

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services

RULE CITATION: 10A NCAC 27G .0104

DEADLINE FOR RECEIPT: December 8, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On the form, you've checked "Approved by OSBM". In the register, it appears you checked "Approved by OSBM" and "No fiscal note required". Can you clarify the agency's position here? Did you do a fiscal note and get OSBM approval? And what was the fiscal impact at issue (state funds, local funds, substantial economic impact)? Or is there a typo on the form?

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Regarding items 10 and 11, on page 2 lines 22 through 35, are these new definitions for terms in existing rules? Or for forthcoming rules? The terms do not appear to be used in the context of the two rules currently before the RRC.

In the history note, on page 4 line 27, why is S.L. 2019-240 included? It looks like that session law made changes to codified statutes, in which case there is no need to reference the session law.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: November 29, 2023

1 **RULE 10A NCAC 27G .0104 IS AMENDED UNDER PERMANENT PROCEDURES AS FOLLOWS.**

2
3 **10A NCAC 27G .0104 STAFF DEFINITIONS**

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

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

7 (a) graduate of a college or university with a masters degree in a human service field with
8 less than one year of full-time, post-graduate degree accumulated mh/dd/sa experience
9 with the population served, or a substance abuse professional with less than one year of
10 full-time, post-graduate degree accumulated supervised experience in alcoholism and
11 drug abuse counseling. Supervision shall be provided by a qualified professional with the
12 population served until the individual meets one year of experience. The supervisor and
13 the employee shall develop an individualized supervision plan upon hiring. The parties
14 shall review the plan annually; ~~or~~

15 (b) graduate of a college or university with a bachelor's degree in a human service field with
16 less than two years of full-time, post-bachelor's degree accumulated mh/dd/sa experience
17 with the population served, or a substance abuse professional with less than two years of
18 full-time, post-bachelor's degree accumulated supervised experience in alcoholism and
19 drug abuse counseling. Supervision shall be provided by a qualified professional with the
20 population served until the individual meets two years of experience. The supervisor and
21 the employee shall develop an individualized supervision plan upon hiring. The parties
22 shall review the plan annually; ~~or~~

23 (c) graduate of a college or university with a bachelor's degree in a field other than human
24 services with less than four years of full-time, post-bachelor's degree accumulated
25 mh/dd/sa experience with the population served, or a substance abuse professional with
26 less than four years of full-time, post-bachelor's degree accumulated supervised
27 experience in alcoholism and drug abuse counseling. Supervision shall be provided by a
28 qualified professional with the population served until the individual meets four years of
29 experience. The supervisor and the employee shall develop an individualized supervision
30 plan upon hiring. The parties shall review the plan annually; or

31 (d) registered nurse who is licensed to practice in the State of North Carolina by the North
32 Carolina Board of Nursing with less than four years of full-time accumulated experience
33 in mh/dd/sa with the population served. Supervision shall be provided by a qualified
34 professional with the population served until the individual meets four years of
35 experience. The supervisor and the employee shall develop an individualized supervision
36 plan upon hiring. The parties shall review the plan annually.

- 1 (2) "Certified clinical supervisor (CCS)" means an individual who is certified as such by the North
2 Carolina ~~Addictions Specialist~~ Substance Abuse Professional Practice Board.
- 3 (3) "Certified criminal justice addictions professional (CCJP)" means an individual who is certified as
4 such by the North Carolina ~~Addictions Specialist~~ Substance Abuse Professional Practice Board.
- 5 (4) "Certified ~~substance abuse counselor (CSAC)~~ alcohol and drug counselor" means an individual
6 who is certified as such by the North Carolina ~~Addictions Specialist~~ Substance Abuse Professional
7 ~~Certification~~ Practice Board.
- 8 (5) "Certified substance abuse prevention ~~consultant (CSAPC)~~ specialist" means an individual who
9 is certified as such by the North Carolina ~~Addictions Specialist~~ Substance Abuse Professional
10 Practice Board.
- 11 (6) "Clinical" means having to do with the ~~active direct treatment/habilitation~~ treatment or habilitation
12 of a client.
- 13 (7) "Clinical staff member" means a qualified professional or associate professional who provides
14 ~~active direct treatment/habilitation~~ treatment or habilitation to a client.
- 15 (8) ~~Clinical/professional~~ "Clinical or professional supervision" means regularly scheduled assistance
16 by a qualified professional or associate professional to a staff member who is providing direct,
17 therapeutic intervention to a client or clients. The purpose of clinical supervision is to ensure that
18 each client receives treatment or habilitation ~~which~~ that is consistent with accepted standards of
19 practice and the needs of the client.
- 20 (9) "Clinical social worker" means a social worker who is licensed as such by the N.C. Social Work
21 Certification and Licensure Board.
- 22 (10) "Direct Support Professional" means an individual who has a GED or high school diploma hired
23 to provide intellectual disability, developmental disability, or traumatic brain injury services.
24 Supervision shall be provided by a qualified professional with experience with the population
25 served. The supervisor and the employee shall develop an individualized supervision plan upon
26 hiring and shall review it annually thereafter.
- 27 ~~(10)~~(11) "Director" means the individual who is responsible for the operation of the facility.
- 28 (12) "Family Partner" means an individual hired to provide direct engagement, support, and advocacy
29 to the family of each child and adolescent served in a Psychiatric Residential Treatment Facility.
30 A Family Partner shall meet the criteria for a Paraprofessional as defined in this Rule, have lived
31 experience as a primary caregiver for a child or adolescent with a mental health disorder, a
32 substance use disorder, intellectual disorder, or developmental disability. A Family Partner shall
33 achieve certification as a Family Peer Specialist by the National Federation of Families for
34 Children with Mental Illness within 18 months of hire and shall maintain active certification while
35 in this role.
- 36 ~~(11)~~(13) "Licensed Clinical Addictions Specialist (LCAS)" means an individual who is licensed as such by
37 the North Carolina ~~Addictions Specialist~~ Substance Abuse Professional Practice Board.

1 ~~(12)~~(14) "Licensed clinician" means an individual with ~~full~~ clinical licensure awarded by the State of North
2 Carolina, as a physician, licensed psychologist, licensed psychological associate, licensed clinical
3 social worker, licensed professional counselor, licensed marriage and family therapist, or licensed
4 clinical addictions specialist. "Licensed clinician" also includes an individual with ~~full~~ clinical
5 licensure and certification as a certified clinical nurse specialist in psychiatric mental health
6 advanced practice, or a certified nurse practitioner in psychiatric mental health advanced practice.

7 ~~(13)~~(15) "Licensed Clinical Mental Health~~professional~~ counselor (LPC)" (LCMHC)" means a counselor
8 who is licensed as such by the North Carolina Board of Licensed Clinical Mental
9 Health~~Professional~~ Counselors.

10 ~~(14)~~(16) "Nurse" means a person licensed to practice in the State of North Carolina either as a registered
11 nurse or as a licensed practical nurse.

12 ~~(15)~~(17) "Paraprofessional" within the mh/dd/sas system of care means an individual who, with the
13 exception of staff providing respite services or personal care services, has a GED or high school
14 diploma; ~~those or no GED or high school diploma,~~ employed prior to November 1, 2001 to
15 provide a mh/dd/sa ~~service.~~ service are not required to have a GED or high school diploma.
16 Supervision shall be provided by a qualified professional or associate professional with the
17 population served. The supervisor and the employee shall develop an individualized supervision
18 plan upon hiring. The parties shall review the plan annually.

19 ~~(16)~~(18) "Psychiatrist" means an individual who is licensed to practice medicine in the State of North
20 Carolina and who has completed a training program in psychiatry accredited by the Accreditation
21 Council for Graduate Medical Education.

22 ~~(17)~~(19) "Psychologist" means an individual who is licensed to practice psychology in the State of North
23 Carolina as either a licensed psychologist or a licensed psychological associate.

24 ~~(18)~~(20) "Qualified client record manager" means an individual who is a graduate of a curriculum
25 accredited by the Council on Medical Education and Registration of the American Health
26 Information Management Association and who is currently registered or accredited by the
27 American Health Information Management Association.

28 ~~(19)~~(21) "Qualified professional" means, within the mh/dd/sas system of ~~care:~~ care either:

- 29 (a) an individual who holds a license, provisional license, ~~or certificate~~certificate,
30 ~~registration or permit~~ issued by the governing board regulating a human service
31 profession, ~~except~~including a registered nurse who is licensed to practice in the State of
32 North Carolina by the North Carolina Board of Nursing who also has four years of full-
33 time accumulated experience in mh/dd/sa with the population served; ~~or~~
34 (b) a graduate of a college or university with a Masters degree in a human service field and
35 has one year of full-time, pre- or post-graduate degree accumulated supervised mh/dd/sa
36 experience with the population served, or a substance abuse professional who has one

1 year of full-time, pre- or post-graduate degree accumulated supervised experience in
2 alcoholism and drug abuse counseling; ~~or~~

3 (c) a graduate of a college or university with a bachelor's degree in a human service field and
4 has two years of full-time, pre- or post-bachelor's degree accumulated supervised
5 mh/dd/sa experience with the population served, or a substance abuse professional who
6 has two years of full-time, pre- or post-bachelor's degree accumulated supervised
7 experience in alcoholism and drug abuse counseling; or

8 (d) a graduate of a college or university with a bachelor's degree in a field other than human
9 services and has four years of full-time, pre- or post-bachelor's degree accumulated
10 supervised mh/dd/sa experience with the population served, or a substance abuse
11 professional who has four years of full-time, pre- or post-bachelor's degree accumulated
12 supervised experience in alcoholism and drug abuse counseling.

13 ~~(20)~~(22) "Qualified substance abuse prevention professional (QSAPP)" ~~means~~, within the mh/dd/sas
14 system of ~~care~~: care, means either:

15 (a) a graduate of a college or university with a masters degree in a human service field and
16 has one year of full-time, post-graduate degree accumulated supervised experience in
17 substance abuse prevention; ~~or~~

18 (b) a graduate of a college or university with a bachelor's degree in a human service field and
19 has two years of full-time, post-bachelor's degree accumulated supervised experience in
20 substance abuse prevention; ~~or~~

21 (c) a graduate of a college or university with a bachelor's degree in a field other than human
22 services and has four years of full-time, post bachelor's degree accumulated supervised
23 experience in substance abuse prevention; or

24 (d) a substance abuse prevention professional who is certified as a Certified ~~Substance Abuse~~
25 Prevention ~~Consultant (CSAPC)~~ Specialist by the North Carolina Addictions Specialist
26 ~~Substance Abuse~~-Professional Practice Board.

27
28 *History Note: Authority G.S. 122C-3; 122C-25; 122C-26; 143B-147; S.L. 2017-32; S.L. 2019-240;*

29 *Eff. May 11, 1996;*

30 *Temporary Amendment Eff. January 1, 2001;*

31 *Temporary Amendment Expired October 13, 2001;*

32 *Temporary Amendment Eff. November 1, 2001;*

33 *Amended Eff. February 1, 2009; October 1, 2004; April 1, 2003;*

34 *Temporary Amendment Eff. March 1, 2019;*

35 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 20,*
36 *2019;*

37 *Temporary Amendment Expired Eff. December 10, ~~2019~~-2019;*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services

RULE CITATION: 10A NCAC 28A .0102

DEADLINE FOR RECEIPT: December 8, 2023

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Your incorporations in this rule are missing an element. Those are items (b)(1), (b)(17), (b)(31), (b)(32). Per G.S. 150B-21.6, the rule must specify where the incorporated material can be obtained and the cost of obtaining a copy. The CFR is freely available online, so this can be resolved by adding language to each of the incorporations: "Copies of the Code of Federal Regulations may be obtained at no cost by accessing the website of the U.S. Government Printing Office at <http://www.gpoaccess.gov/cfr/index.html>." Appendix 2 of the style guide shows a couple of other ways you can do it if you need examples: <https://www.oah.nc.gov/documents/rules/administrative-rule-style-guide-updated-april-2021/download>.

In the history note, on page 4 line 28, why is S.L. 2019-240 included? It looks like that session law made changes to codified statutes, in which case there is no need to reference the session law.

Seth Ascher
Commission Counsel

Date submitted to agency: November 29, 2023

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: November 29, 2023

1 **RULE 10A NCAC 28A .0102 IS AMENDED UNDER PERMANENT PROCEDURES AS FOLLOWS.**

2
3 **10A NCAC 28A .0102 DEFINITIONS**

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

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

8 (1) "Abuse" means the same as defined in 42 CFR Part 488 Subpart E, which is incorporated by
9 reference, including subsequent amendments, infliction of physical or mental pain or injury by
10 other than accidental means; or unreasonable confinement; or the deprivation by an employee of
11 services which are necessary to the mental and physical health of the client. Temporary discomfort
12 that is part of an approved and documented treatment plan or use of a documented emergency
13 procedure shall not be considered abuse.

14 (2) "Associate Professional (AP)" within the mental health, developmental disabilities and substance
15 abuse services (mh/dd/sas) system of care means an individual who is either a:

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

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

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

- 1 (D) registered nurse who is licensed to practice in the State of North Carolina by the North
2 Carolina Board of Nursing with less than four years of full-time accumulated experience
3 in mh/dd/sa with the population served. Upon hiring, an individualized supervision plan
4 shall be developed and reviewed annually. Supervision shall be provided by a qualified
5 professional with the population served until the individual meets four years of
6 experience.
- 7 (3) "Basic necessities" mean the essential items or substances needed to support life and health which
8 include, but are not limited to, a nutritionally sound diet balanced during three meals per day,
9 access to water and bathroom facilities at frequent intervals, seasonable clothing, medications to
10 control seizures, diabetes and other like physical health conditions, and frequent access to social
11 contacts.
- 12 (4) "Certified clinical supervisor (CCS)" means an individual who is certified as such by the North
13 Carolina Addictions Specialist Professional Practice Substance Abuse Professional Certification
14 Board.
- 15 (5) "~~certified substance abuse counselor (CSAC)~~ alcohol and drug counselor" means an individual
16 who is certified as such by the North Carolina Addictions Specialist Substance Abuse Professional
17 Practice Certification Board.
- 18 (6) "Client" has the same meaning assigned in G.S. § 133C-3. "Client" may also be referred to as a
19 patient or resident.
- 20 ~~(6)~~(7) "Client record" means any record made of confidential ~~information.~~ information as defined G.S. §
21 122C-3.
- 22 ~~(7)~~(8) "Clinical Director" means Medical Director, Director of Medical Services or such person acting in
23 the position of Clinical Director, or his designee.
- 24 ~~(8)~~(9) "Clinically competent" means authorization by the State Facility Director for a qualified
25 professional to provide specific ~~treatment/habilitation~~ treatment or habilitation services to clients
26 based on the professional's education, training, experience, competence and judgment.
- 27 ~~(9)~~(10) "Consent" means concurrence by a client or his legally responsible person following receipt of
28 information from the qualified professional who will administer the proposed treatment or
29 procedure. Informed consent implies that the client or his legally responsible person was provided
30 with information concerning proposed treatment, including both benefits and risks, in order to
31 make an educated decision with regard to such treatment.
- 32 ~~(10)~~(11) "Dangerous articles or substances" mean, but are not limited to, any weapon or potential weapon,
33 heavy blunt object, sharp objects, potentially harmful chemicals, or drugs of any sort, including
34 alcohol.
- 35 (12) "Division" means the Division of State Operated Healthcare Facilities.
- 36 ~~(11)~~(13) "Division Director" means the Director of the Division or his designee.

- 1 ~~(12)~~(14) "Emergency" means a situation in a state facility in which a client is in imminent danger of
2 causing abuse or injury to self or others, or when substantial property damage is occurring as a
3 result of unexpected and severe forms of inappropriate behavior, and rapid intervention by the
4 staff is needed. ~~[See Subparagraph (b)(25) of this Rule for definition of medical emergency].~~
- 5 ~~(13)~~(15) "Emergency surgery" means an operation or surgery performed in a medical ~~emergency~~ ~~[as~~
6 emergency, as defined in Subparagraph (b)(25) of this Rule] Rule, where informed consent cannot
7 be obtained from an authorized person, as specified in G.S. 90-21.13, because the delay would
8 seriously worsen the physical condition or endanger the life of the client.
- 9 ~~(14)~~(16) "Exclusionary time-out" means the removal of a client to a separate area or room from which exit
10 is not barred for the purpose of modifying behavior.
- 11 ~~(15)~~(17) "Exploitation" means the same as defined in 42 CFR Part 483 Subpart B, which is incorporated by
12 reference, including subsequent amendments, use of a client or her/his resources, including
13 borrowing, taking or using personal property with or without her/his permission for another
14 person's profit, business or advantage.
- 15 ~~(16)~~(18) "Forensic Division" means the ~~units~~ units at Dorothea Dix Hospital any State hospital designated in
16 accordance with G.S. § 122C-252 which serves clients who are:
17 (A) admitted for the purpose of evaluation for capacity to proceed to trial;
18 (B) found not guilty by reason of insanity;
19 (C) determined incapable of proceeding to ~~trial; or~~ trial.
20 (D) ~~deemed to require a more secure environment to protect the health, safety and welfare of~~
21 ~~clients, staff and the general public.~~
- 22 ~~(17)~~(19) "Grievance" means a verbal or written complaint by or on behalf of a client concerning a situation
23 that occurred within the ~~jurisdiction of the~~ state facility. A grievance does not include complaints
24 that can be resolved without delay by staff present. A complaint that is not resolved shall be filed
25 and processed in accordance with the requirements of 10A NCAC 28B .0203.
- 26 ~~(18)~~(20) "Human Rights Committee" means a committee, appointed by the Secretary, to act in a capacity
27 regarding the protection of client rights.
- 28 ~~(19)~~(21) "Independent psychiatric consultant" means a licensed psychiatrist not on the staff of the state
29 facility in which the client is being treated. The psychiatrist may be in private practice, ~~or~~ be
30 employed by another state facility, or be employed by a facility other than a state facility as
31 defined in G.S. 122C-3(14).
- 32 ~~(20)~~(22) "Interpreter services" means specialized communication services provided for the hearing
33 impaired by interpreters certified by the National Registry of Interpreters for the Deaf or the
34 National Association of the Deaf.
- 35 ~~(21)~~(23) "Involuntary client" means a person admitted to any regional psychiatric hospital or ~~alcoholic~~
36 ~~rehabilitation center~~ alcohol and drug abuse treatment center under the provisions of Article 5,
37 Parts 7, 8 or 9 of G.S. 122C and ~~includes~~ includes, but ~~it~~ is not limited ~~to~~ to, clients detained

1 pending a district court hearing and clients involuntarily committed after a district court hearing.
2 This term shall also include individuals who are defendants in criminal actions and are being
3 evaluated in a state facility for mental responsibility or mental competency as a part of such
4 criminal proceedings as specified in G.S. ~~15A-1002~~ 15A-1002, unless a valid order providing
5 otherwise is issued from a court of competent ~~jurisdiction~~ jurisdiction, and the civil commitment
6 of defendants found not guilty by reason of insanity as specified in G.S. 15A-1321.

7 ~~(22)~~(24) "Isolation time-out" means the removal of a client to a separate room from which exit is barred ~~but~~
8 ~~which is not locked and~~ where there is ~~continuous~~ direct, uninterrupted supervision by staff for the
9 purpose of modifying behavior. "Isolation time-out" does not include precautions intended to
10 prevent transmission of a communicable disease.

11 (25) "Licensed Clinical Addiction Specialist (LCAS)" means an individual who is certified as such by
12 the North Carolina Addictions Specialist Professional Practice Board.

13 ~~(23)~~(26) "Licensed ~~Clinical Mental health~~professional counselor (LPC)" (LCMHC)" means a counselor
14 who is licensed as such by the North Carolina Board of Licensed Clinical Mental Health
15 Professional Counselors.

16 ~~(24)~~(27) "Major physical injury" means damage caused to the body resulting in profuse bleeding or
17 contusion of tissues; fracture of a bone; damage to internal organs; loss of consciousness; loss of
18 normal neurological function (inability to move or coordinate movement); or any other painful
19 condition caused by such injury.

20 ~~(25)~~(28) "Medical emergency" means a situation where the client is unconscious, ill, or injured, and the
21 ~~reasonably apparent~~ circumstances require prompt immediate decisions and actions in medical or
22 ~~other health care, care related decisions and actions to prevent the worsening of the necessity of~~
23 ~~immediate health care treatment is so reasonably apparent that any delay in the rendering of the~~
24 ~~treatment would seriously worsen the physical condition~~ condition, or endanger the ~~life~~ life of the
25 client.

26 ~~(26)~~(29) "Minimal risk research" means that the risks of harm anticipated in the proposed research are not
27 greater, considering probability and magnitude, than those ~~ordinarily~~ encountered in daily life or
28 during the performance of routine physical or psychological examinations or tests.

29 ~~(27)~~(30) "Minor client" means a person under 18 years of age who ~~has not been married or who has not~~
30 ~~been emancipated by a decree issued by a court of competent jurisdiction or is not a member of the~~
31 ~~armed forces.~~

32 (A) has not been married; or

33 (B) has not been emancipated by a decree issued by a court of competent jurisdiction; or

34 (C) is not a member of the armed forces.

35 (31) "Misappropriation of resident property" means the same as defined by 42 CFR Part 488 Subpart
36 E, incorporated by reference, including subsequent amendments.

1 ~~(28)~~(32) "Neglect" means the same as defined by 42 CFR Part 488 Subpart E, incorporated by reference,
2 including subsequent amendments, failure to provide care or services necessary to maintain the
3 mental and physical health of the client.

4 ~~(29)~~(33) "Normalization" means the principle of helping the client to obtain an existence as close to normal
5 as possible, taking into consideration the client's disabilities and potential, by making available to
6 him patterns and conditions of everyday life that are as close as possible to the norms and patterns
7 of the mainstream of society.

8 ~~(30)~~(34) "Paraprofessional" within the mh/dd/sa system of care means an individual who, with the
9 exception of staff providing respite services or personal care services, has a GED or high school
10 diploma; an individual or no GED or high school diploma, employed prior to November 1, 2001
11 to provide a mh/dd/sa ~~service.~~ service is not required to have a GED or high school diploma.
12 Upon hiring, an individualized supervision plan shall be developed and supervision shall be
13 provided by a qualified professional or associate professional with the population served.

14 ~~(31)~~(35) "Person standing in loco parentis" means one who has put himself in the place of a lawful parent
15 by assuming the rights and obligations of a parent without formal adoption.

16 ~~(32)~~(36) "Physical Restraint" means the application or use of any manual method of restraint that restricts
17 freedom of movement, or the application or use of any physical or mechanical device that restricts
18 freedom of movement or normal access to one's body, including material or equipment attached or
19 adjacent to the client's body that he or she cannot easily remove. Holding a client in a therapeutic
20 hold or any other manner that restricts his or her movement constitutes manual restraint for that
21 client. Mechanical devices may restrain a client to a bed or chair, or may be used as ambulatory
22 restraints. Examples of mechanical devices include cuffs, ankle straps, sheets or restraining shirts,
23 arm splints, mittens and helmets. Excluded from this definition of physical restraint are physical
24 guidance, gentle physical prompting techniques, escorting and therapeutic holds used solely for
25 the purpose of escorting a client who is walking, soft ties used solely to prevent a medically ill
26 client from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar
27 medical devices, and prosthetic devices or assistive technology which are designed and used to
28 increase client adaptive skills. Escorting means the temporary touching or holding of the hand,
29 wrist, arm, shoulder or back for the purpose of inducing a client to walk to a safe location.

30 ~~(33)~~(37) "Protective devices" means an intervention ~~which that~~ provides support for ~~weak and feeble~~
31 clients or enhances the safety of clients with specific medical or behavioral needs, behaviorally
32 ~~disordered clients.~~ Such devices may include posey vests, geri-chairs or table top chairs to provide
33 support and safety for clients with physical handicaps, disabilities; devices such as helmets and
34 mittens for self-injurious behaviors; or devices such as soft ties used to prevent medically ill
35 clients from removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or
36 similar medical devices. As provided in Rule .0207 of Subchapter 28D, the use of a protective

1 device for behavioral control shall comply with the requirements specified in Rule .0203 of
2 Subchapter 28D.

3 ~~(34)~~(38) "Psychotropic medication" means medication with the primary function of treating mental illness,
4 personality or behavior disorders. It includes, but is not limited to, antipsychotics, antidepressants,
5 antianxiety agents and mood stabilizers.

6 ~~(35)~~(39) "Qualified professional" means, within the mh/dd/sas system of care, an individual who ~~is~~ is
7 either:

8 (A) an individual who holds a license, provisional license, or certificate ~~certificate,~~
9 ~~registration or permit~~ issued by the governing board regulating a human service
10 profession, ~~except~~ including a registered nurse who is licensed to practice in the State of
11 North Carolina by the North Carolina Board of Nursing who also has four years of full-
12 time accumulated experience in mh/dd/sa with the population served; ~~or~~

13 (B) a graduate of a college or university with a Masters degree in a human service field and
14 has one year of full-time, pre- or post-graduate degree accumulated supervised mh/dd/sa
15 experience with the population served, or a substance abuse professional who has one-
16 year of full-time, pre- or post-graduate degree accumulated supervised experience in
17 alcoholism and drug abuse counseling; ~~or~~

18 (C) a graduate of a college or university with a bachelor's degree in a human service field and
19 has two years of full-time, pre- or post-bachelor's degree accumulated supervised
20 mh/dd/sa experience with the population served, or a substance abuse professional who
21 has two years of full-time, pre- or post-bachelor's degree accumulated supervised
22 experience in alcoholism and drug abuse counseling; or

23 (D) a graduate of a college or university with a bachelor's degree in a field other than human
24 services and has four years of full-time, pre- or post-bachelor's degree accumulated
25 mh/dd/sa experience with the population served, or a substance abuse professional who
26 has four years of full-time, pre- or post-bachelor's degree accumulated supervised
27 experience in alcoholism and drug abuse counseling.

28 ~~(36)~~(40) "Regional alcohol and drug abuse treatment center" means a state facility for persons with a
29 substance abuse disorder ~~substance abusers~~ as specified in G.S. 122C-181(a)(3).

30 ~~(37)~~(41) "Regional ~~mental retardation~~ developmental disability center" means a state facility for the
31 ~~mentally retarded~~ developmentally disabled as specified in G.S. 122C-181(a)(2).

32 ~~(38)~~(42) "Regional psychiatric hospital" means a state facility for the mentally ill as specified in G.S.
33 122C-181(a)(1).

34 ~~(39)~~(43) "Representative payee" means the person, group, or facility designated by a funding source, such
35 as Supplemental Security Income (SSI), to receive and handle funds according to the guidelines of
36 the source on behalf of a client.

1 (40)(44) "Research" means inquiry involving a trial or ~~special~~ observation made under conditions
2 determined by the investigator to confirm or disprove an hypothesis or to explicate some principle
3 or effect.

4 (41)(45) "Respite client" means a client admitted to a ~~mental retardation~~ developmental disability center or
5 a neuromedical treatment center for a short-term period, ~~normally~~ not to exceed 30 days. The
6 primary purpose of such admission is to provide a temporary interval of rest or relief for the
7 client's regular caretaker.

8 (42)(46) "Responsible professional" shall have the meaning as specified in G.S. ~~122C-3~~ 122C-3; ~~except~~ the
9 "responsible professional" shall also be a qualified professional as defined in Subparagraph (b)(35)
10 of this Rule.

11 (43)(47) "Seclusion" means isolating a client in a separate locked room for the purpose of
12 ~~controlling~~managing a client's behavior. "Seclusion" does not include precautions intended to
13 prevent transmission of a communicable disease. In the Forensic Service, Pretrial Evaluation Unit
14 and the Forensic Treatment Program Maximum Security Ward in the ~~Spruill Building at Dorothea~~
15 ~~Dix~~ Central Regional Hospital, the use of locked rooms is not considered seclusion for clients with
16 criminal charges who are:

- 17 (A) undergoing pretrial evaluations ordered by a criminal court;
- 18 (B) in treatment for restoration of capacity to proceed;
- 19 (C) in treatment to reduce violence risk; or
- 20 (D) considered to be an escape risk.

21 (44)(48) "State Facility Director" means the chief administrative officer or manager of a state facility or his
22 designee.

23 (45)(49) "Strike" means, but is not limited to, hitting, kicking, slapping or beating whether done with a part
24 of one's body or with an object.

25 (46)(50) "Timeout" means the removal of a client from other clients to another space within the same
26 activity area for the purpose of modifying behavior.

27 (47)(51) "Treatment" means the act, method, or manner of habilitating or rehabilitating, caring for or
28 managing a client's physical or mental problems.

29 (48)(52) "Treatment plan" means a written individual plan of treatment or habilitation for each client to be
30 undertaken by the treatment team and includes any documentation of restriction of client's rights.

31 (49)(53) "Treatment team" means an interdisciplinary group of qualified professionals sufficient in number
32 and variety by discipline to ~~adequately~~ assess and address the identified needs of the client.

33 (50)(54) "Unit" means an integral component of a state facility ~~distinctly~~ established for the delivery of one
34 or more elements of service to which specific staff and space are assigned, and for which
35 responsibility has been assigned to a director, supervisor, administrator, or manager.

36 (51)(55) "Voluntary client" means a person admitted to a state facility under the provisions of Article 5,
37 Parts 2, 3, 4 or 5 of G.S. 122C.

1 *History Note: Authority G.S. 122C-3; 122C-4; 122C-51; 122C-53(f); 143B-147; S.L. 2017-32; S.L. 2019-240;*
2 *Eff. October 1, 1984;*
3 *Amended Eff. June 1, 1990; April 1, 1990; July 1, 1989;*
4 *Temporary Amendment Eff. January 1, 1998;*
5 *Amended Eff. April 1, 1999;*
6 *Temporary Amendment Eff. January 1, 2001;*
7 *Temporary Amendment Expired October 13, 2001;*
8 *Temporary Amendment Eff. November 1, 2001;*
9 *Amended Eff. April 1, 2003;*
10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*
11 *2017;*
12 *Temporary Amendment Eff. March 1, 2019;*
13 *Temporary Amendment Expired Eff. December 10, ~~2019-2019~~;*
14 *Amended Eff. January 1, 2024*