes in policies and procedures.
- (e) The office of a residential child-care facility shall be maintained in North Carolina. The licensee shall carry out activities under the North Carolina license from this office.
- (f) The current license of a residential child-care facility shall be posted at all times in a public area within the facility.
- (g) When there is a death of a child who is a resident of a residential child-care facility, the executive director or his or her designee shall notify the licensing authority within 72 hours in accordance with Rule. 0614 of this Subchapter.
- (h) The agency shall provide to the licensing authority at the time of license application the legal name and social security number of each individual who is an owner.
- (i) The agency shall provide to the licensing authority written notification of a change in the legal name of any person holding an interest in the agency of at least five percent within 30 days following the changes.
- (j) A residential child-care facility shall notify the Local Management Entity – Managed Care Organization entity where services are being provided within 24 hours of placement that a child may require mental health, developmental disabilities, or substance abuse services.
- (k) If a residential child-care facility is monitored by a Local Management Entity – Managed Care Organization, the residential child-care facility shall provide data to the Local Management Entity – Managed Care Organization as required by Rule 10A NCAC 27G .0608, which is hereby incorporated by reference, including subsequent amendments and editions, for monitoring and reporting to the General Assembly.
- (l) The agency shall notify the licensing authority within 24 hours if the agency receives notice of debarment that prohibits the agency from participating in State and Federal procurement contracts and covered non-procurement transactions.

History Note: Authority G.S. 131D-10.3; 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. July 18, 2002;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. October 1, 2008; August 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
Amended Eff. October 1, 2017.

10A NCAC 70I .0203 SUBSTANTIATIONS OF NEGLECT AGAINST THE FACILITY

- (a) When there is a substantiation of neglect against a residential child-care facility by a county department of social services, a corrective action plan shall be submitted by the executive director or his/her designee to the licensing

authority within 30 days of the case decision by the county department of social services conducting the investigative assessment.

(b) Following the receipt of the corrective action plan, the licensing authority shall make one unannounced on-site visit to the facility within the 30 days following the receipt of the corrective action plan.

(c) The licensing authority shall make subsequent onsite visits at varying frequencies and times throughout the ensuing year to determine that the corrective actions have been implemented.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0204 LICENSURE PROCEDURES

(a) Private Residential Child-Care Facility Licensure Procedures:

- (1) A private residential child-care facility shall submit the following materials to the licensing authority during the application phase:
 - (A) Articles of Incorporation;
 - (B) Bylaws; and
 - (C) Governing Board list with names, addresses, occupations, length of time and terms on the board, and board positions held and number of terms, if applicable.
- (2) A private residential child-care facility shall submit the following materials to the licensing authority during the investigatory phase before an initial license may be issued, with the exception of Part (K) of this Subparagraph which shall be maintained at the facility for review:
 - (A) License Application and Summary;
 - (B) Program policies and procedures stating the purpose, outlining admission criteria, as well as defining areas of responsibilities for services which the facility will assume for children in care and for services to be provided by the referring agency or individual, and discharge criteria;
 - (C) Description of the child-care program and evaluation method;
 - (D) Program forms;
 - (E) Budget outlining anticipated costs and sources of revenue for the first year of operation;
 - (F) Personnel policies;
 - (G) Organizational chart;
 - (H) Job descriptions;
 - (I) Staff resumes;
 - (J) Full and part-time staff work schedules;
 - (K) A medical examination report completed by a licensed medical provider on all full-time and part-time direct care personnel residing in the facility (this includes any staff member who may serve in the capacity of direct care staff), and any children or relative children of direct care personnel residing in the facility within 12 months prior to the license date. There shall be documentation that all adult direct care personnel residing in the facility have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. The birth children of direct care personnel who reside in the facility shall be tested for TB only if one or more of the parents tests positive for TB. There shall be documentation that adopted children or other relative children residing in the facility have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. A medical history form (DSS-5017) shall be completed by all direct care personnel residing in the facility at the time of initial licensure. A medical examination report, TB test (if required) and a medical history form (DSS-5017) shall be completed on any children or relative children of direct care personnel who subsequently begin residing in the facility;
 - (L) Fire and Building Safety Inspection Report completed and approved by the local fire inspector;
 - (M) Inspection Form for Residential Care Facilities, completed and approved by the county sanitarian;

- (N) Written approval from the local zoning authority; and
 - (O) Written approval from the Division of Health Service Regulation.
 - (3) The licensing authority shall make one or more visits to the residential child-care facility to complete the licensing study.
 - (4) Based on information obtained during the investigatory phase, licensing authority staff shall evaluate the residential child-care facility's proposed program and methods of operation to determine compliance with rules in Subchapters 70I and 70J of this Chapter.
 - (5) The licensing authority shall notify the residential child-care facility in writing of the licensure decision, conditions of the license and any recommendations regarding the child-care program.
- (b) Licensure Procedures for Private Agency, Public Agency and Public Residential Child-Care Facilities.
- (1) A private agency, public agency and public residential child-care facility shall submit the following materials to the licensing authority before a license may be issued, with the exception of Part (I) of this Subparagraph which shall be maintained at the facility for review:
 - (A) License Application and Summary;
 - (B) Program policies and procedures stating purpose, outlining admission criteria, as well as defining areas of responsibilities and discharge criteria;
 - (C) Description of the child-care program and evaluation method;
 - (D) Program forms;
 - (E) Budget outlining anticipated costs and sources of revenue for the first year of operation;
 - (F) Job descriptions;
 - (G) Staff resumes;
 - (H) Full and part-time staff work schedules;
 - (I) A medical examination report completed by a licensed medical provider on all full- and part-time direct care personnel residing in the facility (this includes any staff member who may serve in the capacity of direct care staff), and any children or relative children of direct care personnel residing in the facility within 12 months prior to the license date. There shall be documentation that all adult direct care personnel residing in the facility have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. The birth children of direct care personnel who reside in the facility shall be tested for TB only if one or more of the parents tests positive for TB. There shall be documentation that adopted children or other relative children residing in the facility have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. A medical history form (DSS-5017) shall be completed by all direct care personnel residing in the facility at the time of initial licensure. A medical examination report, TB test (if required) and a medical history form (DSS-5017) shall be completed on any children or relative children of direct care personnel who subsequently begin residing in the facility;
 - (J) Fire and Building Safety Inspection Report completed and approved by the local fire inspector;
 - (K) Inspection Form for Residential Care Facilities, completed and approved by the county sanitarian;
 - (L) Written approval from the zoning authority; and
 - (M) Written approval from the Division of Health Service Regulation.
 - (2) The licensing authority staff shall notify the residential child-care facility in writing of the licensure decision, conditions of the license, and any recommendations regarding the residential child-care program.
- (c) Licensure Procedures Following Second Year of Operation for all residential child-care facilities.
- (1) Prior to the license expiration date, the licensing authority shall notify a residential child-care facility in writing of the licensure renewal requirements.
 - (2) A residential child-care facility shall submit the following materials to the licensing authority before a license for a residential child-care facility may be renewed, with the exception of Parts (E) and (F) of this Subparagraph, which shall be maintained at the facility for review:
 - (A) License Application and Summary;
 - (B) Governing board list with names, addresses, occupations, length of time and terms on the board, and board positions held and number of terms, if applicable;

- (C) Budget outlining anticipated costs and sources of revenue of the next operating year, with estimation of daily cost of care per child for past year;
 - (D) Annual statistical report of program activities as required by Rule .0202(b) of this Section;
 - (E) A medical examination report completed by a licensed medical provider on all full- and part-time direct care personnel residing in the facility (this includes any staff member who may serve in the capacity of direct care staff), and any children or other relative children residing in the living unit prior to employment;
 - (F) A medical history form completed by all full- and part-time direct care personnel residing in the facility (this includes any staff member who may serve in the capacity of direct care staff) who have been employed since the last relicensing period and any children or other relative children residing in the facility. A residential child-care facility shall have documentation that all full- and part-time direct care personnel residing in the facility who have been employed since the last relicensing period have had a TB skin test or chest x-ray prior to employment unless contraindicated by a licensed medical provider. The birth children of direct care personnel who reside in the facility shall be tested for TB only if one or more of the parents test positive for TB. There shall be documentation that adopted children and other relative children residing in the facility have had a TB skin test or chest x-ray unless contraindicated by a licensed medical provider;
 - (G) The residential child-care facility shall have fire inspections from the local fire inspector. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority biennially with the licensure renewal application;
 - (H) The residential child-care facility shall have sanitation inspections from the county sanitarian. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority biennially with the licensure renewal application;
 - (I) Updated or revised materials including policies, procedures, forms, or amendments to Bylaws or Articles; and
 - (J) If the agency receives foster care maintenance payments of State funds, an annual audit of its financial statements that is in compliance with 10A NCAC 70D .0105(a)(5).
- (3) The licensing authority shall biennially conduct onsite visits to private residential child-care facilities, private agency residential child-care facilities, public agency residential child-care facilities or public residential child-care facilities to determine if licensure standards for residential child-care facilities continue to be met. The licensing authority may conduct announced and unannounced on-site visits to residential child-care facilities.

History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
 Amended Eff. October 1, 2008; July 18, 2002;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

SECTION .0300 - ORGANIZATION AND ADMINISTRATION

10A NCAC 70I .0301 GOVERNANCE

- (a) A private residential child-care facility shall operate under articles of incorporation that are filed with the Department of the Secretary of State (www.secretary.state.nc.us). A private residential child-care facility shall submit a copy of the articles of incorporation to the licensing authority.
- (b) A private residential child-care facility shall have a governing body that exercises authority over and has responsibility for its operation, policies and practices. The residential child-care facility shall notify the licensing authority of the type and structure of the governing body.
- (c) In the case of non-profit or for-profit corporations, the governing body shall:
 - (1) be composed of no fewer than six members to include men and women;
 - (2) provide for a system of rotation for board members, for limitation to the number of consecutive terms a member may serve;

- (3) establish standing committees;
 - (4) provide orientation for new members; and
 - (5) meet at least four times annually with a quorum present.
- (d) Public residential child-care facilities operated by governmental agencies shall be governed by appointed officials of a governmental unit.
- (e) A residential child-care facility shall submit to the licensing authority a list of members of the governing body. This list shall indicate the name, address and terms of membership of each member and shall identify each officer and the term of that office.
- (f) A residential child-care facility shall permanently maintain meeting minutes of the governing body and committees.
- (g) The governing body, in the event of the closing of the residential child-care facility, shall develop a plan for the retention and storage of client records. The specifics of this plan shall be submitted to the licensing authority before the actual closing of the residential child-care facility.

*History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S. L. 1999, c. 237, s. 11.30);
 Amended Eff. June 1, 2010; November 1, 2009; October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 701 .0302 RESPONSIBILITIES OF THE GOVERNING BODY

The governing body shall:

- (1) adopt administrative, personnel, and program policies and review them at least every two years;
- (2) review and approve a budget prior to the beginning of the fiscal year;
- (3) establish and review policies on fundraising and investment management at least every two years;
- (4) in the case of a private residential child-care facility, annually review and accept the financial audit;
- (5) employ an executive director (also called CEO, director, president, superintendent) and delegate authority to that person to employ and dismiss staff, implement board policies, and manage day-to-day operation of the facility;
- (6) ensure that the criminal history of the executive director is checked prior to employment, and based on the criminal history, determine the individual's fitness for employment. The governing body shall ensure that searches of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed prior to employment, and based on these searches, determine the individual's fitness for employment. The governing body shall submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 701 .0102, to determine if the executive director has had child protective services involvement resulting in a substantiation of child abuse or serious neglect, and based on this search, determine the individual's fitness for employment. The governing body shall require that the executive director provide a signed statement prior to employment that he or she has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. The governing body shall require that the executive director provide a signed statement that the executive director has not abused, neglected, or exploited a disabled adult and that the executive director has never committed an act of domestic violence upon another person. Agencies or applicants that do not have a governing body shall provide this information directly to the licensing authority;
- (7) not employ an executive director who has ever been convicted of a felony involving:
 - (A) child abuse or neglect;
 - (B) spouse abuse;
 - (C) a crime against a child or children (including child pornography); or
 - (D) a crime of rape, sexual assault, or homicide;
- (8) not employ an executive director who has been convicted of a felony within the last five years involving:
 - (A) assault;
 - (B) battery; or

- (C) a drug-related offense;
- (9) permit the executive director or his or her designee to attend all meetings of the governing body and committees with the exception of those held for the purpose of reviewing his or her performance, status, or compensation;
- (10) annually evaluate and document the executive director's performance through criteria and objectives;
- (11) annually evaluate the effectiveness of the agency's services to its clients. This evaluation shall include the agency's services to ensure client safety;
- (12) annually review facility needs related to risk management;
- (13) maintain a long range plan and review annually;
- (14) develop and implement policies and procedures to comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, all of which are hereby incorporated by reference, including subsequent amendments and editions. Copies of the Civil Rights Act of 1964 may be accessed free of charge at <https://www.justice.gov/crt/fcs/TitleVI-Overview>. Copies of the Rehabilitation Act of 1973 may be accessed free of charge at <https://www.gpo.gov>. Copies of the Americans with Disabilities Act may be accessed free of charge at <https://www.ada.gov>;
- (15) ensure that the agency complies with the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-82, as amended by the Interethnic Adoption Provisions (IEP) of 1996; which is incorporated by reference including subsequent amendments and editions. The MEPA may be accessed free of charge at <https://www.gpo.gov>; and
- (16) ensure the agency complies with the terms and conditions of State and Federal requirements to participate in procurement contracts and covered non-procurement transactions as required by Title 2 of the Code of Federal Register, which is incorporated by reference, including subsequent amendments and editions, and may be accessed free of charge at <https://www.ecfr.gov>, and G.S. Chapter 64, Article 2.

History Note: Authority G.S. 131D-10.5; 131D-10.6; 143B-153; Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30); Amended Eff. June 1, 2010; October 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016; Amended Eff. October 1, 2017.

10A NCAC 70I .0303 FINANCES AND INSURANCE

(a) Fiscal Management: The executive director shall:

- (1) implement sound financial practices in order to prepare and review the budget, and to be accountable to the community; and
- (2) report to the governing body at least quarterly or more frequently, if requested by any member of the governing body, on present financial status and anticipated problems.

(b) A residential child-care facility shall:

- (1) have a plan of financing which assures sufficient funds to enable it to carry out its defined purposes and provide proper care and services for children;
- (2) develop adequate resources and manage them prudently in order to obtain the revenues that support its programs and prevent the interruption of needed care and services to clients;
- (3) have a written budget specifying income and expenditures which serves as the plan for management of its financial resources for the program year; and
- (4) have a written policy on fees for services which shall be inclusive of all fees and charges. No cost beyond the written policy shall be imposed. The agency policy shall describe the relationship between fees and services provided and the conditions under which fees are charged or waived. The agency shall make the policy available to applicants for services at the time an application for services is made.

(c) Audit: If the agency receives foster care maintenance payments of State funds, it must submit an annual audit of its financial statements that is in compliance with 10A NCAC 70D .0105(a)(5).

(d) Insurance: A residential child-care facility shall notify the licensing authority, parents, guardian and legal custodian (if applicable) of its status related to liability insurance for the agency and staff. A residential child-care

facility shall provide a written statement of its status related to liability insurance for the residential child-care facility and staff to applicants for services at the time an application for service is made.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0304 INTERNAL OPERATING PROCEDURES

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
Repealed Eff. October 1, 2008.

10A NCAC 70I .0305 RECORDKEEPING AND REPORTING

- (a) A residential child-care facility shall develop and enforce a policy on confidentiality that shall:
- (1) identify the individuals with access to or control over confidential information;
 - (2) specify that persons who have access to records or specified information in a record be limited to persons authorized by law, including:
 - (A) the parents, guardian, or legal custodian (if applicable);
 - (B) children ages 12 years or older;
 - (C) agency staff and auditing, licensing, or accrediting personnel; and
 - (D) individuals that the parent, guardian, or legal custodian (if applicable) have given written consent for release of confidential information; and
 - (3) require that when a child's information is disclosed, a signed written consent for release of information is obtained from the parent, guardian, legal custodian, or client if age 18 or older.
- (b) A residential child-care facility shall:
- (1) provide a secure place for the storage of records with confidential information;
 - (2) inform any individual with access to confidential information of the provisions of this Rule;
 - (3) ensure that, upon employment and whenever revisions to the policy are made, staff sign a compliance statement that indicates an understanding of the requirements of confidentiality;
 - (4) permit a child to review his or her case record in the presence of facility personnel on the facility premises, in a manner that protects the confidentiality of other family members or other individuals referenced in the record, unless facility personnel determine the information in the child's case record would be harmful to the child;
 - (5) in cases of perceived harm to the child, document in writing any refusals to share information with the parents, guardian, and legal custodian (if applicable) and child (12 years of age and older);
 - (6) maintain a confidential case record for each child;
 - (7) maintain confidential personnel records for all employees; and
 - (8) maintain confidential records for all volunteers.
- (c) A residential child-care facility may destroy in office a closed record when a child has been discharged for a period of three years, unless the record is included in a federal or state fiscal or program audit that is unresolved. A residential child-care facility may destroy in office a record three years after a child has reached age 21, unless included in a federal or state fiscal or program audit that is unresolved. The agency may destroy these closed records in office when the federal or state fiscal or program audits have been resolved and the agency is released from all audits involving these records.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
Amended Eff. October 1, 2017.

10A NCAC 70I .0306 CLIENT RIGHTS

(a) A residential child-care facility shall develop and implement policies and procedures to protect the individual rights and dignity of children and families.

(b) A residential child-care facility shall have a client's and family's rights policy that includes that each child has the right to:

- (1) privacy;
- (2) be provided food, clothing, and shelter that is sufficient and appropriate to the individual child;
- (3) have access to family time and have telephone conversations with family members, when not contraindicated in the child's visitation and contact plan;
- (4) have personal property and a space for storage;
- (5) express opinions on issues concerning the child's care or treatment;
- (6) receive care in a manner that recognizes variations in cultural values and traditions;
- (7) be free from coercion by facility personnel with regard to religious decisions. The facility shall have a process to assure that, whenever practical, the wishes of the parents or guardians with regard to a child's religious participation are ascertained and followed;
- (8) not be identified as a foster child in any way;
- (9) not be forced to acknowledge dependency on or gratitude to the facility; and
- (10) participate in extracurricular, enrichment, cultural, and social activities as appropriate and in accordance with G.S. 131D-10.2A.

(c) A residential child-care facility shall have a policy that prohibits direct involvement by a child in soliciting funds for the facility.

(d) A residential child-care facility shall have a policy that prohibits the child's participation in any activities involving audio or visual recording and research without the voluntary signed, time-limited consent of the parents, guardian, or legal custodian and child, if 12 years of age and older.

*History Note: Authority G.S. 131D-10.2A; 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
Amended Eff. October 1, 2017.*

10A NCAC 70I .0307 GRIEVANCE PROCEDURES

(a) A residential child-care facility shall provide to each child and parents, guardian or legal custodian upon admission:

- (1) a written description of policies and procedures which the child, parents, guardian or legal custodian follow to register complaints;
- (2) information about a child's rights;
- (3) the process for appealing a decision or action of the facility; and
- (4) the process for resolution of a complaint.

(b) Upon resolution of a grievance, a residential child-care facility shall maintain a copy of the complaint and the resolution in the case record.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237 s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0308 NORMALCY FOR FOSTER CHILDREN

(a) A residential child-care facility shall develop and follow policies and procedures to implement the reasonable and prudent parent standard established in G.S. 131D-10.2A.

(b) The agency shall demonstrate compliance with policies and procedures that include:

- (1) Appointment of a designated official to apply the reasonable and prudent parent standard when determining whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities;
- (2) Documentation of any reasonable and prudent parent standard decision;

- (3) Training for residential staff in the reasonable and prudent parent standard; and
- (4) Supervision and support to staff in implementing the reasonable and prudent parent standard.

History Note: Authority G.S. 131D-10.2A; 131D-10.5; 143B-153;
Eff. October 1, 2017.

SECTION .0400 – PERSONNEL

10A NCAC 70I .0401 PERSONNEL POLICIES

A residential child-care facility shall have written personnel policies and procedures which shall be provided to all employees (full-time, part-time and contracted). Revisions of all personnel policies shall be in writing and provided to employees. Policies and procedures shall address the following areas:

- (1) recruitment and hiring;
- (2) compensation structure and benefits;
- (3) orientation plan for new employees;
- (4) training and staff development;
- (5) regulations regarding use of equipment and assets;
- (6) notification of work schedule;
- (7) description of leave policy, including time-off duty for disciplinary actions for direct care staff;
- (8) termination;
- (9) operational procedures regarding grievances which provide the opportunity and means to lodge complaints and appeals;
- (10) description of the process for revision of personnel policies;
- (11) annual evaluations;
- (12) staff quarters and searches; and
- (13) disciplinary measures.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0402 PERSONNEL DEPLOYMENT

- (a) A residential child-care facility shall ensure that the deployment of personnel supports the stated mission of the facility.
- (b) There shall be a written job description for each position, which includes duties, responsibilities, qualifications, and to whom the position is responsible. Job descriptions shall be consistent with duties being performed.
- (c) A residential child-care facility shall have procedures for annual evaluation of the work performance of each employee which provides for employee participation in the process.
- (d) A residential child-care facility shall have an organizational plan which delineates the number of staff and levels of supervisors/managers, taking into account the complexity and size of the workload of each staff. The plan shall demonstrate supervision of staff in accordance with the rules in Subchapters 70I and 70J of this Chapter, if applicable.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0403 PERSONNEL FILE

A residential child-care facility shall maintain a personnel file for each employee (full-time, part-time and contracted) which includes the following:

- (1) application for employment including the record of previous employment;
- (2) documentation of at least three references;

- (3) applicable position specific credentials or certifications (prior to employment certified college transcripts shall be obtained for positions requiring college degrees);
- (4) medical information required for each staff by licensure standards (initial and biennial medical examinations, initial TB test and medical history form);
- (5) signed statement indicating the employee's understanding of and willingness to comply with confidentiality agreement requirements;
- (6) signed statement that the employee has no criminal convictions that would adversely affect his or her capacity and ability to provide care, safety and security for the children in residence;
- (7) criminal record checks certified by the Clerk of Superior Court;
- (8) results of the search of the North Carolina Sex Offender and Public Protection Registry;
- (9) results of the search of the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256);
- (10) results of the search of the Responsible Individuals List as defined in 10A NCAC 70A .0102 which indicates the employee has not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (11) a signed statement that the employee has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child;
- (12) signed statement that the employee has not abused, neglected or exploited a disabled adult;
- (13) signed statement that the employee has not been a domestic violence perpetrator;
- (14) record of completed orientation;
- (15) log of training;
- (16) written approval letter from executive director or his or her designee authorizing employee to administer physical restraint holds, if applicable;
- (17) annual performance evaluations;
- (18) documentation of disciplinary actions;
- (19) documentation of grievances filed;
- (20) employee's starting and termination dates;
- (21) reason for termination;
- (22) signed and dated release or notation of employee's waiver of release for future employment references; and
- (23) documentation of a driving record check, if applicable.

History Note: Authority G.S. 131D-10.5; 131D-10.6; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
 Amended Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0404 PERSONNEL QUALIFICATIONS

(a) Applicants, employees, volunteers or interns who have a history of criminal convictions that would adversely affect their capacity and ability to provide care, safety and security for the children in residence shall not be employed or utilized as volunteers or interns. A signed statement shall be obtained attesting that the applicant, employee, volunteer or intern does not have such a record prior to beginning employment, volunteer duties or internships. Prior to employment or before beginning volunteer duties or internships, a certified criminal record check for the applicant, volunteer or intern shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256), and based on these searches, a decision shall be made concerning the individual's fitness to serve as an employee, volunteer or intern. The agency shall submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70A .0102, to determine if the applicant, employee, volunteer or intern has had child protective services involvement resulting in a substantiation of child abuse or serious neglect, and based on this search, a determination shall be made concerning the individual's fitness to serve as an employee, volunteer or intern. The agency shall require that each applicant, employee, volunteer or intern provide a signed statement that the applicant, employee, volunteer or intern has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. A signed statement shall be obtained

attesting that the applicant, employee, volunteer or intern has not abused, neglected or exploited a disabled adult and has not been a domestic violence perpetrator.

(b) Applicants, employees, volunteers and interns are not eligible for employment, volunteer or intern positions if they have been convicted of a felony involving:

- (1) child abuse or neglect;
- (2) spouse abuse;
- (3) a crime against a child or children (including child pornography); or
- (4) a crime of rape, sexual assault, or homicide.

(c) Applicants, employees, volunteers and interns are not eligible for employment, volunteer or intern positions if within the last five years they have been convicted of a felony involving:

- (1) assault;
- (2) battery; or
- (3) a drug-related offense.

(d) Employees, volunteers or interns driving a residential child-care facility vehicle shall possess a valid North Carolina driver's license appropriate for the type of vehicle used.

(e) The agency shall require that each employee provide a signed statement that the employee has no criminal, social or medical history that will adversely affect the employee's capacity to work with children and adults every two years as long as the employee is employed. Every two years as long as the employee is employed, the agency shall submit authorization to the Division of Social Services to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the employee has had child protective services involvement resulting in a substantiation of child abuse or serious neglect. Every two years as long as the employee is employed the agency shall require that each employee provide a signed statement that the employee has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. Every two years as long as the employee is employed, a certified criminal record check for each employee shall be obtained, and a search conducted of the North Carolina Sex Offender and Public Protection Registry and North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The agency shall require that every two years as long as the employee is employed each employee provide a signed statement that the employee has not abused, neglected, or exploited a disabled adult, and has not been a domestic violence perpetrator.

*History Note: Authority G.S. 131D-10.5; 131D-10.6; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237 s. 11.30);
Amended Eff. August 1, 2011; June 1, 2010; October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0405 PERSONNEL POSITIONS

(a) Executive Director. There shall be a full-time executive director for an agency with one or more facilities licensed for 20 or more children. At a minimum, there shall be a part-time executive director for an agency with one or more facilities licensed for less than 20 children.

(b) The executive director shall meet the requirements of a Social Services Program Administrator I as defined by the North Carolina Office of State Human Resources. A copy of these requirements, which are hereby incorporated by reference, including subsequent amendments and editions, can be found at: <https://oshr.nc.gov/state-employee-resources/classification-compensation/job-classification>. The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory, which is incorporated by reference, including subsequent amendments and editions. This information can be purchased from Higher Education Publications, Inc. for a cost of one hundred and twenty five dollars (\$125.00) at: <http://www.hepinc.com>.

(c) The executive director shall:

- (1) be responsible for the general management and administration of the residential child-care facility in accordance with policies established by the governing body and licensing requirements;
- (2) explain licensing standards, residential child-care standards, and the residential child-care facility's services to the governing body, the facility's constituency, other human service agencies, and the public;
- (3) initiate and carry out the program of residential child-care as approved by the governing body;
- (4) report to the governing body on all phases of operation at least quarterly;

- (5) delegate authority and responsibility to staff qualified to ensure the maintenance of the residential child-care facility's operations;
 - (6) establish and oversee fiscal practices and present the annual operating budget and quarterly reports to the governing body;
 - (7) evaluate, at least annually, the training needs of the staff and plan and implement staff training and consultation to address identified needs;
 - (8) employ and discharge staff and meet on a regular basis with management staff to review, discuss, and formulate policies and procedures;
 - (9) supervise staff who report directly to the executive director; and
 - (10) conduct an annual individual written evaluation of each staff member who reports directly to the executive director. This evaluation shall contain both a review of job responsibilities and goals for future job performance.
- (d) Clerical, Maintenance, and Other Support Personnel. The residential child-care facility shall employ or contract personnel to perform all clerical, support, and maintenance duties.
- (e) Business and Financial Personnel. The residential child-care facility shall employ or contract personnel to perform all business, accounting, and financial functions.
- (f) Direct Care Service Personnel. Any staff member who assumes the duties of direct care service personnel in the living unit shall comply with all the standards for direct care services personnel in the living unit.
- (1) Direct care service personnel shall:
 - (A) have a high school diploma or GED;
 - (B) complete a medical history form prior to assuming the position: The medical history form shall be signed and dated by the staff member and contain the name, contact information, date of birth, health history, and statement of health. A copy of the medical history form ("Medical History Form" DSS-5017) can be obtained from the Division or found on the Division's website at <https://www.ncdhhs.gov/divisions/dss>;
 - (C) have a medical examination by a licensed medical provider 12 months prior to assuming the position and biennially thereafter. This report shall include a statement indicating the presence of any communicable disease that may pose a risk of transmission in the residential child-care facility. After the initial examination, the cost of the medical examinations as required by licensure shall be at the expense of the facility;
 - (D) have a TB skin test or chest x-ray, unless the medical provider advises against this test, prior to assuming the position; and
 - (E) be 21 years of age.
 - (2) Standards for direct care service personnel:
 - (A) There shall be one direct care staff personnel assigned to every six children during waking hours and one direct care staff personnel assigned to every ten children during overnight hours.
 - (B) A residential child-care facility shall ensure that a staff member certified in cardiopulmonary resuscitation (CPR) and first-aid, such as those provided by the American Red Cross, the American Heart Association, or equivalent organizations, is always available to the children in care. The residential child-care facility shall ensure that direct care service personnel shall, within the first 30 days of employment, successfully complete certification in first-aid, CPR, and universal precautions provided by either the American Heart Association, the American Red Cross, or equivalent organizations approved by the Division of Social Services. Division staff shall determine that an organization is substantially equivalent if the organization is already approved by the Department or meets the same standard of care as the American Heart Association or the American Red Cross. First-aid, CPR, and universal precautions training shall be renewed as required by the American Heart Association, the American Red Cross, or equivalent organizations. "Successfully completed" is defined as demonstrating competency, as evaluated by the instructor who has been approved by the American Heart Association, the American Red Cross, or other organizations approved by the Division of Social Services to provide first-aid, CPR, and universal precautions training. Training in CPR shall be appropriate for the ages of children in care. Documentation of successful completion of first-aid, CPR, and universal precautions shall be maintained by

the agency. The Division shall not accept web-based trainings for certification in first-aid, CPR, or universal precautions.

- (C) A residential child-care facility shall ensure that direct care service personnel receive supervision and training in the areas of child development, permanency planning methodology, group management, preferred discipline techniques, family relationships, human sexuality, health care and socialization, leisure time and recreation. In addition, the residential child-care facility shall provide training to direct care service personnel in accordance with the needs of the client population, including training in child sexual abuse. Direct care service personnel shall receive 24 hours of continuing education annually.
 - (D) A residential child-care facility shall ensure that direct care service personnel receive supervision in food preparation and nutrition when meals are prepared in the living unit.
 - (E) Any duties other than direct care services duties assigned to direct care service personnel shall be specified in writing and assigned in accordance with the residential child-care program.
 - (3) Direct care service supervisory personnel shall have a high school diploma or GED and be 21 years of age.
 - (4) Standards for direct care service supervisory personnel:
 - (A) There shall be at least one supervisor for every 15 direct care service personnel.
 - (B) Supervisory staff shall be selected on the basis of the knowledge, experience, and competence required to manage direct service personnel.
 - (C) Direct care service supervisory personnel shall receive 24 hours of continuing education annually.
- (g) Social work supervisors or case manager supervisors shall be employed by the residential child-care facility to supervise, evaluate and monitor the work and progress of the social work or case manager staff.
- (1) Social work supervisors or case manager supervisors shall meet the requirements of a Social Work Supervisor II as defined by the North Carolina Office of State Human Resources. A copy of these requirements, which are hereby incorporated by reference, including subsequent amendments and editions, can be found at <https://oshr.nc.gov/state-employee-resources/classification-compensation/job-classification>. The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social work supervisors or case manager supervisors shall receive 24 hours of continuing education annually.
 - (2) Supervision of social workers or case managers shall be assigned as follows:

| Supervisors Required | Social Workers or Case Managers Employed |
|--|--|
| 0 | 0-4 (executive director serves as social work or case manager supervisor) |
| 1 | 5 |
| 2 | 6-10 |
| 3 | 11-15 |
| There shall be one additional supervisor for every one to five additional social workers or case managers. | |

(h) Social workers or case managers shall be employed by the residential child-care facility to provide social work or case management services to the children in care and their families in accordance with the out-of-home family services agreement.

- (1) Social workers or case managers shall meet the requirements of a Social Worker II as defined by the North Carolina Office of State Human Resources. A copy of these requirements, which are hereby incorporated by reference, including subsequent amendments and editions, can be found at <https://oshr.nc.gov/state-employee-resources/classification-compensation/job-classification>. The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social workers or case managers shall receive 24 hours of continuing education annually.
- (2) There shall be at least one social worker or case manager assigned for every 15 children.

- (3) A residential child-care facility shall ensure that social workers or case managers receive supervision and training in the areas of child development, permanency planning methodology, group dynamics, family systems and relationships, and child sexual abuse.
- (4) Any duties other than social work or case management duties assigned to staff employed as social workers or case managers shall be specified in writing and assigned in accordance with the residential child-care program.

History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
 Amended Eff. June 1, 2010; October 1, 2008; July 18, 2002;
 Readopted Eff. October 1, 2017.

10A NCAC 70I .0406 AUXILIARY SERVICES PERSONNEL

- (a) The residential child care facility shall have available auxiliary services provided by contract to supplement the program of care. These service providers may include, but are not limited to, consultants, contracted services for the program of care, maintenance of the facility, and interns or students.
- (b) Consultants shall be practitioners who are recognized by applicable degrees, organizations and appropriate licensing boards. If the residential child care facility contracts with consultants, the facility shall document the consultants' credentials.
- (c) Paid consultants shall not be in conflict of interest with the residential child care facility in fact or appearance. They shall have no direct or indirect financial interest in the assets, transactions or services of the agency.
- (d) Interns or students shall meet all of the requirements stipulated for the position in which they are serving with the exception of completed education and experience. There shall be a written agreement between the placing educational institution and the residential child care facility specifying responsibilities and supervision of the intern or student.

History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0407 VOLUNTEERS

A residential child-care facility shall have a written description of the specific responsibilities and the provision of supervision of all volunteers. Volunteers shall:

- (1) meet the personnel qualifications specified in 10A NCAC 70I .0404;
- (2) meet the qualifications and implement the duties of the position as specified;
- (3) be provided sufficient orientation, training and supervision to enable knowledge of the facility's purpose and services, the needs of children and families served and the role and responsibilities to be assumed;
- (4) provide three references relevant to the role and responsibilities to be assumed;
- (5) have documentation in their personnel files of a search of the Responsible Individual's List as defined in 10A NCAC 70A .0102; documentation of a criminal record check; documentation of a search conducted of the North Carolina Sex Offender, Public Protection Registry; and documentation of a search of the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-356). Volunteers shall provide signed statements prior to employment that they have not abused or neglected a child or have been a respondent in a juvenile court proceeding that resulted in the removal of a child or have had child protective services involvement that resulted in the removal of a child. Volunteers shall also provide signed statements that they have not abused, neglected or exploited a disabled adult and that they have not been a domestic violence perpetrator; and
- (6) agree in writing to abide by the confidentiality policies of the agency.

History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
 Amended Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

SECTION .0500 - SERVICE PLANNING

10A NCAC 70I .0501 ADMISSION POLICIES

- (a) A residential child-care facility shall have written admission policies which define and describe the age, sex and type of child to be served.
- (b) The residential child-care facility shall limit admissions to children who need out of home care apart from their families and for whom the facility is qualified by staff, program, buildings and services to give appropriate care.
- (c) In the case of private referrals, the residential child-care facility shall:
 - (1) document reasonable efforts to prevent placement;
 - (2) establish that the facility provides the least restrictive setting for the child; and
 - (3) develop and implement an out-of-home family services agreement with the child's family for reunification, when possible.
- (d) In the case of out-of-state referrals (both public and private), the residential child-care facility shall not admit a child to the facility without the approval of Interstate Compact on the Placement of Children.
- (e) The residential child-care facility shall provide each applicant a handbook of admission procedures which includes:
 - (1) a description of the admissions process;
 - (2) the application, including any fees for services;
 - (3) the preplacement activities for the child, parents, guardian or legal custodian; and
 - (4) an explanation of the group assignment method.
- (f) The residential child-care facility shall maintain a referral log which includes:
 - (1) child's name, age, sex, and race;
 - (2) names of parents, guardian or legal custodian; and
 - (3) disposition of admission.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0502 ADMISSION PROCEDURES

- (a) A residential child-care facility shall establish and implement an intake process which includes:
 - (1) receipt of an application and a face-to-face interview with the child, parents, guardian or legal custodian, and family whenever possible, with a specific effort to help the child understand the purpose of and need for out of home care and residential child-care services; and
 - (2) an exchange of information about the facility's program and the child's needs, and to provide written information required in 10A NCAC 70I .0307(a) and 10A NCAC 70I .0504(a).
- (b) The agency requesting placement shall complete a written intake study for each child accepted into residential care which includes:
 - (1) circumstances that led to the need for placement, and the child's understanding of the placement;
 - (2) assessment of family issues and justification that the facility meets the needs of the child and family;
 - (3) short-term placement goals and long range permanent plan, including the parent's, guardian's or legal custodian's expectations;
 - (4) description of the child's family and significant others;
 - (5) description of the child's behavior;
 - (6) child specific information, including:
 - (A) medical history, including any current medical problems;
 - (B) developmental history and current level of functioning;
 - (C) educational history, if applicable; and
 - (D) the results of current psychological testing, if applicable.

History Note: Authority G.S. 131D-10.5; 143B-153; 143B-154; 143B-155; 143B-156; Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30); Amended Eff. October 1, 2008; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0503 ADMISSION AGREEMENT

(a) At admission, a residential child-care facility shall develop a written agreement between the parents, guardian, or legal custodian, if applicable, and the facility that specifies the services to be provided by the facility and the responsibilities of the parents, guardian, or legal custodian, if applicable. This includes:

- (1) the statement of consent for placement by the parents, guardian, or legal custodian, if applicable, with the date of admission;
- (2) the plan for providing admission information on the child's care, developmental, educational, medical, and psychological needs to the parents, guardian, or legal custodian, if applicable, the frequency of out-of-home family service agreement reviews, and receipt of program information required by 10A NCAC 70I .0307(a) and 10A NCAC 70I .0504(a);
- (3) the statement of facility responsibility for working with the child's parents, guardian, or legal custodian, if applicable;
- (4) the statement related to the provision of religious training and practices and consent to these by the parents, guardian, or legal custodian, if applicable;
- (5) the visitation and contact plan;
- (6) the fees and plan for payment of care;
- (7) the plan for discharge to include projected length of stay; and
- (8) the statement of facility responsibility for aftercare services.

(b) For foster children 18 years of age and older residing in the residential child-care facility or reentering the facility, the facility shall obtain a copy of the voluntary placement agreement signed by the foster child that specifies the conditions for residential child-care and services.

History Note: Authority G.S. 131D-10.5; 143B-153; Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30); Amended Eff. October 1, 2008; July 18, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016; Amended Eff. October 1, 2017.

10A NCAC 70I .0504 ORIENTATION

(a) A residential child-care facility shall provide information and discuss the program policies governing residential care and services for children with the child's parents, guardian, or legal custodian and the child at or before admission. These include:

- (1) family time, mail, gifts, personal possessions, money, and telephone calls and restrictions that may be imposed on these;
- (2) discipline and behavior management, including the use of searches of children's rooms and possessions;
- (3) program of religious training and practices;
- (4) educational resources;
- (5) trips away from the facility;
- (6) use of volunteers, if any;
- (7) physical restraint practices;
- (8) client rights and grievance procedures;
- (9) daily and seasonal schedules; and
- (10) reasonable and prudent parent standard.

(b) The residential child-care facility shall obtain the out-of-home family services agreement from the county department of social services at or before admission when the county department of social services is the legal custodian. In the case of a private placement, the facility shall develop an out-of-home family services agreement within 30 days of admission. The out-of-home family services agreement shall be reviewed initially within 60 days, the second review shall be within 90 days of the initial review and all subsequent reviews shall be held every six

months, inviting the parent, guardian, legal custodian, and the child, as well as any individual or agency designated as providing services to participate.

(c) The out-of-home family services agreement shall be developed utilizing information from an assessment of the child's and family's needs and include goals based on normal developmental tasks and needs. The goals and objectives shall be based on identified issues, be behaviorally specific, time-limited and measurable and include staff assignments and strategies to be taken to meet the goals in the following areas:

- (1) special interests and personal aspirations;
- (2) intellectual, academic, and vocational;
- (3) psychological and emotional;
- (4) medical;
- (5) social and family relationships;
- (6) cultural and spiritual; and
- (7) basic living skills.

(d) A visitation and contact plan shall be developed for each child by the parents, guardian, or legal custodian, if different.

(e) A written discharge plan shall be part of the out-of-home family services agreement.

(f) Direct care staff shall be informed about the child's out-of-home family services agreement by the executive director of the residential child-care facility or his or her designee and shall participate or provide input at the reviews set forth in Paragraph (b) of this Rule.

(g) A copy of the child's out-of-home family services agreement shall be provided to the parents, guardian, and the executive director of the residential child-care facility or his or her designee by the county department of social services serving as the legal custodian. The child's out-of-home family services agreement shall be provided to other agencies and individuals listed as providing services to the child and his or her parents or guardian. Each child shall receive a version of the out-of-home family services agreement that is appropriate for the child's age, intelligence, emotional makeup, and past experiences.

(h) The child's out-of-home family services agreement review shall include:

- (1) an evaluation of progress towards meeting identified issues;
- (2) any new needs identified since the child's out-of-home family services agreement was developed or last reviewed and behaviorally-specific strategies to meet these needs, including instructions to staff;
- (3) an update of the estimated length of stay and discharge plan; and
- (4) the signatures of the persons participating in the review.

(i) If the legal custodian is a county department of social services, the residential child-care agency, department of social services, parents or guardian, other service providers, and child shall develop a single out-of-home family services agreement. The residential child-care staff shall attend court reviews, child and family team meetings, and permanency planning action team meetings. The out-of-home family services agreement ("Out-of-Home Services Agreement" DSS-5240) or the transitional living plan ("Transitional Living Plan for Youth/Young Adults in Foster Care" DSS-5096a) may serve as the out-of-home family services agreement for the residential child-care facility if the documents reflect input and participation by the residential child-care facility. Both forms contain the client's name and demographic information, the names and contact information for other relevant individuals, the client's permanency plan, the client's goals and objectives, supportive services to meet these goals and objectives, and the signatures of all individuals who participated. These forms can be obtained from the Division or found on the Division's website at <https://www.ncdhhs.gov/division/dss>.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
Amended Eff. October 1, 2017.*

10A NCAC 70I .0505 DISCHARGE POLICIES AND PROCEDURES

(a) A residential child-care facility shall have written discharge policies that will establish the guidelines for terminating the facility's residential care and services to the child and family to include the following:

- (1) opportunity for the parents, guardian or legal custodian to be informed and have opportunity to discuss the decision to discharge the child;

- (2) designation of a timeframe for the child to be discharged which allows sufficient time for the child and facility to prepare for departure and for arrangements to be made for the child's care;
- (3) discharge of a child under 18 years of age only to the parents, guardian or legal custodian;
- (4) completion of a summary within 30 days of discharge, which includes the following:
 - (A) date, time and circumstances of discharge;
 - (B) name, address and telephone number of the parents, guardian, legal custodian or authorized individual to whom the child was discharged;
 - (C) services provided and evaluation;
 - (D) recommendations for needed services; and
 - (E) provision of or referral for after care services.
- (b) Upon a child's departure, the residential child-care facility shall provide a copy of the child's educational, medical and dental records, clinical materials (as available) and other related materials to the parents, guardian or legal custodian.
- (c) Upon a child's departure, the residential child-care facility shall send all personal clothing and belongings with the child.
- (d) Upon a child's departure, the residential child-care facility shall return prescription medications to the person or agency legally authorized to remove the child from residential child-care.

*History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c.237 s. 11.30);
 Amended Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0506 CLIENT RECORDS

- (a) A residential child-care facility shall maintain a client record for each child that contains the following:
 - (1) documentation of placement authority by parents, guardian, or legal custodian;
 - (2) written placement consent and agreement;
 - (3) intake study and related documents;
 - (4) the completed application for services that includes demographic information on the child and the child's family;
 - (5) documentation that verifies the child's birth;
 - (6) the pre-admission medical examination report or a medical examination report completed within two weeks of admission (unless the child's health indicates the completion of a medical examination report sooner) and copies of subsequent medical examination reports;
 - (7) immunization records;
 - (8) the out-of-home family services agreement and reviews;
 - (9) any court orders;
 - (10) visitation and contact plan, including type, duration, location both on-site and off-site, and frequency, as well as any rationale for restrictions on family involvement;
 - (11) documentation of all visitation;
 - (12) consents for release of information;
 - (13) consent for emergency medical treatment;
 - (14) consents for overnight activities outside the direct supervision of the caregiver for periods exceeding 72 hours;
 - (15) consents for time-limited audio-visual recording signed by both the child and parents or guardian, and legal custodian (if applicable);
 - (16) ongoing record of medical and dental care;
 - (17) documentation of medical insurance;
 - (18) progress notes;
 - (19) a discharge summary including date of discharge, time of discharge and the name, address, telephone number and relationship of the person or agency to whom the child was discharged, a summary of services provided during care, needs that remain to be met, and plans for the services needed to meet these goals;
 - (20) medical reports including medical history, cumulative health history, and available psychological and psychiatric reports, and, if applicable:

- (A) documentation of mental illness, developmental disabilities, or substance abuse diagnosis coded in accordance with the Diagnostic and Statistical Manual of Mental Disorders that was current at the time of diagnosis. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition ("DSM-5"), which is incorporated by reference, including subsequent amendments and editions, may be purchased from the American Psychiatric Association at cost of two hundred and ten dollars (\$210.00) at <https://www.psychiatry.org/psychiatrists/practice.dsm>;
 - (B) documentation of screening and assessment;
 - (C) medication orders and Medication Administration Record (MAR);
 - (D) documentation of medication administration errors;
 - (E) documentation of adverse drug reactions; and
 - (F) orders and copies of lab tests;
 - (21) documentation of searches for drugs, weapons, contraband, or stolen property, including date and time of the search, action taken by direct care staff, the date and time the direct care staff informed the residential child-care facility of the search, and the date and time of the notification to the child's parents, guardian, or legal custodian; and
 - (22) authorization from the parents, guardian, legal custodian, or licensed medical provider to administer non-prescription medications.
- (b) Staff members recording entries in client records shall sign or initial and date entries.

History Note: Authority G.S. 131D-10.2A; 131D-10.5; 143B-153; Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30); Amended Eff. October 1, 2008; July 18, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016; Amended Eff. October 1, 2017.

SECTION .0600 - SERVICE DELIVERY

10A NCAC 70I .0601 PROGRAM POLICIES AND PRACTICES

- (a) A residential child-care facility shall have a written program description.
- (b) The residential child care facility shall provide any child placed in the facility with supervision that is appropriate for the child's age, intelligence, emotional make-up and past experience, and adhere to the supervision requirements specified in the out-of-home family services agreement or person-centered plan.
- (c) The residential child-care facility shall design a program to provide opportunities for learning experiences and to meet the needs of children and families.
- (d) The residential child-care facility shall provide a daily schedule of activities to meet the needs of children, and allow time for privacy and individual pursuits.
- (e) The residential child-care facility shall provide opportunities that take into consideration each child's ethnic and cultural backgrounds.
- (f) The residential child-care facility shall give each child individual attention and nurturing.
- (g) The residential child-care facility shall provide each child with the opportunity to have interaction with adults and children of both sexes.
- (h) The residential child-care facility shall instruct and supervise each child in hygiene and grooming appropriate for the age, sex, race, and developmental capacity of the child.
- (i) The residential child-care facility shall ensure that each child has contacts in the community where the facility is located through participation in events such as school functions, recreational facilities, church youth groups, part-time paid employment, and volunteer work. An exception shall be made when community contact is inconsistent with the program design.
- (j) The residential child-care facility shall allow each child to form friendships with children outside the facility, to visit friends in the community, and have their friends visit them at the facility. An exception shall be made when contact with friends is inconsistent with the program design or out-of-home family services agreement.
- (k) The residential child-care facility shall provide residents with access to telephones to maintain contact with friends and family members.
- (l) The residential child-care facility shall maintain a log of children in residence that includes:
 - (1) the child's name, age, sex and race;

- (2) the name of parents, guardian, or legal custodian; and
- (3) the dates of admission and discharge.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
Amended Eff. October 1, 2017.

10A NCAC 70I .0602 FAMILY INVOLVEMENT

- (a) A residential child-care facility shall have written policies and procedures regarding family involvement which support and encourage families to participate in planning, communication and family time.
- (b) The facility shall afford parents, guardians and legal custodians opportunities to participate in planning events for their child and themselves.
- (c) Parents, guardians and legal custodians shall allow children to send and receive unopened mail and to have telephone conversations with parents, guardians, other family members and other individuals. An exception shall be made if it is determined by the parents, guardians or legal custodians that it is in the child's best interest, to restrict communication based on the out-of-home family services agreement, visitation and contact plan or a court order.
- (d) The facility shall afford children and parents, guardians, other family members and individuals opportunities for family time, based on the purpose of placement and in support of the child's goals and in compliance with the child's visitation and contact plan.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0603 VISITING RESOURCES

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);
Repealed Eff. October 1, 2008.

10A NCAC 70I .0604 HEALTH SERVICES

- (a) The residential child-care facility shall ensure that each child shall have a current medical examination. Medical examinations completed by a licensed medical provider (physician, physician's assistant or nurse practitioner, in this Rule, "licensed medical provider") within 12 months prior to the admission of the child to the facility shall be considered current. If a child has not had a medical examination by a licensed medical provider within 12 months prior to admission, the residential child-care facility shall arrange a medical examination for the child within two weeks after admission or sooner if indicated by the child's health condition. The medical examination report shall include a signed statement by a licensed medical provider specifying the child's medical condition and medications prescribed and indicating the presence of any communicable disease which may pose a risk of transmission in the facility. If a child is in the custody of a county department of social services, is already scheduled to have a medical examination completed annually, and is entering a residential child-care facility, the schedule of annual medical examinations is not required to be changed. The facility shall obtain a copy of the most recent medical examination report from the responsible county department of social services.
- (b) A child admitted to a residential child-care facility shall be immunized against diphtheria, tetanus, whooping cough, poliomyelitis, red measles (rubeola), rubella, mumps, and any other disease as required by 10A NCAC 41A .0401, which is hereby incorporated by reference, including subsequent amendments and editions, as age appropriate, prior to admission. The facility shall obtain documentation of immunization.
- (c) A residential child-care facility shall make arrangements with one or more licensed medical providers or medical clinics and dentists for the care of the children.
- (d) Each child shall have a medical examination at least once a year and more often if indicated by the child's health. A child shall not be allowed to participate in activities that pose risks to his or her health based on any

previously diagnosed medical conditions. Any illness, disease, or medical condition of a child shall be identified and treated through proper medical care. Children shall have a psychiatric or psychological examination or both when indicated by the needs of the child, and treatment when recommended by the psychiatrist or psychologist.

(e) Children shall have had a dental examination, by a licensed dentist, within one year prior to admission or arrangements shall be made for an exam within six weeks after admission and annually thereafter. The facility shall document dental services in the child's record.

(f) The facility shall instruct direct child-care staff on medical care that may be given by them without orders from a licensed medical provider. The facility shall instruct direct child-care staff in the facility's procedures for obtaining medical care beyond home health care and handling medical emergencies.

(g) The residential child-care facility shall determine which local hospital will admit children from the facility in the event of serious illness or emergency.

(h) The residential child-care facility shall obtain a mouthpiece, utilize universal precautions, and other precautionary equipment for administering CPR for the children in residence.

(i) The residential child-care facility shall ensure that first aid kits are available for use in each living unit, recreation area, and in vehicles used to transport children.

(j) The residential child-care facility shall not engage in any home health care practices that conflict with the control measures for communicable diseases in 10A NCAC 41A .0200, which is hereby incorporated by reference, including subsequent amendments and editions.

(k) Direct child-care staff shall be able to recognize common symptoms of common illnesses in children and be alert to any infectious condition and take precautions to prevent the spread of the condition.

(l) Direct child-care staff shall be able to provide home health care. A thermometer shall be kept available for use. When there is risk of transmission, arrangements shall be made for isolation and attendant care of a child with a communicable disease.

(m) Prescription medications shall be administered only when approved by a licensed medical provider.

(n) Non-prescription medications shall be administered to a child taking prescription medications only when authorized by the child's licensed medical provider. The residential child-care facility shall allow non-prescription medications to be administered to a child not taking prescription medication, with the authorization of the parents, guardian, legal custodian, or licensed medical provider.

(o) All prescription and non-prescription medication shall be stored in a locked cabinet, closet, or box not accessible to children.

(p) Each child shall have a medical record that contains written consent from the legal custodian or parent authorizing routine medical and dental treatment and emergency treatment.

(q) A residential child-care facility shall have written policies and procedures regarding the administration of medications to children placed in the residential child-care facility. The executive director of a residential child-care facility, or his or her designee, shall discuss and provide these policies and procedures to the parents, guardian, or legal custodian, and the child (if 12 years of age or older), upon admission. These policies and procedures shall address medication:

- (1) administration;
- (2) dispensing, packaging, labeling, storage and disposal;
- (3) review;
- (4) education and training; and
- (5) documentation, including medication orders, Medication Administration Record (MAR), orders and copies of lab tests, and medication administration errors and adverse drug reactions.

(r) The residential child-care facility shall maintain a Medication Administration Record (MAR) for each child that documents all medications administered. The residential child-care facility shall document medication errors, adverse drug reactions and medication orders in the child's Medication Administration Record (MAR).

(s) Upon discharge of a child, the residential child-care facility shall return prescription medications to the person or agency legally authorized to remove the child from residential child-care. The residential child-care facility shall provide oral or written education to the person or agency legally authorized to remove the child from residential child-care regarding the medications. Expired or discontinued prescription medications shall be disposed of in accordance with Federal Drug Administration guidelines, which are incorporated by reference, including subsequent amendments and editions. These guidelines can be accessed at no cost at: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm101653.htm>.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);*

Amended Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;

Amended Eff. October 1, 2017.

10A NCAC 70I .0605 ROUTINE ASPECTS OF HEALTH, PERSONAL HYGIENE, AND SAFETY

(a) Staff shall receive training in and apply general infection control measures and procedures which include Universal Precautions specified by the Centers on Disease Control, U.S. Department of Health and Human Services, Public Health Services, Atlanta, Georgia. A copy of general infection control procedures which are hereby incorporated by reference including subsequent amendments and editions, may be obtained from National Technical Information Services, 5285 Part Royal Road, Springfield, Virginia, 22161, (703) 487-4650, at a cost of seven dollars (\$7.00).

(b) Each child in a residential child-care facility shall have enough sleep for his or her age at regular and reasonable hours and under conditions conducive to rest.

(c) Staff of a residential child-care facility shall teach children the importance of cleanliness and how to keep themselves clean. Staff of a residential child-care shall provide training in all aspects of personal hygiene.

(d) Each child shall have his or her own toothbrush, comb, towel and wash cloth and his or her own separate place for keeping these personal articles. Towels, wash cloths, and bed linens shall be changed weekly or more often as required by good hygiene.

History Note: Authority G.S. 131D-10.5; 143B-153;

Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);

Amended Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0606 NUTRITION

(a) Meals served shall meet nutritional requirements as advised by the National Research Council which are hereby incorporated by reference including subsequent amendments and editions. Copies of the Recommended Daily Dietary Allowances may be obtained from the USDA Center for Nutrition Policy and Promotion, 1120 20th Street, NW, Suite 200N, Washington, DC 20036, at no cost.

(b) Any modified food needs of an individual child shall be provided under the direction of a licensed medical provider or a licensed dietician/nutritionist.

(c) Menus shall be planned by or in consultation with a licensed dietician/nutritionist biennially. The facility shall obtain documentation of consultation.

(d) Staff who eat with children shall be served the same food except staff may be served tea and coffee. An exception shall be made if differences in age or special dietary needs are factors.

History Note: Authority G.S. 131D-10.5; 143B-153;

Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);

Amended Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0607 HEALTH EDUCATION

The residential child care facility shall develop and implement a plan for the provision of health education to include but not be limited to health, human sexuality, substance abuse, smoking, and prevention of sexually transmitted diseases. The health education plan shall be documented.

History Note: Authority G.S. 131D-10.5; 143B-153;

Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0608 EDUCATIONAL AND VOCATIONAL SERVICES

- (a) The residential child care facility shall ensure that each child of school age is provided an education in accordance with the public school laws or the nonpublic school laws of North Carolina.
- (b) The residential child care facility shall make provisions for remedial educational assistance as indicated by the needs of the children.
- (c) The residential child care facility shall have a policy about serving children who are temporarily or permanently not attending school.
- (d) The residential child care facility shall have a written policy for providing vocational and life skills education if applicable to the population served.

History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0609 RECREATION AND LEISURE ACTIVITIES

- (a) A residential child-care facility shall develop a written schedule of planned recreational, leisure, or physical exercise activities with input from both staff and children that meets the children's developmental needs. The schedule shall be posted in each facility.
- (b) A residential child-care facility shall provide indoor and outdoor, individual and group recreational opportunities, with adult supervision, appropriate to the age, interests, needs, and abilities of each child in accordance with the reasonable and prudent parent standard, G.S. 131D-10.2A.
- (c) A residential child-care facility shall provide recreational opportunities for children to play with children of both genders.
- (d) A residential child-care facility shall have an individualized recreation plan for any child who has special recreational needs.

History Note: Authority G.S. 131D-10.2A; 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c. 237 s. 11.30);
 Amended Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
 Amended Eff. October 1, 2017.

10A NCAC 70I .0610 RELIGION AND SPIRITUAL DEVELOPMENT

- (a) A residential child-care facility shall have written policies and procedures on religious training and practices and shall provide these policies to children and their parents, guardian or legal custodian prior to admission.
- (b) The residential child-care facility shall develop a plan for each child to meet the child's spiritual needs which takes into account the parent's, guardian's or legal custodian's position regarding a child's religious participation.
- (c) The residential child-care facility shall have written policies and procedures which include that each child is free from coercion with regard to religious decisions.

History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999 (See S.L. 1999, c. 237s. 11.30);
 Amended Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0611 PERSONAL POSSESSIONS AND MONEY

- (a) The residential child care facility shall allow each child to bring and acquire personal belongings, but may supervise or limit the use of these items while the child is in care.
- (b) The residential child care facility shall ensure that each child has clean, well-fitting, attractive, seasonal clothing appropriate to the age, sex and individual needs of each child.
- (c) The residential child care facility shall ensure that each child has individual items necessary for personal hygiene and grooming.
- (d) The residential child care facility shall provide opportunities for each child to learn the value and use of money.

(e) The residential child care facility shall provide security measures for each child's money separate from the agency's financial accounts.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0612 WORK

- (a) A residential child-care facility shall provide opportunities for each child to learn the value of work and the development of good work habits.
- (b) The residential child-care facility shall comply with the provisions of the NC Wage and Hour Act concerning age, abilities, hours of labor and hazardous occupations in the assignment of work to children.
- (c) The residential child-care facility shall not substitute children for employed staff in assigning work.
- (d) The residential child-care facility shall not require children to be solely responsible for any major phase of operation or maintenance of the home such as cooking, laundering, housekeeping, farming, or repair work.
- (e) The residential child-care facility shall not require children to work for the purpose of paying the facility for their cost of care except when adolescents or young adults preparing for independent living enter into written agreements with the facility and are paid for their work and assume a gradual degree of responsibility for their own needs.
- (f) The residential child-care facility shall provide children who are on work assignments with adult supervision.
- (g) The residential child-care facility shall ensure that children's work assignments do not interfere with school, recreation, study period, adequate sleep, community contacts and family time.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0613 DISCIPLINE AND BEHAVIOR MANAGEMENT

- (a) A residential child-care facility shall have written policies and procedures on discipline and behavior management, including the type and use of physical restraint holds, if utilized. A copy of the written policies and procedures shall be provided to and discussed with each child and the child's parents, guardian, or legal custodian prior to or at the time of admission. Policies and procedures shall include:
 - (1) a way of interacting with and teaching children that emphasize praise and encouragement for exhibiting self control and desired behavior; and
 - (2) methods for protecting children and others when a child is out of control.
- (b) A residential child-care facility shall implement standards for behavior that are appropriate for the child's age, intelligence, emotional makeup, and past experiences.
- (c) A residential child-care facility shall not engage in discipline or behavior management that includes:
 - (1) corporal and physical punishment;
 - (2) cruel or abusive punishment, as established in G.S. 7B-101(1) and (15);
 - (3) discipline of one child by another child;
 - (4) denial of food, sleep, clothing, or shelter;
 - (5) denial of family contact, including family time, telephone, or mail contacts with family;
 - (6) exercise or work to the point of physical exhaustion;
 - (7) verbal abuse, threats, or humiliating remarks about himself or herself or his or her family;
 - (8) mechanical restraints;
 - (9) a drug used as a restraint, except as set forth in Paragraph (e) of this Rule;
 - (10) seclusion or isolation time-out; except as outlined in Paragraph (d) of this Rule;
 - (11) physical restraints except as outlined in Paragraph (f) of this Rule.
- (d) "Time-out" means the removal of a child to a separate unlocked room or area from which the child is not physically prevented from leaving. The residential child-care facility may use isolation time-out as a behavioral control measure when the facility provides it within hearing distance of a staff member. The length of the isolation time-out shall be appropriate for the child's age, intelligence, emotional makeup, and past experiences.

(e) "A drug used as a restraint" means a medication used to control behavior or to restrict a child's freedom of movement that is not a standard medication for the child's medical or psychiatric condition. A drug used as a restraint shall be employed only if required to treat a medical condition. It shall not be employed for the purpose of punishment, staff convenience, or as a substitute for adequate staffing.

(f) "Physical restraint" of a child means physically holding a child who is at imminent risk of harm to himself or herself or others until the child is calm. A residential child-care facility shall only use physical restraint holds approved by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, pursuant to 10A NCAC 27E .0108, which is hereby incorporated by reference, including subsequent amendments and editions. Approved physical restraint holds can be found at the following website: <https://www2.ncdhhs.gov/mhddsas/providers/trainingandconferences/restraints.htm>.

(g) Physical restraints where a person ends up in a prone or face down position are prohibited.

(h) Physical restraint holds shall be administered only by staff trained in the use of physical restraint holds. No child or group of children shall be allowed to participate in the physical restraint of another child.

(i) The residential child-care facility shall not use physical restraints that will cause a child harm, given his or her medical condition or any medications that he or she is taking.

(j) No child shall be physically restrained utilizing a physical object.

(k) Physical restraint holds shall:

- (1) not be used for purposes of discipline or convenience;
- (2) only be used when there is imminent risk of harm to the child or others and less restrictive approaches have failed;
- (3) be administered in the least restrictive manner possible to protect the child or others from imminent risk of harm; and
- (4) end when there is no longer any risk of imminent harm to any party.

(l) A residential child-care facility shall:

- (1) ensure that any physical restraint hold utilized on a child is administered by a trained staff member with a second trained staff member in attendance. An exception may occur when no other staff member is present or can be called for assistance. Concurrent with the administration of a physical restraint hold and for a minimum of 15 minutes after the termination of the hold, a staff member shall monitor the child's breathing, ascertain the child is verbally responsive and motorically in control, and ensure the child remains conscious without any complaints of pain. If at any time during the administration of a physical restraint hold the child complains of being unable to breathe or loses motor control, the staff member administering the physical restraint hold shall terminate the hold or adjust the position to ensure that the child's breathing and motor control are not restricted. If at any time it appears to be necessary, a staff member shall immediately seek medical attention for the child. Following the use of a physical restraint hold, a staff member shall conduct an interview with the child about the incident, and the staff administering the physical restraint hold shall be interviewed by a supervisor about the incident;
- (2) document each incident of a child being subjected to a physical restraint hold on an incident report. This report shall include the following:
 - (A) the child's name, age, height, and weight;
 - (B) the type of hold utilized;
 - (C) the duration of the hold;
 - (D) the staff member administering the hold;
 - (E) the staff member witnessing the hold;
 - (F) the supervisory staff who reviewed the incident report;
 - (G) less restrictive alternatives that were attempted prior to utilizing physical restraint;
 - (H) the child's behavior that necessitated the use of physical restraint;
 - (I) whether the child's condition necessitated medical attention;
 - (J) planning and debriefing conducted with the child and staff to eliminate or reduce the probability of reoccurrence; and
 - (K) the total number of restraints of the child since admission.

Within 72 hours, supervisory staff shall review the incident report to ensure that correct steps were followed and shall forward the report to the parents, guardian, or legal custodian and the licensing authority on a report developed by the licensing authority. If a child dies as a result of a physical restraint hold, the residential child-care facility shall report the death of the child to the parents, guardian or legal custodian and to the licensing authority within 72 hours;

- (3) submit a report to the licensing authority by the 10th day of each month stating the number of physical restraint holds used during the previous month on each child and any injuries that resulted;
- (4) ensure that any physical restraint hold utilized on a child is administered by a trained staff member who has completed at least 16 hours of training in behavior management, including techniques for de-escalating problem behavior, the appropriate use of physical restraint holds, monitoring of the child's breathing, verbal responsiveness, and motor control. Training shall also include debriefing children and staff involved in physical restraint holds. Thereafter, staff authorized to use physical restraint holds shall annually complete at least eight hours of behavior management training, including techniques for de-escalating problem behavior. Instructor qualifications and training requirements include:
 - (A) instructors shall demonstrate competence by scoring 100 percent on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions;
 - (B) instructors shall demonstrate competence by scoring 100 percent on testing in a training program teaching the use of physical restraint;
 - (C) instructors shall demonstrate competence by scoring a passing grade on testing in an instructor training program as determined by the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services;
 - (D) the training shall be competency-based, and shall 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) the content of the instructor training shall be approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services;
 - (F) instructors shall be retrained annually and demonstrate competence in the use of physical restraints;
 - (G) instructors shall be trained in CPR, such as those provided by the American Red Cross, American Heart Association, or substantially equivalent organizations. Division staff shall determine that an organization is substantially equivalent if the organization is already approved by the Department or meets the same standard of care as the American Heart Association or American Red Cross. The Division shall not accept web-based trainings for certification in CPR;
 - (H) instructors shall have been coached in teaching the use of restrictive interventions two times with a positive review by the coach; and instructors shall teach a program on the use of physical restraints at least once annually; and
 - (I) instructors shall complete a refresher instructor training at least every two years;
- (5) complete an annual review of the discipline and behavior management policies and techniques to verify that the physical restraint holds being utilized are being applied properly and safely. This review shall be documented and submitted to the licensing authority as part of the biennial licensing renewal application; and
- (6) maintain reports of physical restraint holds in a manner consistent with the facility's risk management policies (clinical decisions and activities undertaken to identify, evaluate, and reduce the risk of injury to clients, staff, and visitors and reduce the risk of loss to the facility) and make them available to the licensing authority upon request.

*History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. July 1, 1999;
 Temporary Amendment Eff. July 20, 1999;
 Temporary Amendment Eff. May 15, 2000;
 Amended Eff. November 1, 2009; October 1, 2008; April 19, 2001;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
 Amended Eff. October 1, 2017.*

- (a) A residential child-care facility shall have written policies and procedures for handling and reporting critical incidents.
- (b) Critical incident reports shall be submitted to the licensing authority by the executive director or designee on a form developed by the licensing authority within 72 hours of the critical incident. A copy of the critical incident form ("Critical Incident Reporting Form" DSS-5281) can be obtained from the Division or found on the Division's website at <https://www.ncdhhs.gov/divisions/dss>. Critical incidents involving a child who is a resident of a residential child-care facility include the following:
- (1) a death of a child;
 - (2) reports of abuse and neglect;
 - (3) admission to a hospital;
 - (4) suicide attempt;
 - (5) runaway lasting more than 24 hours;
 - (6) arrest for violations of state, municipal, county, or federal laws; and
 - (7) reports of physical restraint holds.
- (c) Documentation of critical incidents shall include:
- (1) the name of child or children involved;
 - (2) the date and time of incident;
 - (3) a description of incident;
 - (4) the action taken by staff;
 - (5) a need for medical attention;
 - (6) the name of staff involved and person completing the report;
 - (7) the name of child's parents, guardian or legal custodian that was notified and date and time of notification; and
 - (8) the approval of supervisory or administrative staff reviewing the report.
- (d) If there is a death of a child who is a resident of a residential child-care facility, the executive director or his or her designee shall notify the parents, guardian, or legal custodian and the licensing authority within 72 hours.
- (e) The residential child-care facility shall have and follow policies and procedures for handling any suspected incidents of abuse or neglect of children involving staff, subcontractors, volunteers or interns. The policies and procedures shall include:
- (1) a provision for reporting any suspicions of abuse or neglect to the appropriate county department of social services in accordance with G.S. 7B-301;
 - (2) a provision for recording any suspected incident of abuse or neglect and for reporting it to the executive director or governing body;
 - (3) a provision for notifying the parents, guardian, or legal custodian;
 - (4) a provision for preventing a recurrence of the alleged incident pending the investigative assessment.;
 - (5) a policy concerning personnel action to be taken when the incident involves a staff member, subcontractor, volunteer, or intern;
 - (6) a provision for submitting a critical incident report to the licensing authority within 72 hours of the incident being accepted for an investigative assessment by a county department of social services; and
 - (7) a provision for submitting written notification to the licensing authority within 72 hours of the case decision by the county department of social services conducting the investigative assessment.
- (f) Critical incident reports shall be maintained in a manner consistent with the agency's risk management policies and shall be made available to the licensing authority upon request.
- (g) When staff determines that a foster child under the age of 18 is missing, they shall notify the appropriate law enforcement authority within 24 hours.

History Note: Authority G.S. 131D-10.5; 143B-153; P.L. 113-183;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
Amended Eff. October 1, 2017.

(a) A residential child-care facility shall have written policies and procedures on conducting searches of children's rooms and possessions which shall be discussed with each child, their parents, guardian or legal custodian prior to or upon admission.

(b) The search policies and procedures shall include:

- (1) circumstances under which searches are conducted;
- (2) personnel authorized to conduct searches;
- (3) provision for documenting searches and informing supervisory personnel of searches; and
- (4) provision for removing and disposing of items seized as a result of searches.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

SECTION .0700 - BUILDINGS, GROUNDS AND EQUIPMENT

| | |
|---------------------------|---|
| 10A NCAC 70I .0701 | REQUIREMENTS FOR APPROVAL |
| 10A NCAC 70I .0702 | CONSTRUCTION AND RENOVATION |
| 10A NCAC 70I .0703 | APPLICABLE BUILDING CODES |
| 10A NCAC 70I .0704 | FIRE AND BUILDING SAFETY |
| 10A NCAC 70I .0705 | GENERAL SANITATION |
| 10A NCAC 70I .0706 | BATHING AND TOILET AREAS |
| 10A NCAC 70I .0707 | SLEEPING AREAS |
| 10A NCAC 70I .0708 | LIVING/ACTIVITY AREAS |
| 10A NCAC 70I .0709 | DINING AREAS |
| 10A NCAC 70I .0710 | HEAT, LIGHT AND VENTILATION |
| 10A NCAC 70I .0711 | EXTERIOR SPACE |
| 10A NCAC 70I .0712 | INSPECTIONS |
| 10A NCAC 70I .0713 | VEHICLES USED FOR TRANSPORTATION OF CHILDREN |

History Note: Authority G.S. 131D-10.5; 143B-153; 143B-154; 143B-155; 143B-156;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. July 18, 2002;
Repealed Eff. October 1, 2008.

SECTION .0800 – BEST PRACTICE STANDARDS

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|---------------------------|------------------------------|
| 10A NCAC 70I .0801 | STAFFING REQUIREMENTS |
| 10A NCAC 70I .0802 | TRAINING REQUIREMENTS |

History Note: Authority G.S. 143B-153;
Eff. September 1, 2007;
Repealed Eff. October 1, 2008.

SECTION .0900 - PHYSICAL PLANT

10A NCAC 70I .0901 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

- (a) New construction and existing buildings proposed for use as a residential child-care facility for initial licensure shall comply with the requirements of this Section.
- (b) Except where otherwise specified, existing licensed facilities or portions of existing licensed facilities shall meet licensure and code requirements in effect at the time of construction; change in service; or change in resident capacity or evacuation capability of the residents, addition, renovation or alteration.
- (c) New additions, alterations, modifications and repairs made to the building shall meet the requirements of this Section.

- (d) A residential child-care facility shall not have two different types of occupancies, as defined in the State Building Code, in the same building.
- (e) Rules contained in this Section are the Physical Plant requirements and do not prohibit buildings, systems or operational conditions that exceed these requirements.
- (f) Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements shall be approved by the Division of Health Service Regulation when the facility can demonstrate to the Division of Health Service Regulation's satisfaction, that the intent of the physical plant requirements are met and the variation does not reduce the safety or operational effectiveness of the facility.
- (g) The residential child-care facility must comply with all applicable local, state and federal regulations.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0902 DESIGN AND CONSTRUCTION

- (a) Any building licensed for the first time as a residential child-care facility shall meet the applicable requirements of the North Carolina State Building Code. All new construction, additions and renovations to existing buildings shall meet the occupancy requirements of the North Carolina State Building Code as determined by the Division of Health Service Regulation based on the number and age of the licensed children residents and any other dependents of the live-in staff. The North Carolina State Building Code, which is incorporated by reference, including all subsequent amendments can be purchased for one hundred six dollars and twenty-five cents (\$106.25) at the following web site: (http://www.ncdoi.com/OSFM/Engineering/CodeServices/engineering_codeservices_sales.asp) or calling 919-681-6550.
- (b) Mobile homes, whether mobile or permanently situated, shall not be used for residential child-care facilities.
- (c) Each facility shall be planned, constructed, equipped and maintained to provide the services offered in the facility.
- (d) Any existing building converted from another use to a residential child-care facility shall meet all the requirements of a new facility.
- (e) Any existing licensed residential child-care facility when the license is terminated for more than 60 days shall meet all requirements of a new facility prior to being relicensed.
- (f) Any existing licensed residential child-care facility that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.
- (g) Any existing licensed residential child-care facility that plans to have new construction, remodeling or physical changes done to the facility shall have drawings submitted by the owner or his appointed representative to the Division of Health Service Regulation, Construction Section for review and approval prior to commencement of the work.
- (h) The applicant for a resident child-care facility shall consult the local code enforcement official for information on required permits and building code requirements before starting any construction or renovations.
- (i) If the building is two stories in height and is classified as a Residential Occupancy, it shall meet the following requirements:
 - (1) Children less than six years old shall not be housed on any floor other than the level of exit discharge with adult supervision.
 - (2) A complete fire alarm system with pull stations on each floor and sounding devices which are audible throughout the building shall be provided. The fire alarm system shall be able to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection.
- (j) The basement and the attic shall not to be used for storage or sleeping.
- (k) The ceiling shall be at least seven and one-half feet from the floor.
- (l) All windows shall be maintained operable.
- (m) The sanitation, water supply, sewage disposal and dietary facilities shall comply with the rules of the North Carolina Commission for Public Health, which are incorporated by reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions", 15A NCAC 18A .1300 and the "Rules Governing Sanitation of Residential Care Facilities" 15A NCAC 18A .1600 are available for inspection at the Department of Environment and Natural Resources, Division of Environmental

Health, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632 at no cost.

(n) The residential child-care facility shall request and obtain current inspections from the local sanitarian and the local fire inspector. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority with the licensure renewal application.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0903 LOCATION

(a) A residential child-care facility shall be in a location approved by local zoning boards.

(b) The facility shall be located so that hazards to the residents are minimized.

(c) The site of the facility shall:

- (1) be accessible by streets, roads and highways and be maintained for motor vehicles and emergency vehicle access;
- (2) be accessible to fire fighting and other emergency services;
- (3) have a water supply, sewage disposal system, garbage disposal system and trash disposal system approved by the local health department having jurisdiction;
- (4) meet all local ordinances; and
- (5) be free from exposure to pollutants known to the applicant or licensee.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0904 LIVING ARRANGEMENT

A residential child-care facility shall provide living arrangements to meet the individual needs of the residents, the live-in staff and other live-in persons. There shall be a designated room for residents to talk privately with staff and to receive visitors.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0905 LIVING/ACTIVITY AREAS

(a) Residential child-care facilities shall have a living room area of a minimum of 200 square feet for a capacity of six or less and 15 square feet per each additional resident.

(b) All living rooms shall have operable windows to meet the North Carolina State Building Code and be lighted to provide 30 foot candles of light at floor level.

(c) The living and activity areas shall be accessible from an outside entrance without going through sleeping, food services or food preparation areas.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0906 DINING AREAS

(a) Residential child-care facilities shall have a minimum dining area of 120 square feet for a capacity of six or less and 14 square feet for each additional resident (including children of live-in-staff).

- (b) When the dining area is used in combination with a kitchen, an area five feet wide shall be allowed as work space in front of the kitchen work areas and shall not be included in the required square footage.
- (c) Each dining room shall be provided with operable windows and be lighted to provide 30 foot candles of light at the floor level.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0907 KITCHEN

- (a) The kitchen in a residential child-care facility shall be large enough to provide for the preparation and preservation of food and the washing of dishes.
- (b) The kitchen floor shall have a non-slippery, water-resistant covering.
- (c) The kitchen shall be approved by the local sanitarian for the total number of children as well as any live-in staff and their dependents.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0908 LAUNDRY ROOM

Laundry facilities shall be provided. The laundry equipment shall be located out of the living, dining and bedroom areas.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0909 SLEEPING AREAS

- (a) Bedrooms in existing facilities licensed before October 31, 1977 shall provide a minimum of 60 square feet of floor space for each child in multi-occupancy bedrooms and a minimum of 80 square feet of floor space in single-occupancy bedrooms. Floor area does not include closets or wardrobes.
- (b) Bedrooms in facilities licensed or developed after October 31, 1977 shall provide a minimum of 80 square feet of floor space for each child in multi-occupancy bedrooms and a minimum of 100 square feet of floor space in single-occupancy bedrooms. Floor area does not include closets or wardrobes.
- (c) There shall be bedrooms sufficient in number and size to meet the individual needs of residential child-care facility residents, the live-in staff and their dependents.
- (d) Only rooms authorized by the Division of Health Service Regulation as bedrooms by plan review or field inspection shall be used for bedrooms.
- (e) The total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of Health Service Regulation by plan review or field inspection for that particular bedroom.
- (f) A room where access is through a bathroom, kitchen or other bedroom shall not be approved for a resident's bedroom.
- (g) No child shall share a bedroom with a live-in staff member or children of staff.
- (h) No bedroom shall house more than four children.
- (i) Except for siblings, children of different sexes shall not share a bedroom.
- (j) Each child shall have a bed of his or her own.
- (k) Bunk beds shall be limited to no more than one bed above the other bed with at least three feet vertical clearance between the lower and upper beds. Bunk beds shall have guardrails on both sides of the top bunk. All spaces between the guardrails and bed frame and in the head and foot boards on the top bunk shall be less than 3 ½ inches. Bunk beds shall be provided with secured ladders.
- (l) Individual beds shall be at least three feet apart at the head, foot and sides; bunk beds shall be at least five feet apart, horizontally, at the head, foot and sides.
- (m) Each bed shall be provided with a mattress in good repair.

- (n) No day-bed, convertible sofa or other bedding of a temporary nature shall be used as a bed.
- (o) Bedrooms shall be provided with a minimum of 48 cubic feet of closet or wardrobe space per child and four cubic feet of drawer space per child.
- (p) Each bedroom shall be provided with a window that meets the North Carolina State Building Code for emergency egress. These windows shall be openable without the use of keys or tools.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0910 BATHING AND TOILET AREAS

- (a) Facilities licensed for the first time after the effective date of Subchapters 70I and 70J shall have one full bathroom for each five or fewer persons including live-in staff and family. For children under five years old a tub shall be provided. Live-in staff and their dependents shall have a separate bathroom from children in care.
- (b) The bathrooms shall be designed to provide privacy. A bathroom with two or more water closets (commodes) shall have privacy partitions for each water closet. Each tub or shower shall have privacy partitions or curtains.
- (c) Bathrooms shall be located as conveniently as possible to the children's bedrooms.
- (d) The entrance to a bathroom shall not be through a kitchen, another resident's bedroom or bathroom.
- (e) The bathrooms shall be lighted to provide 30 foot candles of light at the floor level and have mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor area. These vents shall be vented directly to the outdoors.
- (f) The bathroom floor shall have a non-slippery water-resistant covering.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0911 CORRIDORS

- (a) Corridors shall be a minimum clear width of three feet.
- (b) Corridors shall be lighted with night lights providing one foot-candle of light at the floor.
- (c) Corridors shall be free of all equipment and other obstructions.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0912 OUTSIDE ENTRANCES AND EXITS

- (a) In residential child-care facilities, all floor levels shall have at least two exits. If there are only two, the exit or exit access doors shall be located and constructed to minimize the possibility that both may be blocked by any one fire or other emergency condition.
- (b) At least one entrance and exit door shall be a minimum width of three feet and another shall be a minimum width of two feet and eight inches.
- (c) If the residential child-care facility has any child that requires physical assistance with evacuation, the facility shall have at least one principal outside entrance and exit for the residents' use which shall be at grade level or accessible by ramp with a one inch rise for each 12 inches of length of the ramp. For the purposes of this Rule, a principal outside entrance and exit is one that is most often used by residents for vehicular access.
- (d) All exits and room door locks and latches shall be easily operable from the inside at all times without keys.
- (e) All entrances and exits shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.
- (f) All steps, porches, stoops and ramps shall be provided with handrails and guardrails.
- (g) Outdoor stairways and ramps shall be illuminated by no less than five foot candles of light at grade level.

History Note: Authority G.S. 131D-10.5; 143B-153;

Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0913 FLOORS

- (a) All floors shall be of smooth, non-skid material and constructed to be easily cleanable.
- (b) All floors shall be kept in good repair.

History Note: Authority G.S. 131D-10.5; 143B-153;

Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0914 HOUSEKEEPING AND FURNISHINGS

- (a) Each residential child-care facility shall:

- (1) have walls, ceilings and floors or floor coverings kept clean and in good repair;
- (2) have no chronic unpleasant odors;
- (3) have furniture clean and in good repair;
- (4) be maintained in an uncluttered, clean and orderly manner, free of all obstructions and hazards;
- (5) have a supply of bath soap, clean towels, washcloths, sheets, pillow cases, blankets and additional coverings adequate for resident use on hand at all times;
- (6) have television and radio, each in working order;
- (7) have curtains, draperies or blinds at windows in resident use areas to provide for resident privacy;
- (8) have recreational equipment, supplies for games, books, magazines and a current newspaper available for residents; and
- (9) have at least one non-pay telephone available at all times that does not depend on electricity or cellular service to operate. Emergency telephone numbers shall be posted at the telephone.

- (b) Each bedroom shall have the following furnishings in good repair and clean for each child:

- (1) a bed equipped with box springs and mattress or solid link springs and no-sag innerspring or foam mattress. Each bed shall include:
 - (A) at least one pillow with clean pillow case;
 - (B) clean top and bottom sheets on the bed, with bed changed as often as necessary but at least once a week; and
 - (C) clean bedspread and other clean coverings as needed.
- (2) a bedside type table and lamp or overhead light, that provides a minimum of 30 foot-candle power of illumination for reading.
- (3) a chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents.
- (4) a wall or dresser mirror that can be used by each resident.
- (5) a minimum of one comfortable chair.

- (c) The living room shall have functional living room furnishings for the comfort of residents, with coverings that are easily cleanable.

- (d) The dining room shall include:

- (1) tables and chairs to seat all residents eating in the dining room; and
- (2) high chairs and booster seats for infants and children who need them.

- (e) This Rule shall apply to new and existing facilities.

History Note: Authority G.S. 131D-10.5; 143B-153;

Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70I .0915 FIRE SAFETY AND DISASTER PLAN

- (a) Care shall be exercised by the staff of a residential child-care facility in allowing children to use matches or to handle combustible materials.

- (b) A written fire evacuation plan (including a diagrammed drawing) that has the approval of the local code enforcement official shall be prepared with a minimum of 1/8 inch high letters and posted in a central location on each floor of the building.
- (c) A written disaster plan shall be prepared and updated at least annually and shall be maintained in the facility.
- (d) Fire drills shall be held monthly at different times during the day and quarterly at night for both children and staff. A residential child-care facility shall document fire drills including the date and time of the rehearsals, staff members present and a short description of what the rehearsal involved.
- (e) The executive director of a residential child-care facility, or his/her designee, shall instruct staff and children residing in a residential child-care facility and shall train the staff and children in the proper reporting of a fire and the ways of escaping from a fire. New residents shall be instructed within the first day upon admittance.
- (f) Fire extinguishers shall be provided in a residential child-care facility that meets the following minimum requirements:
 - (1) one five pound or larger (net charge) "A-B-C" type centrally located.
 - (2) one-five pound or larger "A-B-C" or "CO/2" type located in the kitchen.
 - (3) any other location as determined by the code enforcement official.
- (g) When there are seven or more children residing in the residential child-care facility, and it is classified as a residential occupancy by the Division of Health Service Regulation, each floor level shall be separated from other floors in accordance with the requirements of the applicable building code, and by not less than walls and a solid core, self-closing, 20 minute fire-rated door.
- (h) Fire exits and all exit-access paths including doors, hallways and stairs shall be well lighted and kept clear of obstructions.
- (i) The building shall be provided with the smoke detectors as required by the North Carolina State Building Code in effect at the time of initial licensing or renovations.
- (j) Heat detectors shall be located in the attic and connected to a dedicated sounding device. This Paragraph shall not apply to existing licensed facilities that have had no additions or renovations.
- (k) Smoking is not permitted in a residential child-care facility.
- (l) Any fire safety requirements required by city ordinances or county building inspectors shall be met.
- (m) This Rule shall apply to new and existing licensed facilities except where otherwise specified.

*History Note: Authority G.S. 131D-10.5; 143B-153;
 Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0916 BUILDING SERVICE EQUIPMENT

- (a) The building and all fire safety, electrical, mechanical and plumbing equipment in a residential child-care facility shall be maintained in a safe and operating condition.
- (b) There shall be a central heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions. Built-in electric heaters, if used, shall be installed or protected to avoid hazards to the children and room furnishings. Unvented fuel burning room heaters and portable electric heaters are prohibited.
- (c) Air conditioning or at least one fan per resident bedroom, living and dining areas shall be provided when the temperature in the facility exceeds 80 degrees F (26.7 degrees C).
- (d) The hot water tank shall provide hot water to the kitchen, bathrooms and laundry. The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).
- (e) All resident areas shall be well lighted for the safety and comfort of the residents. The minimum lighting required is:
 - (1) 30 foot-candle of light for reading; and
 - (2) 10 foot-candle of light for general lighting.
- (f) Fireplaces, fireplace inserts and wood stoves shall be designed or installed to avoid a burn hazard to children. Solid fuel burning fireplace inserts and wood stoves shall be labeled and approved by a third party testing agency accredited by the North Carolina Building Code Council for solid fuel heating equipment.
- (g) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved through the local building department and protected by a guard or screen to prevent children and furnishings from burns.
- (h) This Rule shall apply to new and existing licensed facilities.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0917 OUTSIDE PREMISES

- (a) Outdoor recreational space shall be provided and maintained in a clean and safe condition.
- (b) The grounds and all structures on the grounds of the residential child-care facility shall be maintained to minimize hazards to the health or safety of the children.
- (c) Play and recreational equipment shall be located, installed and maintained to ensure the safety of children.
- (d) Garbage and rubbish that is stored outside shall be stored securely in covered containers and shall be removed on a regular basis.
- (e) Trash collection receptacles and incinerators shall be kept separate from play areas and must be located to avoid being a nuisance to neighbors.
- (f) Fences shall be kept in good repair and shall not prevent adult staff from exiting or entering freely or be hazardous.
- (g) Areas determined by the Division of Health Service Regulation to be unsafe, including steep grades, cliffs, open pits, swimming pools, high voltage boosters, and high-speed roads, shall be fenced off or have natural barriers to protect children.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70I .0918 VEHICLES USED FOR TRANSPORTATION OF CHILDREN

- (a) Vehicle Requirements for Transporting Children.
 - (1) Vehicles shall comply with all motor vehicle laws and regulations for the State of North Carolina.
 - (2) Motor vehicles shall be maintained in a safe operating condition and shall be registered and inspected.
 - (3) A first-aid kit shall be in all motor vehicles.
 - (4) The bed of an open body or a stake bed vehicle shall not be used for transporting children.
- (b) Driver Requirements. The name of and a copy of a valid driver's license for each person transporting children shall be maintained in a separate file at the facility.
- (c) Safety Practices for Transporting Children.
 - (1) The interior of each vehicle shall be maintained in a clean and safe condition with clear passage to operable doors.
 - (2) The driver shall ensure that all passengers follow North Carolina laws regarding seat belt usage and shall adhere to child passenger restraint laws when transporting children.
 - (3) The driver shall not transport more persons, including children and adults, than allowed by the design capacity of the vehicle.
 - (4) Children shall have at least one 30 minute rest stop for every four hours of continuous travel.
 - (5) Children shall not be transported for more than 10 hours in any 24-hour period.
- (d) Transportation Records. Insurance verification and the vehicle identification certificate shall be kept in the vehicle in accordance with State law. Emergency medical information shall be kept in the vehicle for each child occupying the vehicle.
- (e) Insurance. If a residential child-care facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility shall maintain a file copy of the individual's or firm's insurance coverage.
- (f) Emergency Transportation. A residential child-care facility shall have a plan for transporting children when emergency situations arise that includes:
 - (1) the need for immediate medical care;
 - (2) picking a child up at school before the end of the school day; and
 - (3) transporting the child during adverse weather conditions.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. October 1, 2008;
Amended Eff. November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

SUBCHAPTER 70J - MINIMUM LICENSING STANDARDS FOR SPECIALIZED RESIDENTIAL CHILD CARE PROGRAMS

SECTION .0100 - CHILDREN'S FOSTER CARE CAMPS

10A NCAC 70J .0101 APPLICABILITY

In addition to the rules in 10A NCAC 70I .0100 through .0615, the rules in this Section apply to all persons licensed or seeking licensure for a children's foster care camp as defined in 10A NCAC 70I .0201.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s.1130);
Amended Eff. November 1, 2009; October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70J .0102 ADMISSION CRITERIA

In order to be considered for admission into a foster care camp, a child shall meet the following criteria:

- (1) be between the ages of eight and 17 years old;
- (2) be physically able to participate in a camping experience; and
- (3) voluntarily consent to admission, recognizing/understanding the need for a therapeutic camping experience.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s.11.30);
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70J .0103 PERSONNEL

(a) Direct service personnel and supervisory personnel, in addition to supervision and training specified in 10A NCAC 70I .0405(f)(2)(B), (C) and (4)(C), shall be provided supervision and training in the following areas:

- (1) rescue evacuation, updated every three years; and
- (2) basic emergency water safety course, with certification documented in the camp files and updated every three years.

(b) There shall be a minimum of two counselors for each 10 children participating in activities involving water, including swimming, boating, canoeing, and rafting.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s.11.30).
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70J .0104 SERVICE PLANNING

Each child shall have a medical assessment, within 60 days prior to admission, documenting the child's ability to participate in the activities of a therapeutic camping experience in an outdoor setting.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s.11.30);

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70J .0105 SERVICE DELIVERY

(a) An itinerary shall be on file at camp for any off-campus activity lasting longer than 24 hours. The itinerary shall include participants' names, daily schedule, list of check-in points, selected routes and telephone numbers of emergency resources along each route (sheriffs, hospitals, rescue squads).

(b) Education.

- (1) Each camp shall provide an alternative education experience and the educational program shall comply with the special education requirements of the Department of Public Instruction; or, each camp must be registered as and meet the requirements for a non-public school.
- (2) Education in a camp setting must be monitored and evaluated pursuant to either public or non-public school educational testing requirements to determine the child's achievement level.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s.11.30);
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70J .0106 BUILDINGS AND GROUND EQUIPMENT

(a) Facilities.

- (1) All sleeping units must provide at least the following space:
 - (A) 50 square feet per person;
 - (B) 30 inches between sides of beds.
- (2) All camper sleeping facilities shall be limited to one level structures.
- (3) Any structure, sleeping or otherwise, with an occupancy of more than 12 persons, including staff, shall have at least two separate and independent means of exit.
- (4) Open flame lighting shall not be used in sleeping shelters for lighting and heating.

(b) Grounds:

- (1) There shall be potable water available at each camp site.
- (2) At each children's camp there shall be provided a minimum of:
 - (A) one shower head for each 20 children;
 - (B) one flush toilet for each 20 children;
 - (C) one urinal for each 30 male children (urinals may not be substituted for flush toilets);
 - (D) one handwashing facility, adjacent to toilet facilities, for each 20 children; and
 - (E) a wilderness latrine facility approved pursuant to the rules of the Commission for Health Services.
- (3) The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).

(c) Equipment:

- (1) Laundry facilities or equipment shall be available at each camp for all staff and children.
- (2) Gasoline, kerosene, and other flammable materials shall be stored in covered safe containers, labeled for contents.
- (3) Power tools:
 - (A) All power tools, including mowers and trimmers, must have safety devices and be used according to manufacturer's instruction, maintained in good repair, and used only by those persons trained and experienced in their safety.
 - (B) Campers shall receive safety instructions before using such equipment.
 - (C) When campers are using such equipment, a trained and responsible adult must be present.
 - (D) When not in use, all power tools shall be stored in a locked place not occupied by children.
- (4) Fire extinguishers shall be available in all areas so designated by fire safety officials, shall be properly charged and shall have current inspection labels.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);*

*Amended Eff. September 1, 2011; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

SECTION .0200 - EMERGENCY SHELTER CARE PROGRAM

10A NCAC 70J .0201 APPLICABILITY

In addition to the rules in 10A NCAC 70I .0100, .0200, .0300, .0400, .0501, .0600 and .0900, the rules in this Section apply to all persons licensed or seeking licensure for an emergency shelter care program as defined in 10A NCAC 70I .0201.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. October 1, 2008; July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70J .0202 ADMISSION PROCEDURES

- (a) At the time of admission, a residential child care facility shall obtain the following information:
- (1) the name, sex, race, birth date and birth place of the child;
 - (2) when available, the parents' names, addresses, telephone numbers, birth dates, races, religion and marital status;
 - (3) when available, the names, addresses and telephone numbers of siblings and other relatives; a record of the child's prior placements with names of care givers, addresses and dates of care; and
 - (4) if the child has had prior placements, the names of care-givers, addresses and dates of prior placements.
- (b) Within 72 hours of admission, the facility shall obtain the following:
- (1) a written agreement for admission from the parents, guardian or legal custodian;
 - (2) consent for release of information;
 - (3) consent for emergency medical treatment; and
 - (4) consent for family time/visitation.
- (c) Within two weeks of admission, the facility shall obtain the following:
- (1) a medical examination report from a licensed medical provider which includes a signed statement by the licensed medical provider specifying the child's medical condition and medications prescribed and indicating the presence of any communicable disease which may pose a risk of transmission in the facility; and
 - (2) a social summary from the agency placing the child which includes background information on the child, his/her family, his/her presenting problems, and current circumstances.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s.11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70J .0203 ADMISSION CRITERIA

A residential child care facility shall enter into and obtain a written agreement from the child's parents or guardian, or legal custodian within 72 hours of the child's admission which contains the following:

- (1) a statement documenting the parent's, guardian's or legal custodian's authority to place the child and designating the parent's, guardian's or legal custodian's consent for the child's admission;
- (2) completed application for services that includes demographic information on the child and the child's parents or guardian;
- (3) information which sets forth the role and responsibilities to be performed by the staff in the facility during the child's stay in the program;
- (4) information that specifies the expectations of the parents, guardian or legal custodian during the child's stay in the program;

- (5) specification of the anticipated length of the child's stay; and
- (6) specification of the projected goals for the child's parents or guardian during the child's stay in the program.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s.11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70J .0204 RECORDKEEPING

Client case record. An individual case record shall be maintained on each child that contains the following:

- (1) written consent for placement;
- (2) documentation of placement authority;
- (3) completed application for services that includes demographic information on the child and the child's family;
- (4) consents for release of information, emergency medical treatment, family time/visitation;
- (5) a medical examination report completed within two weeks after admission unless the child's health status indicates the completion of a medical examination report sooner and copies of subsequent medical examination reports;
- (6) medical records and immunization records;
- (7) intake study and related documents;
- (8) out-of-home family services agreement and biweekly reviews;
- (9) family contact and visitation plan, including type, duration, location both on-site and off-site and frequency, as well as any rationale for restrictions on family involvement. The facility shall maintain documentation of all family time;
- (10) birth certificate or other documentation that verifies the child's birth;
- (11) court orders;
- (12) documentation of medical insurance;
- (13) consents for time-limited, audio-visual recording signed by both the child and parent or guardian , or legal custodian;
- (14) progress notes; and
- (15) discharge summary including date of discharge, time of discharge and the name, address, telephone number, and relationship of the person or agency to whom the child was discharged, a summary of services provided during care, needs which remain to be met and plans for the services needed to meet these goals.

*History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.*

10A NCAC 70J .0205 SERVICE PLANNING

Within one week of admission, an out-of-home family services agreement shall be developed and reviewed every other week, thereafter, by the shelter home staff, parents, guardian, or legal custodian of the child. The out-of-home family services agreement shall include:

- (1) the expectation and goals to be reached by the child while in care;
- (2) the tasks and activities of the shelter home staff to meet the needs of the child while in care;
- (3) the tasks and activities of the parents, guardian or legal custodian to meet the needs of the child while in care;
- (4) the projected discharge plan;
- (5) the projected length of stay; and
- (6) the signatures of the shelter home staff, the child's parents, guardian or legal custodian and child, if 12 years of age and older.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s. 11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

10A NCAC 70J .0206 DISCHARGE SERVICES

(a) A residential child-care facility shall establish a policy which specifies that no child shall remain in care longer than 90 days. An exception may be made to this policy if the facility has a policy which specifies the length of time and the circumstances by which a child will remain in shelter care longer than 90 days.

(b) Prior to discharge, the staff of the residential child-care facility shall develop a plan with the child to determine if follow-up services will be provided, the type of services to be provided and the timeframe for conducting these services.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. July 1, 1999 (See S. L. 1999, c.237, s.11.30);
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SUBCHAPTER 70K - RESIDENTIAL MATERNITY HOMES

SECTION .0100 - GENERAL

10A NCAC 70K .0101 DEFINITION

(a) For the purposes of the rules in this Subchapter, "residential maternity home" means a child-caring institution that provides continuing full-time care for adolescent and adult women during pregnancy and after delivery when delivery takes place in a licensed hospital. Residential maternity homes shall not hold dual licensure under G.S. 131D and G.S. 122C. A residential maternity home shall not be licensed under both 10A NCAC 70I and 10A NCAC 70K. The North Carolina Department of Health and Human Services, Division of Social Services, is the licensing authority for residential maternity homes.

(b) The "Reasonable and Prudent Parent Standard" means the term as defined in G.S. 131D-10.2A.

History Note: Authority G.S. 131D-10.2A; 131D-10.10; 143B-153;
Eff. February 1, 1986;
Amended Eff. October 1, 2008; June 1, 1990;
Readopted Eff. August 1, 2017.

10A NCAC 70K .0102 ORGANIZATION AND ADMINISTRATION

Persons licensed or seeking licensure to provide residential maternity home care shall comply with requirements as specified in 10A NCAC 70F and 10A NCAC 70K.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. February 1, 1986;
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0103 LICENSING ACTIONS

(a) License.

- (1) Licensure is required in accordance with G.S. 131D-10.3 and with rules in Subchapters 70F and 70K of this Chapter.
- (2) Licenses shall be in effect for two years unless suspended or revoked. Appeal procedures specified in 10A NCAC 70L .0301 apply for persons seeking an appeal of the licensing authority's decision to deny, suspend, or revoke a license.

- (3) Residential maternity homes licensed after August 1, 2011 shall have a three year or longer accreditation from either the Council on Accreditation (COA), The Joint Commission, formerly known as the Joint Commission on Accreditation of Healthcare Organizations (TJC), The Commission on Accreditation and Rehabilitation Facilities (CARF) or The Council on Quality and Leadership (CQL).
 - (4) Applicants shall inform the licensing authority of any current licenses or licenses held in the past five years for child-placing agencies, maternity homes, or residential child-care facilities in other states. Applicants shall provide written documentation from the licensing authority in other states regarding violations, penalties, or probationary status imposed in other states.
- (b) Changes in any information on the license.
- (1) The licensing authority shall change a license during the period of time it is in effect if the change is in compliance with rules in Subchapters 70F and 70K of this Chapter.
 - (2) A residential maternity home shall notify the licensing authority in writing of its request for a change in license, including information that is necessary to assure the change is in compliance with the rules in Subchapters 70F and 70K of this Chapter.
- (c) Termination.
- (1) When a residential maternity home voluntarily discontinues operations, either temporarily or permanently, the residential maternity home shall notify the licensing authority in writing of the date, reason and anticipated length of closing.
 - (2) If a license is not renewed by the end of the licensure period, the licensing authority shall automatically terminate the license.
 - (3) When the license of any existing residential maternity home is terminated for more than 60 days, the home shall meet all requirements of a new facility prior to being relicensed.
 - (4) Any existing licensed residential maternity home that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.
- (d) Adverse licensure action.
- (1) The licensing authority shall deny, suspend or revoke a license when a residential maternity home is not in compliance with the rules in Subchapters 70F and 70K of this Chapter unless the residential maternity home within 10 working days from the date the maternity home initially received the deficiency report from the licensing authority submits a plan of correction. The plan of correction shall specify the following:
 - (A) the measures that will be put in place to correct the deficiency;
 - (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
 - (C) the individual or individuals who will monitor the corrective action; and
 - (D) the date the deficiency will be corrected which shall be no later than 60 days from the date the routine monitoring was concluded.
 - (2) The licensing authority shall notify a residential maternity home in writing of the decision to deny, suspend or revoke a license.
 - (3) Appeal procedures specified in 10A NCAC 70L .0301 shall be applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.
- (e) Licensure shall be denied when it is determined that the following conditions apply:
- (1) the applicant owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122C, or any combination thereof, and any one of the following conditions exist:
 - (A) A single violation has been assessed in the six months prior to the application.
 - (B) Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.
 - (C) Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.
 - (D) Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.
 - (2) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license and 60 months have not passed from the date of the revocation or summary suspension;

- (3) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that is owned by the applicant;
- (4) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; and G.S. 110, Article 7 and the rules adopted under these laws and 60 months have not passed from the date of the revocation or summary suspension;
- (5) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256; or
- (6) the applicant is an individual who has a finding on the Responsible Individual's List as described in 10A NCAC 70A .0102.

*History Note: Authority G.S. 131D-10.10; 143B-153;
 Eff. October 1, 2008;
 Amended Eff. August 1, 2011;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

SECTION .0200 - MINIMUM LICENSURE STANDARDS

10A NCAC 70K .0201 PERSONNEL

(a) Staff Qualifications and Functions.

- (1) Executive Director. There shall be an executive director employed for the general management and supervision of the maternity home. The executive director shall meet the requirements of a Social Services Program Administrator I as defined by the North Carolina Office of State Human Resources, which is incorporated by reference, including subsequent amendments and editions. A copy of these requirements can be found at no cost at <http://www.oshr.nc.gov/state-employee-resources/classification-compensation/job-classification>. The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory, which is incorporated by reference, including subsequent amendments and editions. This information can be obtained through Higher Education Publications, Inc. at its website, www.hepinc.com at a cost of one hundred twenty-five dollars (\$125.00).
 The executive director shall:
 - (A) direct the maternity home's program of care and services in accordance with policies established by the governing board and within license standards;
 - (B) recruit, employ, supervise, and discharge staff;
 - (C) provide, or cause to be provided a training program for staff;
 - (D) prepare the annual budget, supervise expenditures, and operate within the maternity home's budget;
 - (E) establish and maintain relationships with other human service agencies and represent the agency in the community; and
 - (F) delegate authority to a staff member meeting the qualifications described in this Subparagraph or Subparagraph (a)(3) of this Rule during his or her absence.
- (2) Professional Services Staff. The maternity home shall have available professional services personnel to assure appropriate services are provided for each resident identified by her case plan or out-of-home family services agreement.
- (3) Social Work Supervisor or Case Manager Supervisors. Social Work Supervisors shall be employed by the maternity home to supervise, evaluate, and monitor the work and progress of the social work staff. The Social Work Supervisor or Case Manager Supervisor shall meet the requirements of a Social Work Supervisor II as defined by the North Carolina Office of State Human Resources. The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social work supervisors shall receive 24 hours of continuing education annually.
- (4) Social Worker or Case Manager. Social Workers or Case Managers shall be employed by the maternity home to provide intake services and social work services to the residents and their families in accordance with the case plan or out-of-home family services agreement. The Social

Worker or Case Manager shall meet the requirements of a Social Worker II as defined by the North Carolina Office of State Human Resources. The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social Workers or Case Managers shall receive 24 hours of continuing education annually.

- (5) Direct Care Staff. All direct care staff shall have a high school diploma or GED. Direct care staff shall receive 24 hours of continuing education annually.
- (6) Direct Care Supervisory Staff. All direct care supervisory staff shall have a high school diploma or GED. Direct care supervisory staff shall receive 24 hours of continuing education annually.
- (7) Staff members of the maternity home may maintain dual employment or serve as volunteers with adoption agencies or crisis pregnancy centers as long as the maternity home does not provide services to the clients of the adoption agency or crisis pregnancy center. Staff members of the maternity home may serve on the board of directors of adoption agencies or crisis pregnancy centers as long as the adoption agency or crisis pregnancy center does not provide services to the clients of the maternity home.

(b) Staffing Requirements. There shall be at least one Social Worker or Case Manager assigned for every 15 residents. Supervision of Social Workers or Case Managers shall be assigned as follows:

| Supervisors Required | Social Workers or Case Managers Employed |
|---|--|
| 0 | 0-4 (the executive director serves as social work supervisor) |
| 1 | 5 |
| 2 | 6-10 |
| 3 | 11-15 |
| There shall be one additional supervisor for every one to five additional social workers. | |

(c) Direct Care Staff Requirements. Direct care staff shall be employed for direct care of maternity home residents, which shall include mothers and infants as well as any children or dependents of staff members who live or are cared for in the home. There shall be at least one direct care staff member assigned for every eight residents during waking hours and one direct care staff member for every twelve residents during sleeping hours. Additional direct care staff or other personnel shall be available to assist with emergency situations or special needs of the residents.

(d) Direct Care Supervisory Staff Requirements. There shall be at least one direct care supervisor for every 15 direct care staff members.

(e) Volunteers and Interns Requirements. If the maternity home uses volunteers or interns to work directly with residents, the requirements of 10A NCAC 70F .0207 apply.

(f) Additional Personnel Requirements. In addition to those requirements specified in 10A NCAC 70F .0207, the following rules are applicable to maternity home programs:

- (1) Health Examinations. All direct care staff, any food service staff, and anyone serving in those capacities shall have a medical examination completed by a physician, physician's assistant, or nurse practitioner, hereafter referred to as "licensed medical provider," within at least 12 months before beginning employment and biennially thereafter. The agency shall maintain documentation that all direct care staff and food service staff or anyone serving in those capacities have had a TB skin test or chest x-ray prior to employment unless contraindicated by a licensed medical provider. A medical history form shall be completed by all direct care staff and food service staff. The licensed medical provider shall conduct examinations that include tests necessary to determine that the staff member is able to carry out assigned duties and does not have any communicable disease or condition that poses risk of transmission in the facility. A report of each examination shall be made a part of the employee's personnel file. A medical examination report shall be completed on any adopted children or relative children of direct care staff residing in the maternity home within 12 months prior to the license date. The birth children of direct care staff who reside in the maternity home shall be tested for TB only if one or more of the parents tests positive for TB. There shall be documentation that adopted children or other relative children residing in the maternity home have had a TB skin test or chest x-ray prior to initial licensure unless

contraindicated by a licensed medical provider. A medical examination and TB test, if required, shall be completed on any children or relative children of direct care staff who begin residing in the maternity home. Examinations shall include tests necessary to determine that the children or relative children of staff members who reside in the maternity home do not have any communicable diseases or conditions that pose risk of transmission in the facility. A medical history form shall be completed on any children or relative children of direct care staff who reside in the living unit. The medical history form shall be signed and dated by the staff member and contain the name, contact information, date of birth, health history, and statement of health. A copy of the medical history form ("Medical History Form" DSS-5017) can be obtained from the Division or found on the Division's website at <https://www.ncdhhs.gov/division/dss>. Medical examination reports and medical history forms of children of the residents residing in the maternity home shall be maintained in the personnel file of their parent or relative.

- (2) Staff Development. The maternity home staff shall have a written staff development plan that provides staff training in the following areas:

- (A) medical, physical, and psychological aspects of pregnancy;
- (B) prenatal and postnatal care;
- (C) developmental needs of adolescents and adults;
- (D) developmental needs of infants and toddlers;
- (E) parenting preparation classes;
- (F) stages of growth in infants;
- (G) day-to-day care of infants;
- (H) disciplinary techniques;
- (I) education planning;
- (J) job seeking skills;
- (K) locating housing;
- (L) money management;
- (M) food management;
- (N) child care programs;
- (O) health education;
- (P) stress management;
- (Q) life skills;
- (R) decision making;
- (S) substance abuse;
- (T) pregnancy prevention;
- (U) counseling skills;
- (V) emergency medical care;
- (W) nutrition and food preparation;
- (X) reasonable and prudent parent standard; and
- (Y) trauma informed care.

- (3) A residential maternity home shall ensure that a staff member trained in cardiopulmonary resuscitation (CPR) and first-aid, such as those provided by the American Red Cross, the American Heart Association, or equivalent organizations, is always available to the clients in care. Residential maternity home staff shall, within the first 30 days of employment, successfully complete certification in first-aid, CPR, and universal precautions provided by either the American Heart Association, the American Red Cross, or equivalent organizations approved by the Division of Social Services. Division staff shall determine that an organization is substantially equivalent if the organization is already approved by the Department or meets the same standard of care as the American Heart Association or the American Red Cross. First-aid, CPR, and universal precautions training shall be renewed as required by the American Heart Association, the American Red Cross, or equivalent organizations. "Successfully completed" is defined as demonstrating competency, as evaluated by the instructor who has been approved by the American Heart Association, the American Red Cross, or other organizations approved by the Division of Social Services to provide first-aid, CPR, and universal precautions training. Training in CPR shall be appropriate for the ages of children in care. Documentation of successful completion of first-aid, CPR, and universal precautions shall be maintained by the maternity home. The Division shall not accept web-based trainings for certification in first-aid, CPR, or universal precautions.

History Note: Authority G.S. 7B-505.1; 131D-10.5(7); 131D-10.10; 143B-153;
Eff. February 1, 1986;
Amended Eff. June 1, 1990;
RRC Objection Eff. April 15, 1993 Due to Lack of Statutory Authority;
Amended Eff. August 1, 2011; August 1, 2010; November 1, 2009; October 1, 2008; July 2, 1993;
Readopted Eff. August 1, 2017.

10A NCAC 70K .0202 SERVICES

(a) A maternity home shall have a written statement of purpose and objectives, services offered, eligibility requirements, application procedures, and procedures for implementing all services. This information shall be available to persons or agencies making inquiries about the maternity home.

(b) Social Services. The maternity home shall provide admission, residential, and discharge services to applicants, residents in care, and their families or legal custodians, as follows:

- (1) Admission services shall include an assessment of: the individual's need for maternity home care; services for the applicant's individual needs; and a determination whether the maternity home's program of care and services can meet the applicant's needs.
- (2) When an applicant who lives out of state is being considered for admission and the applicant is under 18 years old, the provisions of the North Carolina interstate placement laws (G.S. 7B-3800 et. seq.) shall be met.
- (3) Staff shall be assigned the responsibility for making admission decisions.
- (4) Applicants or legal custodians shall complete a written application before or upon admission. Written agreements shall be made concerning release of information, medical care, and fees for care and services.
- (5) An applicant accepted for care shall be referred to and have a working agreement with a licensed child-placing agency or county department of social services of the applicant's choice for planning and decision making in relation to her baby. No maternity home staff member shall assume any responsibility for placement of children for adoption.
- (6) Residential services throughout the period of care shall include counseling for each resident and her family.
- (7) Each resident shall have the opportunity to talk privately with staff, family members, friends, and social workers from child-placing agencies or county departments of social services and to express grievances regarding the maternity home.
- (8) Each resident shall have assistance as requested in making the best use of her time in the maternity home, adjusting to the living situation, accessing all services needed, resolving personal and family problems, and planning for discharge.
- (9) Discharge services for residents shall include planning for living arrangements, employment, or education. For those residents planning to keep their babies, discharge services shall include preparation for parenthood and support services for single parents.

(c) Psychological and Psychiatric Services. Arrangements shall be made available for a resident to have the services of a psychologist or a psychiatrist, as well as for consultation for the staff providing care and services to the resident. Maternity homes shall request documentation regarding who has the authority to consent to psychological and psychiatric services received by the resident. Persons or entities with authority to consent may include the resident's parent, legal guardian or custodian, or county department of social services with legal custody of the resident in accordance with G.S. 7B-505.1.

History Note: Authority G.S. 7B-505.1; 131D-10.10; 143B-153;
Eff. February 1, 1986;
Amended Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016;
Amended Eff. August 1, 2017.

10A NCAC 70K .0203 CASE RECORD

A confidential case record shall be maintained for each resident which includes:

- (1) a completed application for admission and services with identifying information about the resident;
- (2) a summary of the referral source, background information about the resident, and an assessment of the services needed;
- (3) a complete medical and obstetrical history and examination before or within one week after admission to the home;
- (4) record of medical and dental services received;
- (5) authorization for medical care for minors;
- (6) authorization for receiving or sending information concerning the resident;
- (7) copy of financial agreements;
- (8) a copy of the agreement with the licensed child placing agency or county department of social services providing services to the resident;
- (9) case plan or out-of-home family services agreement;
- (10) visitation and contact plan including type, duration, location both on-site and off-site, and frequency, as well as any rationale for restrictions on family involvement; the facility shall maintain documentation of all family time;
- (11) date of admission to the maternity home and documentation of services provided including hospital care and delivery dates;
- (12) date, time and circumstances of discharge from the maternity home and the resident's plans for herself and baby; and in the case of minors the name, relationship and signature of the individual the resident was released to;
- (13) correspondence and contacts with other persons or agencies concerning the resident; and
- (14) signed acknowledgement of client rights.

*History Note: Authority G.S. 131D-1; 143B-153;
 Eff. February 1, 1986;
 Amended Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0204 PROGRAM OF CARE

- (a) The program of care shall be suited to the needs of adolescent and adult women experiencing an unplanned pregnancy. There shall be opportunity provided for private time, for family contacts, and for group fellowship.
- (b) The residents shall be free from duress to make their own decisions about releasing or keeping their babies.
- (c) The residents shall be provided confidentiality concerning their situations and protection from harm insofar as possible.
- (d) Educational opportunities shall be provided or arranged by the residential maternity home in accordance with the needs of individual residents and resources available in the community. For those residents who are required to attend school under the compulsory school attendance laws of North Carolina, the maternity home shall arrange for attendance in a public or a nonpublic school which is operated in accordance with the laws of North Carolina. If a school or educational program is maintained and operated by the maternity home which residents attend in lieu of attending public schools, the maternity home shall comply with the North Carolina General Statutes governing nonpublic schools. Opportunity shall be offered to residents who wish to participate in educational courses available in the community.
- (e) Health education including information about pregnancy, delivery, and family planning services shall be provided residents. Information about the care of infants shall be made available to the residents who want this information.
- (f) Recreational activities shall be provided which meet the needs of residents. Suitable space shall be provided at the maternity home for both indoor and outdoor activities. Participation in community activities shall be provided.
- (g) Work assignments in the maternity home shall be geared to the physical health and emotional well-being of the residents in care. Residents shall be given the opportunity to voluntarily seek paid employment when employment is in accordance with the recommendation of their licensed medical provider and other professional staff of the maternity home. No resident shall be required to work for the purpose of paying the maternity home for her care.
- (h) The maternity home shall define in writing and make available to applicants and residents those rules and regulations which the residents shall be expected to follow. These rules and regulations shall respect the personal freedom of the residents. These rules and regulations shall not infringe on the residents' rights to send and receive

uncensored mail and for planned visits with their families and others. Visitors shall not be allowed to visit minors without prior consent of the parents or guardian, or legal custodian.

(i) Nutritious, foods shall be provided in the variety and amounts necessary to meet the National Research Council's Recommended Daily Dietary Allowances (USDA Center for Nutrition Policy and Promotion, 1120 20th Street, NW, Suite 200N, Washington, DC 20036). Special diets shall be planned to meet the modified needs of individual residents as prescribed by a licensed medical provider. Menus shall be planned and written by, or in consultation with, a licensed dietician/nutritionist. Menus shall be planned and written at least one week in advance. Snacks shall be recorded on the regular menu.

(j) Each resident shall be provided prenatal care and general health care by a licensed medical provider which includes:

- (1) a complete medical and obstetrical history and examination before or within one week after admission to the home;
- (2) periodic examinations during pregnancy as outlined by the licensed medical provider;
- (3) dental services as needed; and
- (4) medical services as needed.

(k) Each resident shall be provided delivery care in a licensed hospital or any facility licensed as a place for delivery of babies.

(l) All prescription and non prescription medicines shall be stored in a locked cabinet, closet or box not accessible to residents. The agency shall have written policies and procedures regarding staff administering medications to residents that shall be discussed with each resident and their parents or guardian, or legal custodians (if resident is a minor) prior to or upon placement. These policies and procedures shall address:

- (1) medication administration;
- (2) medication dispensing;
- (3) packaging, labeling;
- (4) storage and disposal;
- (5) review;
- (6) education and training; and
- (7) documentation, including medication orders, Medication Administration Record (MAR); orders and copies of lab tests; and, if applicable, administration errors and adverse drug reactions.

The residential maternity home shall maintain a MAR for each resident that documents all medications administered. Upon discharge of a resident, the residential maternity home shall return prescription medications to the resident or person or agency legally authorized to remove the minor from residential maternity care. The residential maternity home shall provide oral or written education to the resident or person or agency legally authorized to remove the minor from residential maternity care regarding the medications. Unwanted, out-dated, improperly labeled, damaged, adulterated or discontinued prescription medications shall be returned to a pharmacy for disposal.

(m) The residential maternity home shall ensure that first aid kits are available for immediate use in each living unit, recreation area and in vehicles to transport residents. A residential maternity home shall obtain a mouthpiece and other precautionary equipment for administering CPR to the residents.

(n) When residents return to the maternity home, post delivery care shall be available to the residents in accordance with the recommendations of the resident's licensed medical provider and the professional staff of the maternity home. A resident shall not be required to remain in the maternity home after medical discharge. Referral to a licensed medical provider or medical clinic or community family planning resource shall be made if requested by the resident.

(o) A resident and her infant may be considered for aftercare if the resident was in residential care prior to delivery.

(p) The period of aftercare for the resident and her child shall not exceed 12 consecutive months, during which time a plan for independent living shall be developed with the resident and assistance provided in achieving the goal of the plan within the designated time frame.

(q) Services provided for the plan of independent living shall include:

- (1) parenting preparation classes;
- (2) stages of growth in infants, children and adolescents;
- (3) day-to-day care of infants, children and adolescents;
- (4) disciplinary techniques for infants, children and adolescents;
- (5) education planning;
- (6) job seeking skills;
- (7) locating housing;

- (8) money management;
- (9) food management;
- (10) child-care;
- (11) health education;
- (12) stress management;
- (13) life skills;
- (14) decision making;
- (15) substance abuse;
- (16) pregnancy prevention; and
- (17) other services based on the needs of the resident.

(r) A case record shall be maintained at the maternity home for each resident which includes documents concerning all social work, counseling, medical, psychological, and dental services, as well as any other services provided to each resident.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. February 1, 1986;
Amended Eff. November 1, 2009; October 1, 2008; June 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0205 PHYSICAL FACILITIES

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. February 1, 1986;
Amended Eff. June 1, 1990;
Repealed Eff. October 1, 2008.*

10A NCAC 70K .0206 CASE PLAN OR OUT-OF-HOME FAMILY SERVICES AGREEMENT

(a) A residential maternity home shall develop a written case plan or out of home family services agreement within 30 days of a resident's admission to the maternity home. The case plan or out of home family services agreement shall be developed in cooperation with the resident, her parents or guardian or the legal custodian. The case plan or out-of-home family services agreement shall be based upon an assessment of the needs of the resident. The case plan or out-of-home family services agreement shall include:

- (1) goals stated in specific, realistic, and measurable terms; and
- (2) plans that are action oriented, including specific responsibilities of the resident, the residential maternity home, the parents or guardians, other family members, legal custodians and other agencies that are providing services to the resident.

(b) The case plan or out-of-home family services agreement shall be reviewed within 60 days of placement, the second case plan or out-of-home family services agreement review shall occur within 90 days of the first review and subsequent reviews shall be held every six months. The resident, parents or guardians or legal custodians as well as any individual or agency providing services shall participate in the reviews to determine the resident's progress or lack of progress towards meeting the goals and objectives, and to determine changes that need to be made in the case plan or out-of-home family services agreement.

(c) If the legal custodian is a county department of social services, the residential maternity home, the department of social services, parents or guardian, and resident shall develop a single out-of-home family services agreement. The residential maternity home shall attend court reviews, child and family team meetings, agency reviews and permanency planning action team meetings. The Out-of-Home Family Services Agreement (DSS-5240 or DSS-5241) and the Transitional Living Plan (CARS Plan Review) may serve as the out-of-home family services agreement for the maternity home if the documents reflect input and participation by the maternity home. Maternity homes shall follow the same timeframes for completing these documents as described in Paragraph (b) of this Rule.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0207 CLIENT RIGHTS

(a) A residential maternity home shall develop and implement policies and procedures to protect the individual rights and dignity of residents and family members who are provided services by the agency.

(b) A residential maternity home shall have a client's rights policy, which includes that each resident has the right to:

- (1) be treated with dignity and respect;
- (2) be free from coercion and influence in deciding to parent her baby or release for adoption;
- (3) privacy;
- (4) be provided adequate food, clothing and shelter;
- (5) have access to family time and have telephone conversations with family members and other individuals, when not contraindicated in the visitation and contact plan;
- (6) have personal property and a space for storage;
- (7) express opinions on issues concerning the resident's care or treatment;
- (8) receive care in a manner that recognizes variations in cultural values and traditions;
- (9) be free from coercion by agency staff with regard to religious or cultural decisions. The agency shall have a process to assure that, whenever practical, the wishes of the resident and the parents of minors with regard to religious and cultural participation are ascertained and followed;
- (10) not be identified in connection with publicity for the agency which shall bring the resident, or resident's family embarrassment;
- (11) give written permission before pictures or other means of identifying residents are used in publicity or public relations for the maternity home (if the resident is a minor, written permission shall be obtained from the parents, guardian or the legal custodian); and
- (12) not be forced to acknowledge dependency on or gratitude to the agency.

(c) A residential maternity home shall have a policy that prohibits direct involvement by a resident in funds solicitation for the agency.

(d) A residential maternity home shall have a policy, which prohibits the resident's participation in any activities involving audio or visual recording and research without the voluntary signed, time-limited consent of the resident and, if applicable, the resident's parents, guardian or legal custodian.

History Note: Authority G.S. 131D-1; 143B-153;

Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0208 GRIEVANCE PROCEDURES

(a) A residential maternity home shall provide to each resident, parents, guardians or legal custodians of minors, upon placement:

- (1) a written description of policies and procedures that the resident her parents, guardian or legal custodian follows to register complaints;
- (2) information about resident's and family's' rights;
- (3) the process for appealing a decision or action of the agency; and
- (4) the process of resolution of a complaint.

(b) Upon resolution of a grievance, the agency shall maintain a copy of the complaint and the resolution in the resident's case record.

History Note: Authority G.S. 131D-1; 143B-153;

Eff. October 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0209 SEARCHES

(a) A residential maternity home shall have written policies and procedures regarding staff conducting searches of resident's rooms and possessions that shall be discussed with each resident and, if applicable, their parents, guardians or legal custodians prior to or upon placement.

(b) The search policies and procedures shall include:

- (1) circumstances under which searches are conducted;

- (2) persons who are allowed to conduct searches;
- (3) provision for removing and disposing of items seized as a result of searches; and
- (4) provision for documenting searches.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0210 CRITICAL INCIDENTS AND CRITICAL INCIDENT REPORTS

- (a) A maternity home shall have written policies and procedures for handling and reporting critical incidents.
- (b) The maternity home shall have and follow policies and procedures for handling any suspected incidents of abuse or neglect of a resident involving staff, subcontractors, volunteers or interns in a facility supervised by the maternity home. The policies and procedures shall include:
 - (1) a provision for reporting any suspicions of abuse or neglect to the appropriate county department of social services for investigation;
 - (2) a provision for recording any suspected incident of abuse or neglect and for promptly reporting it to the executive director or to the governing body;
 - (3) a provision for notifying the parents, guardian, or legal custodian, if applicable;
 - (4) a provision for preventing a recurrence of the alleged incident pending the investigative assessment;
 - (5) a policy concerning personnel action to be taken when the incident involves a staff member, subcontractor, volunteer or intern;
 - (6) a provision for submitting a critical incident report to the licensing authority within 72 hours of the incident being accepted for an investigative assessment by a county department of social services; and
 - (7) a provision for submitting written notification to the licensing authority within 72 hours of the case decision by the county department of social services conducting the investigative assessment.
- (c) Critical incident reports shall be submitted to the licensing authority by the executive director or his/her designee on a form developed by the licensing authority within 72 hours of the critical incident. Critical incidents include the following of a resident in placement:
 - (1) a death of a resident;
 - (2) reports of abuse and neglect;
 - (3) admission to a hospital as a result of injury or serious medical condition;
 - (4) suicide attempt;
 - (5) runaway lasting more than 24 hours; and
 - (6) arrest for violations of state, municipal, county or federal laws.
- (d) Documentation of the critical incident shall include:
 - (1) name of resident or residents involved;
 - (2) date and time of incident;
 - (3) brief description of incident;
 - (4) action taken by staff;
 - (5) need for medical attention;
 - (6) name of staff involved and person completing the report;
 - (7) name of resident's parents, guardian or legal custodian, if applicable, notified and date and time of notification; and
 - (8) approval of supervisory or administrative staff reviewing the report.
- (e) When there is a death of a resident in placement the executive director or his/her designee shall notify the parents, guardian, or legal custodian, if applicable, and the licensing authority with 72 hours.
- (f) Critical incident reports shall be maintained in a manner consistent with the agency's risk management policies that include clinical decisions and activities undertaken to identify, evaluate and reduce the risk of injury to residents, staff and visitors and reduce the risk of loss to the agency and shall be made available to the licensing authority upon request..

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

SECTION .0300 – PHYSICAL PLANT

10A NCAC 70K .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

- (a) New construction and existing buildings proposed for use as a residential maternity home shall comply with the requirements of this Section.
- (b) Except when otherwise specified, existing licensed homes or portions of existing licensed homes shall meet licensure and code requirements in effect at the time of construction, initial licensure, change in service, change in resident capacity or evacuation capability of the residents, addition, renovation or alteration.
- (c) New additions, alterations, modifications and repairs made to the building shall meet the requirements of this Section.
- (d) A residential maternity home shall not have two different types of occupancies, as defined in the State Building Code in the same building.
- (e) Rules contained in this Section are the Physical Plant requirements and do not prohibit buildings, systems or operational conditions that exceed these requirements.
- (f) Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements shall be approved by the Division of Health Service Regulation when the facility can demonstrate to the Division of Health Service Regulation's satisfaction, that the intent of the physical plant requirements are met and the variation does not reduce the safety or operational effectiveness of the facility.
- (g) The facility must comply with all applicable local, state and federal regulations.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0302 DESIGN AND CONSTRUCTION

- (a) Any building licensed for the first time as a residential maternity home shall meet the applicable requirements of the North Carolina State Building Code. All new construction, additions and renovations to existing buildings shall meet the occupancy requirements of the North Carolina State Building Code as determined by the Division of Health Service Regulation, Construction Section based on the number and age of the mothers, the number of infants and any other dependents of either the expecting mothers or the live-in staff. The North Carolina State Building Code, which is incorporated by reference, including all subsequent amendments can be purchased for one hundred six dollars and twenty-five cents (\$106.25) at the following web site: (http://www.ncdoi.com/OSFM/Engineering/CodeServices/engineering_codeservices_sales.asp) or calling 919-681-6550.
- (b) Mobile homes, whether mobile or permanently situated, shall not be used for residential maternity home facilities.
- (c) Each residential maternity home shall be planned, constructed, equipped and maintained to provide the services offered in the home.
- (d) Any existing building converted from another use to a residential maternity home shall meet all the requirements of a new facility.
- (e) Any existing licensed residential maternity home when the license is terminated for more than 60 days shall meet all requirements of a new home prior to being relicensed.
- (f) Any existing licensed residential maternity home that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.
- (g) Any existing licensed residential maternity home that plans to have new construction, remodeling or physical changes done to the facility shall have drawings submitted by the owner or his appointed representative to the Division of Health Service Regulation for review and approval prior to commencement of the work.
- (h) The applicant for a residential maternity home shall consult the local code enforcement official for information on required permits and building code requirements before starting any construction or renovations.
- (i) If the building is two stories in height, and is classified as a Residential Occupancy, it shall meet the following requirements:

- (1) Infants or children less than six years old shall not be housed on any floor other than the level of exit discharge.
- (2) A complete fire alarm system with pull stations on each floor and sounding devices which are audible throughout the building shall be provided. The fire alarm system shall be able to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection.
- (j) The basement and the attic shall not to be used for storage or sleeping.
- (k) The ceiling shall be at least seven and one-half feet from the floor.
- (l) All windows shall be maintained operable.
- (m) The sanitation, water supply, sewage disposal and dietary facilities shall comply with the rules of the North Carolina Commission for Public Health which are incorporated by reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions", 15A NCAC 18A .1300 and the "Rules Governing Sanitation of Residential Care Facilities" 15A NCAC 18A .1600 are available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632 at no cost.
- (n) The residential maternity home shall request and obtain current inspections from the local sanitarian and the local fire inspector. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority with the licensure renewal application.

History Note: Authority G.S. 131D-1; 143B-153;
 Eff. October 1, 2008;
 Amended Eff. November 1, 2009;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0303 LOCATION

- (a) A residential maternity home shall be in a location approved by local zoning boards.
- (b) The home shall be located so that hazards to the residents are minimized.
- (c) The site of the home shall:
 - (1) be accessible by streets, roads and highways and be maintained for motor vehicles and emergency vehicle access;
 - (2) be accessible to fire fighting and other emergency services;
 - (3) have a water supply, sewage disposal system, garbage disposal system and trash disposal system approved by the local health department having jurisdiction;
 - (4) meet all local ordinances; and
 - (5) be free from exposure to pollutants known to the applicant or licensee.

History Note: Authority G.S. 131D-1; 143B-153;
 Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0304 LIVING ARRANGEMENT

A residential maternity home shall provide living arrangements to meet the individual needs of the residents, the live-in staff and their children or relative children. There shall be a designated room for residents to talk privately with staff and to receive visitors.

History Note: Authority G.S. 131D-1; 143B-153;
 Eff. October 1, 2008;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0305 LIVING ROOM

- (a) Residential maternity homes shall have a living room area of a minimum of 200 square feet for a capacity of six or fewer residents and 15 square feet per additional resident.

(b) All living rooms shall have operable windows that meet the North Carolina State Building Code and be lighted to provide 30 foot candles of light at floor level.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0306 DINING ROOM

(a) Residential maternity homes shall have a dining room or area of a minimum of 120 square feet for a capacity of six or fewer residents and 10 square feet per additional resident. The dining room may be used for other activities during the day.

(b) When the dining area is used in combination with a kitchen, an area five feet wide shall be allowed as work space in front of the kitchen work areas and shall not be included in the required square footage.

(c) The dining room shall have operable windows and be lighted to provide 30 foot candles of light at the floor level.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0307 KITCHEN

(a) The kitchen in a residential maternity home shall be large enough to provide for the preparation and preservation of food and the washing of dishes.

(b) The kitchen floor shall have a non-slippery, water-resistant covering.

(c) The kitchen shall be approved by the local sanitarian for the total number of residents (mothers, infants and any other children), as well as any live-in direct care staff and their dependents.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Amended Eff. November 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0308 BEDROOMS

(a) There shall be bedrooms sufficient in number and size to meet the individual needs of the maternity home residents (residents include mothers and their children), the live-in staff and their children or relative children residing in the home. Residents shall not share bedrooms with staff or the staff's' children or relative children.

(b) Only rooms authorized by the Division of Health Service Regulation, Construction Section by plan review or field inspection, shall be used for bedrooms.

(c) A room where access is through a bathroom, kitchen or another bedroom shall not be approved for a resident's bedroom.

(d) There shall be a minimum area of 100 square feet, excluding vestibule, closet or wardrobe space, in rooms occupied by one mother and a minimum area of 80 square feet per bed, excluding vestibule, closet or wardrobe space, in rooms occupied by two mothers. There shall be additional square footage of 40 square feet for each infant and toddler, 60 square feet for each pre-school aged child and 80 square feet for each school aged child.

(e) The total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of Health Service Regulation, Construction Section, by plan review or field inspection, for that particular bedroom.

(f) A bedroom shall not be occupied by more than two mothers along with any children or infants of those mothers.

(g) Each resident bedroom shall have one or more operable windows and be lighted to provide 30 foot candles of light at floor level. The window area shall be equivalent to at least eight percent of the floor space. The windows shall have a maximum of 44 inch sill height. Each bedroom shall be provided with a window that meets the North Carolina State Building Code for emergency egress. These windows shall be openable without the use of keys or tools.

(h) Bedroom closets or wardrobes shall be large enough to provide each mother with a minimum of 48 cubic feet of separate clothing storage space (approximately two feet deep by three feet wide by eight feet high) of which at least one-half shall be for hanging clothes with an adjustable height hanging bar. Additional closet or wardrobe space shall be provided for the children of mothers at the rate of 10 cubic feet per child.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0309 BATHROOMS

- (a) Residential maternity homes shall have one full bathroom for each five or fewer mothers and children, not including infants. Live-in staff shall have a separate bathroom from residents in care.
- (b) The bathrooms shall be designed to provide privacy. A bathroom with two or more water closets (commodes) shall have privacy partitions for each water closet. Each tub or shower shall have privacy partitions or curtains.
- (c) Entrance to the bathroom shall not be through a kitchen, another person's bedroom or another bathroom.
- (d) The required bathrooms of residents shall be located so there is no more than 40 feet from any resident's bedroom door.
- (e) Hand grips shall be installed at all commodes, tubs and showers used by the residents.
- (f) Non-skid surfacing or strips shall be installed in showers and bath areas.
- (g) The bathrooms shall be lighted to provide 30 foot candles of light at floor level and have mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor area. These vents shall be vented directly to the outdoors.
- (h) The bathroom floor shall have a non-slippery, water-resistant covering.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0310 CORRIDORS

- (a) Corridors shall be a minimum clear width of three feet.
- (b) Corridors shall be lighted with night lights providing one foot candle of light at the floor.
- (c) Corridors shall be free of all equipment and other obstructions.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0311 OUTSIDE ENTRANCES AND EXITS

- (a) In residential maternity homes, all floor levels shall have at least two exits. If there are only two, the exit or exit access doors shall be so located and constructed to minimize the possibility that both may be blocked by any one fire or other emergency condition.
- (b) At least one entrance and exit door shall be a minimum width of three feet and another shall be a minimum width of two feet and eight inches.
- (c) If the home has any resident who requires physical assistance with evacuation, the home shall have at least one principal outside entrance and exit for the resident's use which shall be at grade level or accessible by ramp with a one inch rise for each 12 inches of length of the ramp. For the purposes of this Rule, a principal outside entrance or exit is one that is most often used by residents for vehicular access.
- (d) All exit door locks and latches shall be easily operable from the inside at all times without keys.
- (e) All entrances and exits shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.
- (f) All steps, porches, stoops and ramps shall be provided with handrails and guardrails.
- (g) Outdoor stairways and ramps shall be illuminated by no less than five foot candles of light at grade level.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0312 LAUNDRY ROOM

Laundry facilities shall be provided. The laundry equipment shall be located out of the living, dining and bedroom areas.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0313 FLOORS

- (a) All floors shall be of smooth, non-skid material and constructed to be easily cleanable.
- (b) All floors shall be kept in good repair.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0314 HOUSEKEEPING AND FURNISHINGS

- (a) Each residential maternity home shall:
 - (1) have walls, ceilings, and floors or floor coverings kept clean and in good repair;
 - (2) have no chronic unpleasant odors;
 - (3) have furniture clean and in good repair;
 - (4) be maintained in an uncluttered, clean and orderly manner, free of all obstructions and hazards;
 - (5) have a supply of bath soap, clean towels, washcloths, sheets, pillow cases, blankets and additional coverings adequate for resident use on hand at all times;
 - (6) have television and radio, each in good working order;
 - (7) have curtains, draperies or blinds at windows in resident use areas to provide for resident privacy;
 - (8) have recreational equipment, supplies for games, books, magazines and a current newspaper available for residents; and
 - (9) have at least one telephone that does not depend on electricity or cellular service to operate. Emergency telephone numbers shall be posted at the telephone.
- (b) Each bedroom shall have the following furnishings in good repair and clean for each mother:
 - (1) a bed equipped with box springs and mattress or solid link springs and no-sag innerspring or foam mattress. No day-bed, convertible sofa or other bedding of temporary nature shall be used. A water bed is allowed if requested by a resident and permitted by the home. Each bed is to have the following:
 - (A) at least one pillow with clean pillow case;
 - (B) clean top and bottom sheets on the bed, with bed changed as often as necessary but at least once a week; and
 - (C) clean bedspread and other clean coverings as needed;
 - (2) a bedside type table and lamp;
 - (3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double dresser for two residents;
 - (4) a wall or dresser mirror that can be used by each resident;
 - (5) a minimum of one comfortable chair (rocker or straight, arm or without arms, as preferred by resident);
 - (6) additional chairs available, as needed, for use by visitors;
 - (7) a light overhead of each bed or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for reading; and
 - (8) cribs for each infant; children's beds for other children of the mothers.

- (c) The living room shall have functional living room furnishings for the comfort of maternity home residents, with coverings that are easily cleanable.
- (d) The dining room shall have the following furnishings:
 - (1) tables and chairs to seat all residents eating in the dining room; and
 - (2) high chairs and booster seats for all infants and children in the home.
- (e) This Rule shall apply to new and existing homes.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0315 FIRE SAFETY AND DISASTER PLAN

- (a) Fire extinguishers shall be provided which meet these requirements in a residential maternity home:
 - (1) one five-pound or larger (net charge) "A-B-C" type centrally located;
 - (2) one five-pound or larger "A-B-C" or "CO/2" type located in the kitchen; and
 - (3) any other location as determined by the code enforcement official.
- (b) The building shall be provided with smoke detectors as required by the North Carolina State Building Code and heat detectors located in the attic and connected to a dedicated sounding device.
- (c) Any fire safety requirements required by city ordinances or county building inspectors shall be met.
- (d) A written fire evacuation plan (including a diagrammed drawing) which has the approval of the local code enforcement official shall be prepared with a minimum of 1/8 inch high letters and posted in a central location on each floor. The plan shall be reviewed with each resident on admission and shall be a part of the orientation for all new staff.
- (e) There shall be at least four rehearsals of the fire evacuation plan each year. A residential maternity home shall maintain records of rehearsals and copies furnished to the licensing authority upon request. The records shall include the date and time of the rehearsals, staff members present and a short description of what the rehearsal involved.
- (f) Smoking is not be permitted in the residential maternity home.
- (g) A written disaster plan shall be prepared and updated at least annually and shall be maintained in the home. This written disaster plan requirement shall apply to new and existing homes.

*History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.*

10A NCAC 70K .0316 BUILDING SERVICE EQUIPMENT

- (a) The building and all fire safety, electrical, mechanical and plumbing equipment in a residential maternity home shall be maintained in a safe and operating condition.
- (b) There shall be a central heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions. Built-in electric heaters, if used, shall be installed or protected to avoid hazards to residents (mothers and children) and room furnishings. Unvented fuel burning room heaters and portable electric heaters are prohibited.
- (c) Air conditioning or at least one fan per resident bedroom, living and dining areas shall be provided when the temperature in the main center corridor exceeds 80 degrees F (26.7 degrees C).
- (d) The hot water tank shall be of such size to provide hot water to the kitchen, bathrooms and laundry. The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).
- (e) All resident areas shall be well lighted for the safety and comfort of the residents. The minimum lighting required is:
 - (1) 30 foot candle of light for reading;
 - (2) 10 foot candle of light for general lighting; and
 - (3) one foot candle of light at the floor for corridors at night.

- (f) Fireplaces, fireplace inserts and wood stoves shall be designed or installed to avoid a burn hazard to residents (mothers and children). Solid fuel burning fireplace inserts and wood stoves shall be labeled and approved by a third party testing agency accredited by the North Carolina Building Code Council for solid fuel heating equipment.
- (g) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved through the local building department and protected by a guard or screen to prevent residents and furnishings from burns.
- (h) This rule shall apply to new and existing residential maternity homes.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0317 OUTSIDE PREMISES

- (a) The outside grounds of new and existing residential maternity homes shall be maintained in a clean and safe condition.
- (b) Fences shall be kept in good repair and shall not prevent residents or adult staff from exiting or entering freely or be hazardous.
- (c) Outdoor stairways and ramps shall be illuminated by no less than five foot candles of light at grade level.

History Note: Authority G.S. 131D-1; 143B-153;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

10A NCAC 70K .0318 VEHICLES USED FOR TRANSPORTATION OF RESIDENTS

- (a) Vehicle Requirements for Transporting Residents.
 - (1) Vehicles shall comply with all motor vehicle laws and regulations for the State of North Carolina.
 - (2) Motor vehicles shall be maintained in a safe operating condition and shall be registered and inspected.
 - (3) A first-aid kit shall be in all motor vehicles.
 - (4) The bed of an open body or a stake bed vehicle shall not be used for transporting children.
- (b) Driver Requirements. The name of and a copy of a valid driver's license for each person transporting residents shall be maintained in a separate file at the facility.
- (c) Safety Practices for Transporting Residents.
 - (1) The interior of each vehicle shall be maintained in a clean and safe condition with clear passage to operable doors.
 - (2) The driver shall ensure that all passengers follow North Carolina laws regarding seat belt usage and shall adhere to child passenger restraint laws when transporting children.
 - (3) The driver shall not transport more persons, including children and adults, than allowed by the design capacity of the vehicle.
 - (4) Residents shall have at least one 30 minute rest stop for every four hours of continuous travel.
 - (5) Residents shall not be transported for more than 10 hours in any 24-hour period.
- (d) Transportation Records. Insurance verification and the vehicle identification certificate shall be kept in the vehicle in accordance with State law. Emergency medical information shall be kept in the vehicle for each resident occupying the vehicle.
- (e) Insurance. If a residential maternity home's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility shall maintain a file copy of the individual's or firm's insurance coverage.
- (f) Emergency Transportation. A residential maternity home shall have a plan for transporting residents when emergency situations arise that includes:
 - (1) the need for immediate medical care;
 - (2) picking residents up at school before the end of the school day; and
 - (3) transporting residents during adverse weather conditions.

History Note: Authority G.S. 131D-1; 143B-153;

Eff. November 1, 2009.

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5, 2016.

SUBCHAPTER 70L – WAIVER PROCEDURES, DENIAL, SUSPENSION, REVOCATION AND APPEAL PROCEDURES

10A NCAC 70L .0101 USE OF VOLUNTEERS IN CHILDREN'S SERVICES CASE

History Note: Authority G.S. 7A-657; 7A-675; 108A-80; 143B-153; 143B-154; 143B-155; 143B-156; Eff. October 15, 1980; Amended Eff. May 1, 1990; January 1, 1983; Repealed Eff. October 1, 2008.

10A NCAC 70L .0102 WAIVER OF LICENSING RULES

The North Carolina Department of Health and Human Services, Division of Social Services is the licensing authority and shall allow a waiver to a licensing rule or rules to persons subject to licensure pursuant to G.S. 131D, Article 1A in accordance with the following criteria:

- (1) Persons seeking a waiver shall submit a written request on a form developed by the licensing authority, to the licensing authority showing that another way of meeting a rule maintains the health, safety, and well-being of individuals being served at or above the level required by the rule.
- (2) No waiver shall be allowed by the licensing authority to any rule based on a standard adopted by the Building Code Council and subject to the general supervision and enforcement of the Commissioner of Insurance.
- (3) No waiver shall be allowed by the licensing authority to any rule governing fire safety.
- (4) No waiver shall be allowed by the licensing authority to any rule based upon a standard adopted by the Commission for Public Health.
- (5) The waiver when allowed remains in effect for the term of the license and may be renewed if the licensing authority determines that the health, safety and well-being of individuals being served are not threatened.
- (6) Upon receipt of the waiver request form, a decision to grant or deny the waiver shall be made by the licensing authority within 10 business days of its receipt.

History Note: Authority G.S. 131D-10.5; 131D-10.6; 150B-22; 150B-23; Eff. April 1, 1984; ARRC Objection March 16, 1988; Amended Eff. May 1, 1990; August 1, 1988; Temporary Amendment Eff. October 28, 1997; Amended Eff. October 1, 2008; April 1, 1999; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0200 – DENIAL: AMENDMENT: SUSPENSION: REVOCATION

10A NCAC 70L .0201 DENIAL, AMENDMENT, SUSPENSION AND REVOCATION

(a) Denial: The North Carolina Department of Health and Human Services, Division of Social Services, is the licensing authority and shall deny a license at any time for failure to comply with licensing rules adopted pursuant to G.S. 131D, Article 1A or for operating in a manner that threatens the health, safety or well being of individuals in the facility or served by the agency. In addition, the licensing authority may deny an application based on a determination that:

- (1) the applicant is not in compliance with rules promulgated under G.S. 131D for the facility or agency which the applicant is seeking licensure;

- (2) the licensing authority has initiated revocation or summary suspension proceedings against any facility or agency licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7, which was previously held by the applicant and the applicant voluntarily relinquished the license;
 - (3) there is a pending appeal of a denial, revocation or summary suspension of any facility or agency licensed pursuant to G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A, or G.S. 110, Article 7, which is owned by the applicant;
 - (4) the applicant has an individual as part of their governing body or management who previously held a license which was revoked or summarily suspended under G.S. 122C, Article 2, G.S. 131D, Articles 1 or 1A and G.S. 110, Article 7 and the rules adopted under these laws; or
 - (5) the applicant is an individual who has a finding or pending investigation by the Health Care Professional Registry in accordance with G.S. 131E-256.
- (b) Notice: When an application for license of a new facility or agency is denied the following applies:
- (1) Pursuant to G.S. 150B-22, the applicant shall be given an informal opportunity to provide reasons why the license should be issued.
 - (2) The licensing authority shall give the applicant written notice of the denial, the reasons for the denial and advise the applicant of the right to request a contested case hearing pursuant to G.S. 150B.
 - (3) The facility or agency shall not operate until a decision is made to issue a license, despite an appeal action.
- (c) Amendment: The licensing authority may amend a license to indicate a provisional status whenever the licensing authority determines there are violations of rules, but the violations do not pose an immediate threat to the health, safety or welfare of the clients served. The following applies to provisional status:
- (1) Provisional status shall be approved for not less than 30 days and not more than six months.
 - (2) Provisional status shall be effective immediately upon notice to the licensee and must be posted in a prominent location, accessible to public view, within the licensed premises.
 - (3) The facility shall inform each client residing or receiving services from the facility or their legally responsible person concerning the facility's provisional status.
 - (4) A regular license shall be issued when a facility is determined by the licensing authority to be in compliance with applicable rules.
 - (5) If a facility fails to comply with the rules within the time frame for the provisional status, the license shall automatically terminate on the expiration date of the provisional status.
 - (6) If a licensee has a provisional status at the time that the licensee submits a renewal application, the license, if renewed, shall also be of a provisional status unless the licensing authority determines that the violations have been corrected.
 - (7) A decision to issue a provisional status shall be stayed during the period of an appeal as specified in 10A NCAC 70L .0301 and the licensee may continue to display its license during the appeal.
- (d) Summary Suspension: The following applies to summary suspension:
- (1) The licensing authority shall issue an order of summary suspension and include the findings in its order if it finds that the public health, safety or welfare considerations require emergency action.
 - (2) The licensing authority shall suspend only those services as necessary to protect the public interest. An order of summary suspension shall be effective on the date specified in the order or on the date of service of the order at the last known address of the licensee, whichever is later.
 - (3) The licensee may contest the order by requesting a contested case hearing pursuant to G.S. 150B and 10A NCAC 70L .0301. The order for summary suspension shall be in full force and effect during any contested case hearing.
 - (4) The order may set a date by which the licensee shall remove the cause for emergency action. If the licensee fails to meet that deadline, the licensing authority may revoke or amend the facility's license.
- (e) Revocation: The licensing authority shall revoke a license at any time for failure to comply with rules adopted pursuant to G.S. 131D, Article 1A or for operating in a manner that threatens the health, safety or well being of individuals in the facility or served by the agency. Revocation of licensure by the licensing authority shall be affected by mailing to the applicant or license holder, by certified mail, a notice setting forth the particular reasons for such action. A revocation shall become effective 60 days after the mailing of the notice absent a petition as specified in 10A NCAC 70L .0301. In the event of a petition for a contested case hearing a revocation shall not become effective until a final decision is made in the contested case hearing.

History Note: Authority G.S. 131D-10.5; 131D-10.6; 131D-10.9; 143B-153; 150B-22; 150B-23;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0300 – APPEAL PROCEDURES

10A NCAC 70L .0301 APPEAL PROCEDURES

- (a) Within 60 days of the decision to deny, suspend or revoke a license the applicant or license holder may petition for a determination of his/her legal rights, privileges or duties. All petitions must be in writing and contain a statement of the facts prompting the request sufficient to allow for appropriate processing by the licensing authority.
- (b) The petition for a hearing shall be filed with the Office of Administrative Hearings in accordance with G.S. 150B-23 and 26 NCAC 03 .0103. In accordance with G.S. 1A-1, Rule 4(j)4 , the petition shall be served on a registered agent for service of process for the licensing authority. A list of registered agents may be obtained from the Office of Legal Affairs.
- (c) Procedures for the processing of an appeal of an adverse licensing action and for the final decision are specified in G.S. 150B, Article 3 and 10A NCAC 1A.

History Note: Authority G.S. 131D-10.5; 131D-10.6; 131D-10.9; 143B-153; 150B-22; 150B-23;
Eff. October 1, 2008;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SUBCHAPTER 70M - ADOPTION STANDARDS

SECTION .0100 - GENERAL

10A NCAC 70M .0101 SCOPE

Rules in this Subchapter contain adoption standards for county departments of social services, which are the public agencies in North Carolina mandated by law to provide adoption services. Included are requirements which shall be met by county departments of social services in carrying out their responsibilities under Chapter 48 of the General Statutes and in the administration of the Adoption Assistance Program under G.S. 108A-49 and 108A-50, a funding program to facilitate the adoption of certain children with special needs.

History Note: Authority G.S. 131D-10.5; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. October 1, 2008; June 1, 1990; February 1, 1986;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

10A NCAC 70M .0102 DEFINITIONS

(a) For the purpose of the rules in this Subchapter, 42 USC 673, 45 CFR 1356.41, and the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188, are applicable to both the State and public adoption agencies and are hereby incorporated by reference including any subsequent amendments and editions. These documents may be accessed at www.gpo.gov or www.congress.gov at no charge.

(b) The following definitions shall apply to the rules in this Subchapter:

- (1) "Adoption assistance agreement" means a signed written agreement that is developed by the Department ("North Carolina Adoption Assistance Agreement" Form DSS-5013, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that is binding upon the public adoption agency and the prospective adoptive parents of a minor child and, at a minimum, the agreement shall:

- (A) specify payments that meet the requirements in 42 USC 673(a)(3), and specifies the nature and amount of any payments, services, and assistance to be provided under the agreement;
 - (B) stipulates that the agreement shall remain in effect regardless of the state where the adoptive parents are residents of at any given time;
 - (C) require each adoptive parent to inform the public adoption agency of any circumstances that would make the parent ineligible for the payments or eligible for a different amount;
 - (D) if applicable, require the adoptive parents to provide receipt of vendor payments; and
 - (E) contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move to another state while the agreement is in effect.
- (2) "Applicable child" means a child who meets the requirements in 42 USC 673(e).
- (3) "Child with special needs" or "children with special needs" means a child who meets the requirements in 42 USC 673(c). The public adoption agency, or the North Carolina Department of Health and Human Services for the Special Needs Adoptions Incentive Fund assistance, shall make the specified determinations for the State in 42 USC 673(c). A child shall not be returned to the home of the child's parent if there is a court order terminating parental rights, a relinquishment to a public or private child-placing agency, a consent for adoption by the parent, a finding from the court in an adoption proceeding that a parent's consent is not required, or verification of the death of a parent. For a child to meet the requirement in 42 USC 673(c)(2)(B)(ii), the child must have a letter from the Social Security Administration that approves the child for Social Security Insurance benefits. For purposes of 42 USC 673(c)(1)(B) and 42 USC 673(c)(2)(B)(i), the child shall present one or more of the following specific factors or conditions:
- (A) six years of age or older;
 - (B) two years of age or older and a member of a minority race or ethnic group;
 - (C) a member of a sibling group of three or more children who will all be placed in the same adoptive home;
 - (D) a member of a sibling group of two children who will be placed in the same adoptive home and the child's sibling meets one of the factors or conditions in Parts (A), (B), (E), (F), (G), or (H) of this Paragraph;
 - (E) a medically diagnosed disability that substantially limits one or more major life activities, requires professional treatment, requires assistance in self-care, or requires the purchase of special equipment;
 - (F) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as having a psychiatric condition that impairs the child's mental, intellectual, or social functioning, and for which the child requires professional services;
 - (G) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as having a behavioral or emotional disorder characterized by inappropriate behavior that deviates substantially from behavior appropriate to the child's age or significantly interferes with child's intellectual, social, and personal functioning;
 - (H) diagnosed by a medical professional, who is qualified through licensing or credentialing to make the diagnosis, as being intellectually or developmentally disabled; or
 - (I) at risk, as opined by a medical professional, who is qualified through licensing or credentialing for one of the factors or conditions in Parts (E) through (H) of the definition in this Paragraph due to:
 - (i) prenatal exposure to toxins;
 - (ii) a history of abuse or serious neglect; or
 - (iii) genetic history.
- (4) "Department" means the North Carolina Department of Health and Human Services.
- (5) "Nonrecurring adoption expense" means the same as "nonrecurring adoption expenses" found in 42 USC 673(a)(6)(A).
- (6) "Public adoption agency" means any county department of social services, consolidated human services, or regional department of social services in North Carolina that is authorized by law to place children for adoption or that provides adoption services.
- (7) "Supplemental Agreement" means a signed written agreement that is developed by the Department ("North Carolina Special Children Adoption Incentive Fund Supplemental Adoption Assistance Agreement" Form DSS-5212, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>)

that is binding upon the public adoption agency and the prospective adoptive parents of a minor child and at a minimum:

- (A) specifies the nature and amount of any Special Children's Adoption Incentive Fund payment; and
- (B) includes an acknowledgement by the prospective adoptive parents that the payments are not an entitlement and are limited to available funds in the Special Children's Adoption Incentive Fund.

History Note: Authority G.S. 143B-153(2)(a); 108A-49; 42 U.S.C. 673;
Eff. August 1, 2021.

SECTION .0200 - ORGANIZATION AND ADMINISTRATION

10A NCAC 70M .0201 PUBLIC ADOPTION AGENCIES

- (a) Except for the provisions relating to an executive director, public adoption agencies shall comply with 10A NCAC 70H .0401 in determining the qualifications and job responsibilities for personnel.
- (b) Public adoption agencies shall comply with 10A NCAC 70F .0207 in the hiring of staff and use of volunteers.
- (c) The caseload size of social workers providing adoption services shall be in compliance with requirements set forth in 10A NCAC 70H .0401.

History Note: Authority G.S. 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. October 1, 2008; September 1, 1986;
Readopted Eff. August 1, 2021.

SECTION .0300 - FUNCTIONS OF A PUBLIC ADOPTION AGENCY

10A NCAC 70M .0301 GENERAL

Public adoption agencies shall perform the following functions:

- (1) provision of casework and other supportive services to biological parents considering adoption;
- (2) provision of casework and other supportive services to the child considered for adoption;
- (3) provision of casework and other supportive services to adoptive applicants through pre-placement studies;
- (4) selection of home and placement process;
- (5) supervision after placement;
- (6) fulfillment of social and legal responsibilities;
- (7) compilation and preservation of case records;
- (8) provision of post-adoption consultation services, including, coordination and referrals for educational enrollment for children seven to sixteen years of age, and for therapeutic and physical health needs;
- (9) when this Subchapter requires, determine whether eligibility requirements have been met for adoption assistance in this Subchapter that is available for children with special needs who are in custody of the public adoption agency or who have been placed by a private child-placing agency in an adoptive home within its jurisdiction;
- (10) administer adoption assistance agreements for which it entered into pursuant to this Subchapter;
- (11) notify adoptive parents of tax credits that may be available for adoptive parents;
- (12) make information available for prospective adoptive families that describes the kinds of children needing placement, the availability of adoption assistance, and procedures for referring families they are unable to serve to other child placing agencies; and
- (13) recruit potential foster and adoptive families in accordance with the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188.

History Note: Authority G.S. 48-2-502; 48-3-203; 48-3-204; 48-3-303; 143B-153;
Eff. February 1, 1976;

*Readopted Eff. October 31, 1977;
Amended Eff. June 1, 1990; September 1, 1986;
Readopted Eff. August 1, 2021.*

10A NCAC 70M .0302 SERVICES TO ADOPTIVE APPLICANTS

Public adoption agencies shall comply with 10A NCAC 70H .0404, .0405, .0406, .0407, 0408 and .0409 in determining the procedures for the application process, preplacement assessment, notification to adoptive applicants of acceptance or denial of application, services to adoptive applicants and families, legal process, and record retention.

*History Note: Authority G.S. 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. October 1, 2008; July 17, 2000; September 1, 1986;
Readopted Eff. August 1, 2021.*

10A NCAC 70M .0304 MULTIETHNIC PLACEMENT ACT REQUIREMENTS FOR ADOPTIVE HOME RECRUITMENT

- (a) Public adoption agencies shall recruit potential adoptive and foster families that reflect the ethnic and racial diversity of children in the State.
- (b) Public adoption agencies shall not deny any person the opportunity to become an adoptive or a foster parent on the basis of the race, color, or national origin of the person or of the child involved.
- (c) Public adoption agencies shall not delay or deny the placement of a child for adoption or foster care, on the basis of the race, color, or national origin of the adoptive or foster parent or the child involved.
- (d) Public adoption agencies shall not violate provisions of the Multiethnic Placement Act of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions of 1996, P.L. 104-188, that apply to state or local agencies.

*History Note: Authority G.S. 48-3-204; 131D-10.5; 143B-153;
Eff. October 1, 2008;
Readopted Eff. August 1, 2021.*

SECTION .0400 – STANDARD MONTHLY CASH ADOPTION ASSISTANCE AND VENDOR PAYMENTS

10A NCAC 70M .0401 STANDARD MONTHLY CASH ADOPTION ASSISTANCE AND VENDOR PAYMENTS

- (a) Standard monthly cash assistance payments are monthly payments made based on graduated rates set by the General Assembly and reflected in the executed adoption assistance agreement.
- (b) Vendor payments are made directly to a child's provider, which may include the adoptive parents, for medical, therapeutic, psychological, and remedial services not covered by Medicaid or another source if the requirements in this Subchapter are met.

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153;
Eff. July 1, 1982;
Amended Eff. July 18, 2002; July 1, 1991; September 1, 1986;
Readopted Eff. August 1, 2021.*

10A NCAC 70M .0402 ELIGIBILITY REQUIREMENTS FOR STANDARD MONTHLY CASH ASSISTANCE PAYMENTS OR VENDOR PAYMENTS

- (a) Adoption assistance in the form of standard monthly cash assistance payments based on graduated rates set by the General Assembly and vendor payments may be made when the child meets the following eligibility criteria:
 - (1) The child was legally adopted;
 - (2) The child meets at least one of the following criteria:
 - (A) is not an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(i). The public adoption agency shall make the determination in 42 USC 673(a)(2)(A)(i)(II) for the State. 42 USC 673(a)(2)(B) shall be applicable when appropriate;

- (B) shall be an applicable child and meets the requirements in 42 USC 673(a)(2)(A)(ii). The public adoption agency shall make the determination in 42 USC 673(a)(2)(A)(ii)(II) for the State. 42 USC 673(a)(2)(B) shall be applicable when appropriate; or
 - (C) the requirements set forth in 42 USC 673(a)(2)(C); and
 - (3) An applicable child is not eligible if he or she meets the conditions in 42 U.S.C. 673(a)(7)(A)(i) through (iii), unless 42 U.S.C. 673(a)(7)(B) is applicable and the public adoption agency makes the requisite determination for the State.
- (b) For vendor payments, in addition to the criteria in Paragraph (a) of this Rule, the child shall also meet the following criteria:
- (1) at or prior to the issuance of the adoption decree, have a diagnosed medical, mental, or emotional condition that is documented by a medical professional, who is qualified through licensing or credentialing to make a diagnosis, that will require ongoing treatment or therapy of a medical or remedial nature; or
 - (2) after the issuance of the adoption decree but while still under the age of 18, have been determined by the public adoption agency administering adoption assistance benefits to have a medical, mental, or emotional condition, congenital problem, birth injury, or other documented problem that is determined by a medical professional, who is qualified through licensing or credentialing to have been preexisting at the time of his or her placement into an adoptive home.
- (c) The prospective adoptive parents shall meet the following criteria:
- (1) Have a child placed with them in accordance with applicable State and local laws for purposes of an adoption who meets the requirements in Paragraph (a) of this Rule;
 - (2) be legally responsible for the support of the child and is providing support to the child, if the child is under the age of 18;
 - (3) enter into an adoption assistance agreement with the public adoption agency prior to issuance of the decree of adoption. The adoption assistance agreement shall identify the specific services for the child that the parents want to be covered by vendor payments;
 - (4) Shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 43-3-309;
 - (5) Shall provide the public adoption agency with the results of the criminal back history investigation;
 - (6) Shall have a completed check of the North Carolina's Responsible Individuals List pursuant to G.S. 7B-311 and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file; and
 - (7) For vendor payments when the child meets the criteria in Subparagraph (b)(2) of this Rule, shall enter into an adoption assistance agreement amendment on a form provided by the Department ("North Carolina Division of Social Services Adoption Assistance Agreement Amendment" Form DSS-5307, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that identifies and includes supporting documentation of the child's preexisting condition and allows the parents to be reimbursed for vendor services related to the child's preexisting condition.
- (d) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent is unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- (e) Prior to the adoption, all individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed check of the North Carolina's Responsible Individuals List and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file.

(f) Upon adoption, the adoptive parents shall comply with all the terms of the adoption agreement assistance and notify the public adoption agency they are no longer legally or financially responsible for the adopted child, address, or contact information.

(g) The public adoption agency shall:

- (1) prior to the adoption, make a determination as to whether the requirements of this Rule have been met on a form created by the Department ("Adoption Assistance Eligibility Checklist" Form DSS-5012, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reasons that the eligibility requirements have been met and inform the prospective adoptive parents of the right to appeal the decision.
- (2) maintain a copy of the results of the criminal investigation of the foster parents and any individual 18 years of age or older who resides in the prospective adoptive home.
- (3) after the adoption:
 - (A) annually send to the adoptive parents a letter reminding them to report any changes in their legal or financial responsibility of the adopted child;
 - (B) issue to the adoptive parents a notice if the adoption assistance payments are to be suspended ("North Carolina Division of Social Services Adoption Assistance Suspension Notice" Form DSS-5306, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for the suspension and how to appeal the suspension; and
 - (C) issue to the adoptive parents a notice if the adoption assistance payments are to be terminated ("North Carolina Division of Social Services Adoption Assistance Termination Notice" Form DSS-5308, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that shall identify the reason for the termination and how to appeal the termination.
- (4) in order for vendor services to be reimbursed, the vendor must obtain prior approval by submitting to the public adoption agency completed and signed forms provided by the Department ("Adoption Assistance Vendor Payment Request Form" Form DSS-5112 and "Adoption Assistance Vendor Payment Instructions for Providers" Form DSS-5115, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that includes documentation of the child's diagnosis, the child's special needs related to the diagnosis, how the is service related to the special needs, what goals the service is intended to accomplish, how achievement of goals be measured, the projected duration of treatment or service, the projected total cost, and two copies of the provider's bill after all health insurance claims have been processed.

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153;
Eff. July 1, 1982;
Amended Eff. March 1, 2017; July 18, 2002; July 1, 1991; March 1, 1990;
Readopted Eff. August 1, 2021.*

10A NCAC 70M .0403 PROCEDURES/REIMBURSEMENT OF ADOPTION ASSISTANCE BENEFITS

(a) Adoption assistance benefits for which a child is eligible shall become effective the first month following the month in which the Decree of Adoption is issued.

(b) Claims from service providers and standard monthly cash assistance shall be reimbursed or provided from adoption assistance funds subject to the following limitations:

- (1) Vendor payments to adoptive parents, medical providers, and to providers of psychological, therapeutic, and remedial services shall be made only for treatment or services given to alleviate or correct those conditions for which the child has been determined eligible to receive benefits.
- (2) The total amount for vendor payments for any combination of medical services not covered by Medicaid including psychological, therapeutic, or remedial services for any child shall not exceed two thousand four hundred dollars (\$2,400.00) per State fiscal year.
- (3) Vendor payments shall not be made to reimburse providers for the following:
 - (A) routine medical examinations;
 - (B) illnesses or conditions not related to or resulting from the conditions for which the child was determined eligible for vendor payments;
 - (C) services or treatment provided to the child prior to issuance of the Decree of Adoption; and

- (D) services or treatment that may have been provided on or after the first day of the month following the month in which the child's eligibility ceases.

(c) No local match, in terms of dollars, is required for funds for those children certified to receive benefits under the State Fund for Adoptive Children with Special Needs as set forth in G.S. 180A-50.1, who are the placement responsibility of licensed private child-placing agencies with the exception of monthly cash payments for those children who are eligible for benefits from Title IV-E of the Social Security Act. No monthly cash assistance payments from the State Fund for Adoptive Children with Special Needs shall be made for any adoption in which the Decree of Adoption is issued on or after October 1, 2011.

History Note: Authority G.S. 108A-49; 108A-50; 143B-153;
Eff. July 1, 1982;
Amended Eff. October 1, 2011; July 18, 2002; July 1, 1991; March 1, 1990;
Readopted Eff. August 1, 2021.

10A NCAC 70M .0404 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL CHILDREN ADOPTION INCENTIVE FUND AND EFFECTIVE DATE

10A NCAC 70M .0405 PAYMENTS FROM THE SPECIAL CHILDREN ADOPTION INCENTIVE FUND

History Note: Authority G.S. 108A-49; 108A-50; 143B-153; S.L. 2000-67, s. 11.16;
Temporary Adoption Eff. January 1, 2001;
Temporary Adoption Eff. August 31, 2001;
Eff. July 18, 2002;
Repealed Eff. August 1, 2021.

SECTION .0500 - OUT-OF-STATE ADOPTION FEES

10A NCAC 70M .0501 PURPOSE OF OUT-OF-STATE ADOPTION SERVICE FEES

(a) When the requirements in this Rule have been met, with prior approval, the Department may reimburse in part or in full a fee incurred by a public adoption agency for adoption services provided by an out-of-state adoption agency. Public adoption agencies shall pay the out-of-state adoption provider directly and provide proof of payment to the Department once payment is made.

(b) The requirements of this Rule are met when the child:

- (1) is a child with special needs;
- (2) is registered on the North Carolina Adoption Resource Exchange, which may be accessed at <https://www.ncdhhs.gov/divisions/social-services/child-welfare-services/adoption-and-foster-care>;
- (3) has parents who have each had one of the following occur:
 - (A) a court order terminated parental rights;
 - (B) executed a relinquishment of the child to a public or private child-placing agency;
 - (C) consented to the adoption;
 - (D) a finding by the court in the adoption proceeding that the parent's consent to the adoption is not required; or
 - (E) has died.

(c) Out-of-state adoption agencies shall be licensed by their respective states and as approved by conditions of the Interstate Compact on the Placement of Children (ICPC) pursuant to G.S. 7B, Article 38 to provide adoptive services for children with special needs.

(d) The service fee charged by the specialized out-of-state adoption agency shall be:

- (1) any one of the following services provided by the specialized adoption service agency:
 - (A) recruiting and securing an adoptive home for the child;
 - (B) pre-placement services for the family and child;
 - (C) post-placement services for the family and child; and
 - (D) post-finalization services.
- (2) only be available when an adoptive family has not been identified in North Carolina.

(e) The public adoption agency:

- (1) shall have custody and placement responsibility of the child and have the legal authority to consent to the child's adoption;

- (2) shall make a written request to the Department for reimbursement for the out-of-state adoption service fee at the time that a decision has been made to place the child with a specific adoptive parent or parents who have had an approved home study that was conducted by the specialized out-of-state adoption agency;
 - (3) shall include in its reimbursement request to the Department written documentation that verifies the following:
 - (A) the public adoption agency has legal placement responsibility;
 - (B) the public adoption agency has the authority to legally consent to the adoption of the child;
 - (C) the child meets the requirements of this Rule;
 - (D) the out-of-state adoption agency meets the requirements of this Rule;
 - (E) the service fee to be charged meets the requirements of this Rule; and
 - (F) a quote for the service fee that includes the service to be provided and the amount of the fee;
 - (4) shall obtain prior approval from the Department prior to initiating contracted services where reimbursement is expected;
 - (5) Upon the Department's prior approval for an out-of-state adoption service fee, the public adoption agency shall enter into an agreement with the out-of-state adoption agency on a form provided by the Department ("North Carolina Division of Social Services Purchase of Out-of-State Adoption Services Agreement" Form DSS-5305, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) and provide a copy of the agreement to the Department. The agreement shall include the type and nature of the service to be provided, the fee amount to be charged, an agreement by the out-of-state adoption agency to provide the identified service, and an agreement by the public adoption agency to pay for the identified service; and
 - (6) shall pay any amount of the out-of-state adoption agency service fee that is not approved by the Department.
- (f) To the extent funds are available and the fee for services is not above the maximum allowable amount of one thousand eight hundred dollars (\$1,800) per child, the Department shall approve the public adoption agency's request for prior approval for reimbursement of the out-of-state adoption service fee if it meets the requirements in this Rule and the Department notifies the public adoption agency in writing of the approval.
- (g) The Department shall not reimburse a public adoption agency for any amount over one thousand eight hundred dollars (\$1,800) per child in out-of-state adoption service fees that are approved pursuant to this Rule.
- (h) In order for the public adoption agency to receive reimbursement for a fee that has been approved pursuant to this Rule, the public adoption agency shall notify the Department of the date that payment of the fee is due and provide the Department with a copy of the bill for the out-of-state adoption service fee.
- (i) Upon the public adoption agency's payment of the out-of-state adoption service fee, the public adoption agency shall provide the Department with a copy of the receipt of payment for the out-of-state adoption agency fee.

History Note: Authority G.S. 143B-153;
Eff. March 23, 1981;
Amended Eff. July 1, 1991;
Readopted Eff. August 1, 2021.

10A NCAC 70M .0502 GENERAL ELIGIBILITY REQUIREMENTS

History Note: Authority G.S. 143B-153;
Eff. March 23, 1981;
Amended Eff. October 1, 2008; July 1, 1991; June 1, 1990;
Repealed Eff. August 1, 2021.

SECTION .0600 – NONRECURRING ADOPTION COSTS

10A NCAC 70M .0601 PUBLIC ADOPTION AGENCY REQUIREMENTS

- (a) Public adoption agencies shall:

- (1) at the time of or prior to the final decree of adoption, enter into an agreement for the reimbursement of nonrecurring adoption expenses with parents who adopt a child with special needs;
 - (2) prior to entering into an agreement for the reimbursement of nonrecurring adoption expenses, the public adoption agency shall:
 - (A) Make a determination that the child is a child with special needs; and
 - (B) Make a determination that the child has been placed for adoption in accordance with applicable laws;
 - (3) make payments for reimbursement of nonrecurring adoption expenses incurred by or on behalf of parents in connection with the adoption of a child with special needs if it enters into an agreement for the reimbursement of nonrecurring adoption expenses;
 - (4) retain copies of the complete application for reimbursement of nonrecurring adoption expenses, along with supporting document and receipts, and the agreement for the reimbursement of nonrecurring adoption expenses for auditing purposes; and
 - (5) upon receipt of a completed nonrecurring adoption expense reimbursement application, the public adoption agency shall submit the application to the Department.
- (b) When there is an interstate placement of the child with special needs, the public adoption agency that entered into an adoption assistance agreement shall also reimburse the parent or vendor for the nonrecurring adoption expenses. When there has been an interstate placement of a child with special needs for the purpose of adoption and there is no adoption assistance agreement from the sending state, then the public adoption agency that is responsible for entering into an agreement for nonrecurring adoption expenses shall be the public adoption agency where the petitioner for adoption resides.

*History Note: Authority G.S. 108A-49; 108A-50; 143B-153;
 Eff. July 1, 1991;
 Readopted Eff. August 1, 2021.*

10A NCAC 70M .0602 ELIGIBLE NONRECURRING ADOPTION EXPENSES

An adoptive parent shall receive reimbursement for nonrecurring adoption expenses not to exceed two thousand dollars (\$2,000) when:

- (1) The child placed with the parent for the purpose of adoption is a child with special needs;
- (2) The adoptive parents have submitted a signed application for nonrecurring adoption expenses on a form provided by the Department ("State of North Carolina Application For Reimbursement of Nonrecurring Adoption Costs" Form DSS-5145, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>). The application shall:
 - (a) provide evidence that the child is a child with special needs;
 - (b) include acknowledgements by the adoptive parents that:
 - (i) nonrecurring adoption expenses are limited to a reimbursement of two thousand dollars (\$2,000) per child and are contingent on the child being a child with special needs;
 - (ii) the expenses that they are seeking reimbursement for were actually incurred by them;
 - (iii) the expenses that they are seeking reimbursement for are reasonable and necessary adoption expenses which were directly related to the legal adoption of the child that meets the requirements in 42 USC 673(A)(6); and
 - (iv) the expenses that they are seeking reimbursement for have not and will not be reimbursed by another source.
 - (c) if the placement was an interstate placement, include an acknowledgement by the adoptive parents that the placement was made in accordance with the Interstate Compact on the Placement of Children adopted by both the sending and receiving state and any other applicable federal, state, or local laws or rules related to the interstate adoptive placement of a child;
 - (d) the type and amount of the expense that will be incurred by the adoptive parents; and
 - (e) include documentation that verifies the information in the application and receipts for any nonrecurring service for which the parent is seeking reimbursement.

- (3) The foster parents and all individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- (4) The foster parents shall provide the public adoption agency with the results of the criminal history investigation, and the public adoption agency shall maintain a copy of the results.
- (5) The adopting parents and all individuals 18 years of age or older who reside in the home shall have a completed check of the North Carolina's Responsible Individuals List pursuant to G.S. 7B-311 and have a check of the results of child abuse and neglect central registry of states where the applicant has resided the past five years and not be placed on the North Carolina's Responsible Individuals List or any other state's child abuse and neglect central registry. The public adoption agency shall maintain a copy of the results in their file.
- (6) Upon approval of the application in Item (2) of this Rule, the adoptive parents shall enter into a binding written agreement with a public adoption agency for the reimbursement of nonrecurring expenses on a form provided by the Department ("State of North Carolina Agreement for Reimbursement of Nonrecurring Adoption Costs" Form DSS-5146, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) that meets the requirements in 42 USC 673(a)(3) and is signed at the time of or prior to the final decree of adoption.
- (7) The application for reimbursement was filed in accord with the quarter rule outlined in 45 CFR 1356.41(e)(2).

History Note: Authority G.S. 108A-49; 108A-50; 143B-153;
Eff. July 1, 1991;
Readopted Eff. August 1, 2021.

10A NCAC 70M .0603 REQUIREMENTS

History Note: Authority G.S. 108A-49; 108A-50; 143B-153; 42 U.S.C. 673;
Eff. July 1, 1991;
Amended Eff. March 1, 2017;
Repealed Eff. August 1, 2021.

10A NCAC 70M .0604 PROHIBITION ON REIMBURSEMENT CAPS

The Department and any public adoption agencies shall not establish a maximum allowable reimbursement amount for any single eligible nonrecurring adoption expense, but the total reimbursement for nonrecurring adoption expenses shall not exceed two thousand dollars (\$2,000).

History Note: Authority G.S. 108A-49; 108A-50; 143B-153;
Eff. July 1, 1991;
Readopted Eff. August 1, 2021.

SECTION .0700 – SPECIAL NEED ADOPTION INCENTIVE FUND

10A NCAC 70M .0701 ELIGIBILITY REQUIREMENTS FOR THE SPECIAL NEED ADOPTION INCENTIVE FUND AND EFFECTIVE DATE

Within the limits of available funding, the Department may approve and provide assistance in the form of standard monthly cash payments from the Special Need Adoption Incentive Fund when the following requirements have been met:

- (1) The child:
 - (a) Shall be a child with special needs and either has at least one of the factors or conditions listed in Rule .0102(b)(3)(E) through (H) of this Chapter of a child with special needs or meets the requirement in 42 USC 673(c)(2)(B)(ii);
 - (b) Shall meet the requirements for standard monthly cash adoption assistance in this Chapter;

- (c) Shall be in the custody of the public adoption agency and placement responsibility of an adoption agency for at least six consecutive months prior to the finalization of the adoption;
 - (d) The special needs condition from Sub-Item (1)(a) of this Item is expected to limit the child's ability, both currently and throughout childhood, to function in the home, school, or community absent eight or more hours of in-person daily supervision or care for personal health care or prevention of self-destructive or assaultive behavior;
 - (e) The child will have resided in the foster parent's home for six consecutive months prior to the finalization of the adoption; and
 - (f) The child was legally adopted on or after January 1, 2001.
- (2) Each foster parent:
- (a) be licensed as a foster parent;
 - (b) has been receiving standard monthly cash assistance from any governmental source, such as federal, state, or local, above the State adoption assistance rate established by the General Assembly for the previous six consecutive months prior to the finalization of the adoption to provide the direct care or supervision required for the child's health condition that meets the requirement in Item (4) of this Rule;
 - (c) prior to the issuance of the adoption decree, the foster parent made a request for financial assistance in addition to the State adoption assistance rate established by the General Assembly in order to provide the care required for the child's health condition that meets the requirements in Item (4) of this Rule;
 - (d) prior to the issuance of the adoption decree, the foster parent provided the public adoption agency with a signed letter that details the daily supervision needs of the child;
 - (e) shall only be willing to adopt the child if the monthly cash assistance from any other governmental source, such as federal, state, or local, above the State adoption assistance rate received for foster parents and is not terminated upon the adoption of the child;
 - (f) shall enter into an adoption assistance agreement with a public adoption agency prior to the decree of adoption;
 - (g) entered into a supplemental agreement with a public adoption agency prior to the adoption decree;
 - (h) agree to provide the public adoption agency with a copy of the adoption decree once the adoption has been finalized;
 - (i) shall have a completed criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309;
 - (j) shall require all individuals 18 years of age or older who reside in the prospective adoptive home to undergo a criminal history investigated pursuant to G.S. 48-3-303 and 49-3-309; and
 - (k) shall provide the public adoption agency with the results of the criminal back history investigation.
- (3) All individuals 18 years of age or older who reside in the prospective adoptive home shall have a completed a criminal history investigated pursuant to G.S. 48-3-303 and 48-3-309 and shall not have a criminal history, as defined by G.S. 48-1-101(5b), or any other criminal conviction that would cause the prospective adoptive parent to be unfit to have responsibility for the safety and well-being of children as determined by the public adoption agency pursuant to G.S. 48-3-309.
- (4) The public adoption agency having custody of the child shall:
- (a) voluntarily agree to participate in the Special Need Adoption Incentive Fund and agree to assume 50 percent of the payment above the State adoption assistance rate established by the General Assembly.
 - (b) enter into an adoption assistance agreement as provided in this Rule.
 - (c) enter into a supplement agreement as provided in this Rule.
 - (d) maintain a record for the child that contains written documentation that the child and foster parent(s) have met or will meet the requirements for the foster child and the foster parents in this Rule at the time of the adoption decree and shall include the following:

- (i) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Agency Verification of Legal Custody and Child's Living Arrangement For Past Six Months" Form DSS-5214, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by the Director of the public adoption agency that verifies:
 - (A) each foster parent is licensed;
 - (B) the public adoption agency has legal custody and placement authority of the child;
 - (C) the child has lived with the foster family for six consecutive months prior to the adoption;
 - (D) that the foster parent(s) have received monthly cash assistance from a governmental source in excess of the standard board rate established by the General Assembly for the previous six months on a continuous basis and the amount of the payments; and
 - (E) the foster parent(s) have stated a willingness to adopt this child if the monthly cash assistance that they have received as foster parents is not terminated;
- (ii) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Verification of Child's Health Condition" Form DSS-5213, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by a medical professional, who is qualified through licensing and credentialing to diagnose the child's condition prior to the adoption that demonstrates that the child meets all the requirements in Item (1) of this Rule;
- (iii) a written statement on a form provided by the Department ("Special Children Adoption Incentive Fund Verification of Child's Need for Daily Supervision" Form DSS-5215, which may be accessed at <https://www.ncdhhs.gov/divisions/dss>) signed by the foster parent(s) prior to the adoption that demonstrates the child meets all the requirements in this Item;
- (iv) a letter from the foster parent(s) explaining the daily needs of the child;
- (v) a signed adoption assistance agreement;
- (vi) a signed supplement agreement;
- (vii) a copy of the foster parent's license;
- (viii) a copy of the decree of adoption once it has been received pursuant to this Rule;
- (ix) a copy of the results of the criminal investigation of the foster parents and any individual 18 years of age or older who resides in the prospective adoptive home; and
- (x) make a request, on behalf of the foster parent(s), prior to the adoption decree to the Department for Special Need Adoption Incentive Fund assistance for the foster parents.

History Note: Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153; Eff. August 1, 2021.

10A NCAC 70M .0702 PAYMENTS FROM THE SPECIAL NEED ADOPTION INCENTIVE FUND

- (a) Payments from the Special Need Adoption Incentive Fund will be made by the State Division of Social Services to the adoptive parent(s).
- (b) Participating county departments of social services shall submit claims for payments to the State Division of Social Services.
- (c) The initial payment claim must include the following items:
 - (1) verification of child's placement authority;
 - (2) verification that the child has lived with the foster family six consecutive months submitted on the "Living Arrangements for Past Six Months" Form DSS-5214;
 - (3) a copy of written statement from a licensed physician regarding the child's health condition;
 - (4) a copy of written statement from a licensed health, mental health, or developmental disability professional regarding the status of the child's condition;
 - (5) a copy of signed adoption assistance agreement;

- (6) a copy of signed supplemental assistance agreement; and
- (7) a copy of Decree of Adoption.
- (d) Monthly payment claims shall be submitted on the "Request for Special Children Adoption Incentive Fund Payment" Form DSS-5211, which may be accessed at <https://www2.ncdhhs.gov/info/olm/forms/dss/dss-5211-ia.pdf>.

History Note: Authority G.S. 108A-49; 108A-50; 108A-50.1; 143B-153;
Eff. August 1, 2021.

SUBCHAPTER 70N – DELINQUENCY PREVENTION

SECTION .0100 - SERVICE CRITERIA

- 10A NCAC 70N .0101 NATURE AND SCOPE**
- 10A NCAC 70N .0102 ELEMENTS OF SERVICE**

History Note: Authority G.S. 143B-153;
Eff. May 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1984;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A.

SUBCHAPTER 70O – SERVICES TO THE EMOTIONALLY DISTURBED

- 10A NCAC 70O .0101 SPECIAL ELIGIBILITY REQUIREMENTS**
- 10A NCAC 70O .0102 METHODS OF SERVICE PROVISION**
- 10A NCAC 70O .0103 CRITERIA FOR RESIDENTIAL TREATMENT**
- 10A NCAC 70O .0104 LIMITATIONS**

History Note: Authority G.S. 90-270.2; 143B-153;
Eff. July 23, 1979;
Amended Eff. April 1, 1983; October 1, 1980;
Transferred from T10.431.0602-.0605 Eff. July 1, 1983;
Amended Eff. June 1, 1990; July 1, 1984;
Expired Eff. November 1, 2017 pursuant to G.S. 150B-21.3A.

SUBCHAPTER 70P – GUARDIANSHIP ASSISTANCE PROGRAM

SECTION .0100 - GENERAL

- 10A NCAC 70P .0101 SCOPE**

This Subchapter contains guardianship assistance standards for county departments of social services, the public agencies in North Carolina mandated to provide guardianship services. Included are requirements that shall be met under Chapter 7B of the General Statutes and in administration of the Guardianship Assistance Program.

History Note: Authority G.S. 143B-153; S.L. 2015-241, s. 12C.4;
Eff. March 1, 2017.

- 10A NCAC 70P .0102 PURPOSE**

The Guardianship Assistance Program (GAP) provides financial assistance to caregivers who assume legal guardianship of a child in foster care as a means to achieve permanence for youth who are not being adopted or reunified.

History Note: Authority G.S. 7B-101(18b); 143B-153;
Eff. March 1, 2017.

10A NCAC 70P .0103 DEFINITIONS

The following definitions apply to this Chapter:

- (1) "Agency" means a child placing agency as defined in G.S. 131D-10.2(4) that is authorized by law to receive children for purposes of placement in residential group care, foster homes or adoptive homes.
- (2) "County DSS" means a county department of social services.
- (3) "Guardianship Assistance" means a monthly cash assistance payment no greater than the graduated amount set by G.S. 108A-49.1 from the Guardianship Assistance Program.
- (4) "Guardianship Assistance Agreement" is a binding agreement between the county DSS and legal guardian that establishes responsibilities of the agency and of the legal guardian during the time of the child's eligibility for guardianship assistance, specifies the monthly amount of guardianship assistance and the manner in which the payment may be provided to the legal guardian, and the circumstances under which guardianship assistance may be terminated.
- (5) "Legal Guardian" means an individual as defined in G.S. 7B-600 who is appointed by the court to serve as the guardian of the person for a juvenile. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including marriage, enlisting in the armed forces, and enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile.
- (6) "Legal Guardianship" shall be a legal relationship created when a person or persons are assigned by the court to take care of the minor child. This relationship is terminated only in the following circumstances:
 - (a) the court finds that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest;
 - (b) the court finds the guardian is unfit;
 - (c) the court finds the guardian has neglected a guardian's duties; or
 - (d) the guardian is unwilling or unable to continue assuming a guardian's duties.
- (7) "Licensed Home" means the private residence of one or more individuals who permanently reside as members of the household who have met all requirements for family foster home licensing in their state of residence and have been issued a license number in the state of North Carolina that remains active at the time of legal guardianship.
- (8) "Placement responsibility" is authority granted to the county DSS by the court to place a child in DSS custody in a licensed home or facility or any unlicensed home or facility approved by the court.

History Note: Authority G.S. 143B-153;
Eff. March 1, 2017.

10A NCAC 70P .0104 GUARDIANSHIP ASSISTANCE PROGRAM ELIGIBILITY

The following eligibility criteria shall be met in order to receive Guardianship Assistance:

- (1) A determination by the Court that reunification and adoption are not appropriate permanency options for the child;
- (2) The child was placed in the licensed home for a minimum of six months;
- (3) The child is the placement responsibility of a North Carolina county department of social services at the time of entry into the Guardianship Assistance Program;
- (4) The child is at least age 14 years but not older than age 18 years and demonstrates a strong attachment to the prospective guardian and has been consulted regarding the guardianship arrangement;
- (5) The prospective legal guardian has a strong commitment to caring permanently for the child and has entered into a guardianship assistance agreement with the county department of social services who holds custody of the child prior to the order granting legal guardianship; and

- (6) If the child was placed in a legal guardianship arrangement at the age of 16 years or 17 years, he or she remains eligible to receive Guardianship Assistance until 21 years of age if, upon turning 18 years of age, he or she meets any of the following conditions:
- (a) Completing secondary education or a program leading to an equivalent credential;
 - (b) Enrolled in an institution that provides post-secondary or vocational education;
 - (c) Participating in a program or activity designed to promote or remove barriers to employment;
 - (d) Employed for at least 80 hours per month; or
 - (e) Is incapable of doing any of the previously described educational or employment activities due to a medical condition or disability.

History Note: Authority G.S. 143B-153; 42 U.S.C. 671;
Eff. March 1, 2017.

10A NCAC 70P .0105 GUARDIANSHIP ASSISTANCE PROGRAM REQUIREMENTS

- (a) Guardianship Assistance benefits for a child shall become effective the first month following the month that legal guardianship is approved by the court.
- (b) Claims for monthly GAP assistance shall be reimbursed in accordance with the Department of Health and Human Services county department of social services reimbursement process set forth in 10A NCAC 70M .0403 and G.S. 108A-49.

History Note Authority G.S. 143B-153;
Eff. March 1, 2017.