

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 70I .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.

10A NCAC 70I .0614 CRITICAL INCIDENTS AND CRITICAL INCIDENT REPORTS

- (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.

10A NCAC 70I .0615 SEARCHES

- (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

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|---------------------------|------------------------------------|
| 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

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.*