

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0102

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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:

In (3), line 9, doesn't "baseline health" also include "mental health?" If so, please delete "or mental health" as it's unnecessary.

In (3), line 9, are the words "change of" and "in the symptoms" necessary? Are these words superfluous?

In (6), what is your agency's authority to circumvent the educational requirements for the listed positions?

In (13) line 26, please delete "that may be" as those words are unclear and unnecessary.

In (13) line 27, please delete the comma after "arranging."

In (14) line 29, please delete "that may be" as those words are unclear and unnecessary.

In (14) lines 30-31, please replace the comma after "rooms" with a period and delete "sweeping, vacuuming, dusting, mopping, collecting, and disposing of trash" as they are included in "cleaning and sanitizing."

In (15) lines 32-33, add a comma after "including" and the first "to" in line 33.

In (16) lines 37-38, delete the last "s" in "supports." Delete "state of health, throughout which time" and replace with "health condition, such as when."

In (26) line 23, consider adding "have" before "access."

In the History Note, why is 143B-153 listed as Authority for this Rule?

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

Travis Wiggs
Commission Counsel

Date submitted to agency: May 22, 2024

10A NCAC 13F .0102 is adopted as published in 38:11 NCR 662-677 as follows:

10A NCAC 13F .0102 LIST OF DEFINITIONS

As used in this Subchapter, the following definitions shall apply:

- (1) “Abuse” means the term as defined in G.S. 131D-2.1.
- (2) “Activities of daily living” or “ADL’s” means eating, dressing, bathing, toileting, bowel and bladder control, transfers, ambulation, and communication.
- (3) “Acute care needs” means symptoms or a condition that develops quickly and is not a part of the resident’s baseline health or mental health status or is a change or worsening in the symptoms of a resident’s chronic condition, which may have a slower onset and worsen over time.
- (4) “Administrator” means the term as defined in G.S. 90-288.13 and G.S. 131D-2.1.
- (5) “Adult care home” means the term as defined in G.S. 131D-2.1.
- (6) “Alternative examination” means a test developed and administered by the Department to meet the educational requirements of an activity director, administrator-in-charge, manager, or personal care aide supervisor for those applicants who do not possess a high school diploma or General Education Diploma (G.E.D.) prior to September 1, 2024.
- (7) “Aide duty” means time spent by qualified staff providing assistance with activities of daily living, medication administration, or supervision of residents as determined by the resident’s assessment, care plan, physician’s orders, and current symptoms.
- (8) “Department” means the North Carolina Department of Health and Human Services.
- (9) “Discharge” means a resident’s termination of their residency at the adult care home, resulting in the resident’s move to another location.
- (10) “Exploitation” means the term as defined in G.S. 131D-2.1.
- (11) “Facility” means a licensed adult care home.
- (12) “First shift” means the hours of work between 7:01 a.m. and 3:00 p.m.
- (13) “Food service duties” means tasks that may be performed by staff related to serving meals to residents, including assisting with food preparation, arranging, and setting the dining tables, serving food and beverages, and cleaning the dining room after meal service is complete.
- (14) “Housekeeping duties” means tasks that may be performed by staff such as cleaning and sanitizing facility common areas and resident rooms, sweeping, vacuuming, dusting, mopping, collecting, and disposing of trash.
- (15) “Legal representative” means a person authorized by state or federal law (including but not limited to power of attorney, legal guardian, or representative payee) to act on behalf of the resident to support the resident in decision-making; access medical, social, or other personal information of the resident; and manage financial matters or receive notifications.
- (16) “Long-term care” means a continuum of care and services available in an individual's community that provides the care and supports required during a persistent or chronic state of health, throughout

- 1 which time a person is unable to independently perform some or all activities of daily living or
2 requires supervision due to physical or cognitive impairment.
- 3 (17) “Manager” means an individual responsible for the day-to-day operation of an adult care home in
4 the absence of the administrator and under the direction and supervision of the administrator as
5 described in Rule .0402 of this Subchapter.
- 6 (18) “Medication aide” means an individual who administers medications to residents and meets all
7 requirements as set forth in Rule .0403 of this Subchapter.
- 8 (19) “Neglect” means the term as defined in G.S. 131D-2.1.
- 9 (20) “On-call” means able to be contacted by two-way telecommunication.
- 10 (21) “On-duty” in reference to an administrator means the administrator is on-site and directly
11 responsible for the day-to-day operations of a facility. “On-duty” in reference to a manager means
12 a manager designated by the administrator as required in Rule .0402 of this Subchapter and who is
13 on-site and directly responsible for the day-to-day operations of a facility under the direction and
14 supervision of the administrator.
- 15 (22) “Personal care aide” means a staff member who performs personal care services as defined by G.S.
16 131D-2.1.
- 17 (23) “Physical restraint” means any physical or mechanical device attached to or adjacent to the
18 resident’s body that the resident cannot remove easily, and which restricts freedom of movement or
19 normal access to one’s body.
- 20 (24) “Physician extender” means a licensed physician assistant or a licensed nurse practitioner.
- 21 (25) “Resident” means the term as defined in G.S. 131D-2.1.
- 22 (26) “Responsible person” means a person chosen by the resident to act on their behalf to support the
23 resident in decision-making; access to medical, social, or other personal information of the resident;
24 manage financial matters; or receive notifications.
- 25 (27) “Second shift” means the hours of work between 3:01 p.m. and 11:00 p.m.
- 26 (28) “Staff” means any person who performs duties as an employee, paid or unpaid, on behalf of the
27 adult care home.
- 28 (29) “Supervision” means oversight, monitoring, and interventions implemented by the facility for the
29 purpose of mitigating the risk of an accident, incident, illness, or injury to a resident to ensure the
30 health, safety, and welfare of the resident and other residents.
- 31 (30) “Supervisor” means a personal care aide supervisor as defined in Rule .0609 of this Subchapter.
- 32 (31) “Third shift” means the hours of work between 11:01 p.m. and 7:00 a.m.

34 *History Note: Authority G.S. 131D-2.16; 143B-153;*
35 *Eff. September 1, 2024.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0402

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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:

In (2) line 11, what is your agency's authority to administer "the alternative examination established by the Department?"

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

Travis Wiggs
Commission Counsel
Date submitted to agency: May 22, 2024

10A NCAC 13F .0402 is readopted with changes as published in 38:11 NCR 662-677 as follows:

10A NCAC 13F .0402 QUALIFICATIONS OF ~~ADMINISTRATOR-IN-CHARGE~~ MANAGER

The facility shall designate a manager when the administrator is absent from the facility. The administrator in charge, manager, who is responsible to the administrator for carrying out the program in day-to-day operations of an adult care home in the absence of the administrator, administrator. The administrator remains ultimately responsible for the adult care home, and the manager shall serve under the direction and supervision of the administrator. The manager shall meet the following requirements:

- (1) be 21 years or older;
- (2) be a high school graduate or certified under the G.E.D. ~~program~~ program, or if hired before September 1, 2024, have passed ~~an~~ the alternative examination established by the Department;
- (3) have six months training or experience related to management or supervision in long term care or health care settings or be a licensed health ~~professional~~, professional such as a mental health professional, nurse practitioner, physician assistant, or registered nurse, licensed a nursing home administrator administrator certified pursuant to G.S. 90-276(4), or certified an assisted living administrator; administrator certified pursuant to G.S. 90-288.14; and
- (4) earn 12 hours a year of continuing education credits ~~related to~~ in the management of adult care homes or care of ~~aged and disabled persons. the elderly and individuals with physical, intellectual, or developmental disabilities, cognitive impairment, and mental illness.~~

*History Note: Authority G.S. 131D.2.16; 131D-4.5; 131D-25; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Temporary Amendment Eff. December 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, ~~2004~~, 2004;
Readopted Eff. September 1, 2024.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0601

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

In (g) line 22, add a comma after “more”.

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

Travis Wiggs
Commission Counsel
Date submitted to agency: May 22, 2024

10A NCAC 13F .0601 is readopted with changes as published in 38:11 NCR 662-677 as follows:

SECTION .0600 - STAFFING

10A NCAC 13F .0601 ~~MANAGEMENT OF FACILITIES WITH A CAPACITY OR CENSUS OF SEVEN TO THIRTY RESIDENTS~~ FACILITIES - GENERAL ADMINISTRATOR AND MANAGER RESPONSIBILITIES

(a) ~~Each adult care home shall have an~~ An adult care home administrator who is certified in accordance with Rule .1701 of this Subchapter. ~~The administrator shall be responsible for the total operation of an adult care home and management of the facility to assure that all care and services are provided to maintain the health, safety, and welfare of the residents in accordance with all applicable local, state, and federal regulations and codes. The administrator shall also be responsible to the Division of Health Service Regulation and the county department of social services for~~ meeting and maintaining ~~complying with~~ the rules of this Subchapter. The co-administrator, when there is one, shall share equal responsibility with the administrator for the operation of the home and for meeting and maintaining the rules of this Subchapter. The term ~~administrator~~ "administrator" also refers to co-administrator where it is used in this Subchapter.

(b) ~~At all times there shall be one administrator or administrator in charge who is directly responsible for assuring that all required duties are carried out in the home and for assuring that at no time is a resident left alone in the home without a staff member. Except for the provisions in Paragraph (c) of this Rule, one of the following arrangements shall be used to manage a facility with a capacity or census of 7 to 30 residents:~~

- (1) ~~The administrator is in the home or within 500 feet of the home with a means of two way telecommunication with the home at all times;~~
- (2) ~~An administrator in charge is in the home or within 500 feet of the home with a means of two way telecommunication with the home at all times; or~~
- (3) ~~When there is a cluster of licensed homes, each with a capacity of 7 to 12 residents, located adjacently on the same site, there shall be at least one staff member, either live in or on a shift basis in each of these homes. In addition, there shall be at least one administrator or administrator in charge who is within 500 feet of each home with a means of two way telecommunication with each home at all times and directly responsible for assuring that all required duties are carried out in each home.~~

(c) ~~When the administrator or administrator in charge is absent from the home or not within 500 feet of the home, the following shall apply:~~

- (1) ~~For absences of a non-routine nature that do not exceed 24 hours per week, a relief person in charge designated by the administrator shall be in charge of the home during the absence and in the home or within 500 feet of the home according to the requirements in Paragraph (b) of this Rule. The administrator shall assure that the relief person in charge is prepared to respond in case of an emergency in the home. The relief person in charge shall be 21 years or older.~~

- (2) ~~For recurring or planned absences, a relief administrator in charge designated by the administrator shall be in charge of the home during the absence and in the home or within 500 feet of the home according to the requirements in Paragraph (b) of this Rule. The relief administrator in charge shall meet all of the qualifications required for the administrator in charge as specified in Rule .0402 of this Subchapter with the exception of Item (4) pertaining to the continuing education requirement.~~
- (b) An adult care home manager shall be responsible for carrying out the day-to-day operations and all required duties of an adult care home in the absence of an administrator.
- (c) The administrator shall have knowledge of and shall ensure the following:
- (1) the investigation and reporting of any allegations of resident abuse, neglect, and exploitation as specified in Rule .1212(d) of this Subchapter;
 - (2) the investigation and reporting of any suspicion of or allegations of drug diversion as specified in Rule .1008 of this Subchapter;
 - (3) the reporting of any incidents of resident elopement or when a resident is missing from the facility, as required in Rule .1212(e)(2) and Rule .0906(f)(4) of this Subchapter; and
 - (4) the investigation and reporting of any incident or accident resulting in the hospitalization or death of a resident, as specified in Rule .1208 and Rule .1212 of this Subchapter.
- (d) The administrator shall be made aware when the facility is unable to meet the staffing requirements of this Section.
- (e) The administrator shall be made aware any time the facility seeks the assistance of the local law enforcement authority.
- (f) For facilities with a census of 7 to 30 residents, the manager or staff person on duty shall immediately notify the administrator of any of the circumstances listed in Paragraphs (c), (d), and (e) of this Rule.
- (g) For facilities with a census of 31 or more the manager or supervisor shall immediately notify the administrator of any of the circumstances listed in Paragraphs (c), (d), and (e) of this Rule.

History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 131D-25; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; April 1, 1987; April 1, 1984;
Temporary Amendment Eff. January 1, 2000; December 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;
Readopted Eff. September 1, 2024.

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0602

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

In line 13, consider adding "or more" after "One."

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

10A NCAC 13F .0602 is readopted with changes as published in 38:11 NCR 662-677 as follows:

**10A NCAC 13F .0602 MANAGEMENT OF FACILITIES WITH A CAPACITY OR CENSUS OF ~~31 TO~~
80 SEVEN TO THIRTY RESIDENTS**

~~(a) In facilities with a capacity or census of 31 to 80 residents, there shall be an administrator on call, which means able to be contacted by telephone, pager or two-way intercom, at all times when not in the building. (For staffing chart, see Rule .0606 of this Subchapter.)~~

~~(b) When the administrator is not on duty in the facility, there shall be a person designated as administrator in charge on duty in the facility who has the responsibility for the overall operation of the facility and meets the qualifications for administrator in charge required in Rule .0602 of this Section. The personal care aide supervisor, as required in Rule .0605 of this Subchapter, may serve simultaneously as the administrator in charge.~~

In a facility with a census of greater than seven but less than 31 residents, there shall be one administrator or manager who is directly responsible for assuring that all required duties are carried out in the facility. One of the following arrangements shall be used to manage a facility with a census of seven to 30 residents:

- (1) the administrator is in the facility or within 500 feet of the facility with a means of two-way telecommunication with the facility at all times;
- (2) a manager is in the facility or within 500 feet of the facility with a means of two-way telecommunication with the facility at all times; or
- (3) when there is a cluster of licensed facilities, each with a census of 12 or fewer residents, there shall be at least one staff member, either live-in or on a shift basis in each of these facilities. In addition, there shall be at least one administrator or manager who is within 500 feet of each home with a means of two-way telecommunication with each facility at all times and directly responsible for assuring that all required duties are carried out in each facility. For the purpose of the rules in this Section, "a cluster of licensed facilities" means up to six licensed adult care homes which are under common ownership and are located adjacently on the same site.

*History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 131D-25; 143B-165;
Temporary Adoption Eff. January 1, 2000;
Eff. July 1, ~~2000~~ 2000;
Readopted Eff. September 1, 2024.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0604

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

In line 33, add a bracket around "a)."

In line 34, add a comma after "week."

In line 36, add a period after "home." Delete "except as follows."

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

10A NCAC 13F .0604 is readopted with changes as published in 38:11 NCR 662-677 as follows:

**10A NCAC 13F .0604 ~~PERSONAL CARE AND OTHER STAFFING~~ MANAGEMENT OF FACILITIES
WITH A CENSUS OF 81 OR MORE RESIDENTS**

~~(a) Adult care homes shall staff to the licensed capacity of the home or to the resident census. When a home is staffing to resident census, a daily census log shall be maintained which lists current residents by name, room assignment and date of admission and must be available for review by the Division of Health Service Regulation and the county departments of social services.~~

~~(b) Homes with capacity or census of 12 or fewer residents shall comply with the following.~~

~~(1) — At all times there shall be an administrator or administrator in charge in the home or within 500 feet of the home with a means of two way telecommunication.~~

~~(2) — When the administrator or administrator in charge is not on duty within the home, there shall be at least one staff member on duty on the first and second shifts and at least one staff member on call within the building on third shift. There shall be a call system connecting the bedroom of the staff member, who may be asleep on the third shift, with each resident's bedroom.~~

~~(3) — When the administrator or administrator in charge is on duty within the home on the first and second shifts and on call within the home on the third shift, another staff member (i.e., co administrator, administrator in charge or aide) shall be in the building or within 500 feet of the home with a means of two way telecommunication at all times.~~

~~(4) — The administrator shall prepare a plan of operation for the home (each home in a cluster) specifying the staff involved, their regularly assigned duties and the amount of time estimated to be spent for each duty. There shall be a current plan of operation on file in the home, available for review by the Division of Health Service Regulation and the county department of social services.~~

~~(5) — At least 12 hours shall be spent daily providing for the personal services, health services, drug management, planned activities, and other direct services needed by the residents. These duties are the primary responsibility of the staff member(s) on duty on the first and second shifts; however, other help, such as administrator in charge and activities coordinator may be used to assist in providing these services.~~

~~(6) — Between the hours of 9 p.m. and 7 a.m. the staff member on duty and the person on call may perform housekeeping and food service duties as long as a staff member can respond immediately to resident calls or the residents are otherwise supervised. The duties shall not hinder care of residents or immediate response to resident calls, disrupt residents' normal lifestyles and sleeping patterns, nor take a staff member out of view of where the residents are.~~

~~(7) — There shall be staff available daily to assure housekeeping and food service.~~

~~(c) A cluster of homes with capacity or census of 12 or fewer residents shall comply with the following staffing:~~

~~(1) — When there is a cluster of up to six licensed homes located adjacently, there shall be at least one administrator or administrator in charge who lives within 500 feet of each of the homes with a~~

means of two-way telecommunication at all times and who is directly responsible for assuring that all required duties are carried out in each home; and

- (2) — In each of the homes, at least one staff member shall be on duty on the first and second shifts and at least one staff member shall be on call within the building during the third shift. There shall be a call system connecting the bedroom of the staff member, who may be asleep on the third shift, with each resident's bedroom.

(d) ~~Homes with capacity or census of 13-20 shall comply with the following staffing. When the home is staffing to census and the census falls below 13 residents, the staffing requirements for a home with 12 or fewer residents shall apply.~~

- (1) — ~~At all times there shall be an administrator or administrator in charge in the home or within 500 feet of the home with a means of two-way telecommunication.~~

- (2) — ~~When the administrator or administrator in charge is not on duty within the home, there shall be at least one staff member on duty on the first, second and third shifts.~~

- (3) — ~~When the administrator or administrator in charge is on duty within the home, another staff member (i.e. co-administrator, administrator in charge or aide) shall be in the building or within 500 feet of the home with a means of two-way telecommunication at all times.~~

- (4) — ~~The job responsibility of the staff member on duty within the home is to provide the direct personal assistance and supervision needed by the residents. Any housekeeping duties performed by the staff member between the hours of 7 a.m. and 9 p.m. shall be limited to occasional, non-routine tasks. The staff member may perform housekeeping duties between the hours of 9 p.m. and 7 a.m. as long as such duties do not hinder care of residents or immediate response to resident calls, do not disrupt residents' normal lifestyles and sleeping patterns and do not take the staff member out of view of where the residents are. The staff member on duty to attend to the residents shall not be assigned food service duties.~~

- (5) — ~~In addition to the staff member(s) on duty to attend to the residents, there shall be staff available daily to perform housekeeping and food service duties.~~

(e) ~~Homes with capacity or census of 21 or more shall comply with the following staffing. When the home is staffing to census and the census falls below 21 residents, the staffing requirements for a home with a census of 13-20 shall apply.~~

- (1) — ~~The home shall have staff on duty to meet the needs of the residents. The daily total of aide duty hours on each 8-hour shift shall at all times be at least:~~

- (A) — ~~First shift (morning) 16 hours of aide duty for facilities with a census or capacity of 21 to 40 residents; and 16 hours of aide duty plus four additional hours of aide duty for every additional 10 or fewer residents for facilities with a census or capacity of 40 or more residents. (For staffing chart, see Rule .0606 of this Subchapter.)~~

- (B) — ~~Second shift (afternoon) 16 hours of aide duty for facilities with a census or capacity of 21 to 40 residents; and 16 hours of aide duty plus four additional hours of aide duty for~~

every additional 10 or fewer residents for facilities with a census or capacity of 40 or more residents. (For staffing chart, see Rule .0606 of this Subchapter.)

(C) ~~Third shift (evening) 8.0 hours of aide duty per 30 or fewer residents (licensed capacity or resident census). (For staffing chart, see Rule .0606 of this Subchapter.)~~

(D) ~~The facility shall have additional aide duty to meet the needs of the facility's heavy care residents equal to the amount of time reimbursed by Medicaid. As used in this Rule, the term, "heavy care resident", means an individual residing in an adult care home who is defined as "heavy care" by Medicaid and for which the facility is receiving enhanced Medicaid payments.~~

(E) ~~The Department shall require additional staff if it determines the needs of residents cannot be met by the staffing requirements of this Rule.~~

(2) ~~The following describes the nature of the aide's duties, including allowances and limitations:~~

(A) ~~The job responsibility of the aide is to provide the direct personal assistance and supervision needed by the residents.~~

(B) ~~Any housekeeping performed by an aide between the hours of 7 a.m. and 9 p.m. shall be limited to occasional, non-routine tasks, such as wiping up a water spill to prevent an accident, attending to an individual resident's soiling of his bed, or helping a resident make his bed. Routine bed making is a permissible aide duty.~~

(C) ~~If the home employs more than the minimum number of aides required, any additional hours of aide duty above the required hours of direct service between 7 a.m. and 9 p.m. may involve the performance of housekeeping tasks.~~

(D) ~~An aide may perform housekeeping duties between the hours of 9 p.m. and 7 a.m. as long as such duties do not hinder the aide's care of residents or immediate response to resident calls, do not disrupt the residents' normal lifestyles and sleeping patterns, and do not take the aide out of view of where the residents are. The aide shall be prepared to care for the residents since that remains his primary duty.~~

(E) ~~Aides shall not be assigned food service duties; however, providing assistance to individual residents who need help with eating and carrying plates, trays or beverages to residents is an appropriate aide duty.~~

(3) ~~In addition to the staffing required for management and aide duties, there shall be sufficient personnel employed to perform housekeeping and food service duties.~~

~~(f) Information on required staffing shall be posted in the facility according to G.S. 131D 4.3(a)(5).~~

a) For an adult care home with a census of 81 or more residents, there shall be an administrator on-duty at the facility at least eight hours per day, five days per week and shall not serve simultaneously as a personal care aide supervisor or other staff to meet staffing requirements while on duty as an administrator or be an administrator for another adult care home except as follows. If there is more than one facility under the same ownership on a contiguous parcel of land or campus setting, and the combined licensed capacity of the facilities is 200 beds or less, there may be one

1 administrator on duty for all the facilities on the campus. The administrator shall not serve simultaneously as a personal
 2 care aide supervisor or other staff in this campus setting.

3 (b) When the administrator is not on-duty, there shall be a manager on-duty. The supervisor may serve simultaneously
 4 as the manager if the individual meets the qualifications required in Rule .0402 of this Subchapter. Each facility on a
 5 contiguous parcel of land or campus setting, as described in Paragraph (a) of this Rule, shall have a person designated
 6 as the manager in the facility when the administrator is not on-duty.

7 (c) The administrator shall be on-call, at all times when not on-duty.

8
 9 *History Note: Authority G.S. 131D-2.16; ~~131D-4.3~~; 131D-4.5; 131D-25; 143B-165;*

10 *Eff. January 1, 1977;*

11 *Readopted Eff. October 31, 1977;*

12 *Amended Eff. December 1, 1991; September 1, 1990; July 1, 1990; April 1, 1984;*

13 *Temporary Amendment Eff. January 1, 2000; December 1, 1999;*

14 *Amended Eff. July 1, 2005; July 1, ~~2000~~; 2000;*

15 *Readopted Eff. September 1, 2024.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0605

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

In (a) line 8, replace the first "to" with "based on."

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

Travis Wiggs
Commission Counsel
Date submitted to agency: May 22, 2024

10A NCAC 13F .0605 is readopted with changes as published in 38:11 NCR 662-677 as follows:

**10A NCAC 13F .0605 ~~STAFFING OF PERSONAL CARE AIDE SUPERVISORS~~ GENERAL STAFFING
REQUIREMENTS FOR ADULT CARE HOMES**

~~(a) On first and second shifts in facilities with a capacity or census of 31 or more residents and on third shift in facilities with a capacity or census of 91 or more residents, there shall be at least one supervisor of personal care aides, hereafter referred to as supervisor, on duty in the facility for less than 64 hours of aide duty per shift; two supervisors for 64 to less than 96 hours of aide duty per shift; and three supervisors for 96 to less than 128 hours of aide duty per shift. In facilities sprinklered for fire suppression with a capacity or census of 91 to 120 residents, the supervisor's time on third shift may be counted as required aide duty. (For staffing chart, see Rule .0606 of this Section.)~~

~~(b) On first and second shifts in facilities with a capacity or census of 31 to 70 residents, the supervisor may provide up to four hours of aide duty per shift which may be counted as required aide hours of duty. The supervisor's hours on duty shall not be counted as required hours of aide duty except as specified in this Rule.~~

~~Note: Supervisors may be involved in performing some personal care in facilities with a capacity or census of 71 or more residents, but their primary responsibility is the direct supervision of personal care aides and the time involved in performing any personal care cannot be counted as required aide hours.~~

~~(c) On third shift in facilities with a capacity or census of 31 to 60 residents, the supervisor shall be in the facility or within 500 feet and immediately available, as defined in Rule .0601 of this Subchapter. In facilities sprinklered for fire suppression with a capacity or census of 31 to 60 residents, the supervisor's time on duty in the facility on third shift may be counted as required aide duty.~~

~~(d) On third shift in facilities with a capacity or census of 61 to 90 residents, the supervisor shall be on duty in the facility for at least four hours and within 500 feet and immediately available, as defined in Rule .0601 of this Subchapter, for the remaining four hours. In facilities sprinklered for fire suppression with a capacity or census of 61 to 90 residents, the supervisor's time on duty in the facility on third shift may be counted as required aide duty.~~

~~(e) A supervisor is responsible for the direct supervision of personal care aides, including those who administer medications, to assure that care and services are provided to residents by personal care aides in a safe and secure manner and according to licensure rules. This involves observing personal care aides in the performance of their duties; instructing, correcting and consulting with aides as needed; and reviewing documentation by aides.~~

~~(f) A supervisor on duty shall not serve simultaneously as the administrator but may serve simultaneously as the administrator in charge in the absence of the administrator.~~

~~(g) A supervisor shall meet the following qualifications:~~

~~(1) — be 21 years or older;~~

~~(2) — be a high school graduate or certified under the G.E.D. program, or have passed an alternative examination established by the Department;~~

~~(3) — meet the general health requirements according to Rule .0406 of this Section;~~

- 1 ~~(4) have at least six months of experience in performing or supervising the performance of duties to be~~
 2 ~~supervised during a period of three years prior to the effective date of this Rule or the date of hire,~~
 3 ~~whichever is later, or be a licensed health professional or a licensed nursing home administrator;~~
 4 ~~(5) meet the same minimum training and competency requirements of the aides being supervised; and~~
 5 ~~(6) earn at least 12 hours a year of continuing education credits related to the care of aged and disabled~~
 6 ~~persons in accordance with procedures established by the Department of Health and Human~~
 7 ~~Services.~~

8 (a) Adult care homes shall staff to the facility's resident census and provide staffing to meet the care and supervision
 9 needs of the residents in accordance with the rules of this Subchapter.

10 (b) At no time shall residents be left alone without a staff member in the facility.

11 (c) The facility shall maintain a daily census log which lists current residents by name, room assignment and date of
 12 admission, which shall be available for review by the Division of Health Service Regulation and the county
 13 departments of social services.

14 (d) The facility shall post daily staffing information in a location accessible to residents and visitors in accordance
 15 with G.S. 131D-4.3(a)(5). The information shall include:

- 16 (1) the name and contact information of the administrator and manager;
 17 (2) the number of required supervisors on each shift; and
 18 (3) the number of aides required on each shift.

19
 20 *History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165;*
 21 *Temporary Adoption Eff. January 1, 2000; December 1, 1999;*
 22 *Eff. July 1, ~~2000~~ 2000;*
 23 *Readopted Eff. September 1, 2024.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0609

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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:

In (b) line 10, add a comma after “residents.”

In (b)(1) line 12, delete the comma after “supervisor.”

In (c)(1) line 16, delete the comma after “shift.”

In (c)(3) line 19, add a comma after “shifts.”

In (c)(3) line 20, add a comma after “performed” and delete “however.”

In (d) line 22, add a comma after “shift.”

In (e) line 24, add a comma after “shift.”

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

10A NCAC 13F .0609 is adopted as published in 38:11 NCR 662-677 as follows:

10A NCAC 13F .0609 PERSONAL CARE AIDE SUPERVISORS

(a) The personal care aide supervisor shall be responsible for the direct supervision of personal care aides, including those who administer medications, to assure that care and services are provided to residents by personal care aides in accordance with their training, the facility's policies and procedures, the licensure rules of this Subchapter, and Chapter 131D of the general statutes. The personal care aide supervisor shall also be responsible for observing personal care aides in the performance of their duties; instructing, correcting, and consulting with aides as needed; and reviewing documentation by aides.

(b) During the first and second shifts in facilities with a census of 31 or more residents and on third shift in facilities with a census of 91 or more residents, the facility shall have supervisors on-duty during each shift as follows:

(1) One supervisor, on duty in the facility for less than 64 hours of aide duty per shift.

(2) Two supervisors for 64 to less than 96 hours of aide duty per shift.

(3) Three supervisors for 96 to less than 128 hours of aide duty per shift.

(c) Supervisors shall not provide hours of aide duty while servicing as a supervisor except as follows:

(1) On third shift in facilities with a census of 31 to 120 residents and a sprinkler fire suppression system.

(2) On first and second shifts, up to four hours, in facilities with a census of 31 to 70 residents.

(3) On first and second shifts in facilities with a census of 71 or more residents in which some personal care duties are performed but however the time involved in performing any personal care cannot be counted as required aide hours.

(d) On third shift in facilities with a census of 31 to 60 residents, the supervisor shall be in the facility or within 500 feet and immediately available, as defined in Rule .0608 of this Section.

(e) On third shift in facilities with a census of 61 to 90 residents, the supervisor shall be on duty in the facility for at least four hours and within 500 feet and immediately available, as defined in Rule .0608 of this Section, for the remaining four hours.

(f) The supervisor on duty shall not serve simultaneously as the administrator but may serve simultaneously as the manager in the absence of the administrator.

History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165;

Eff. September 1, 2024.

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0102

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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:

In (3), line 10, doesn't "baseline health" also include "mental health?" If so, please delete "or mental health" as it's unnecessary.

In (3), line 10, are the words "change of" and "in the symptoms" necessary? Are these words superfluous?

In (6), what is your agency's authority to circumvent the educational requirements for the listed positions?

In (15) line 30, please delete "that may be" as those words are unclear and unnecessary.

In (13) line 31, please delete the comma after "arranging."

In (16) line 33, please delete "that may be" as those words are unclear and unnecessary.

In (16) lines 34-35, please replace the comma after "rooms" with a period and delete "sweeping, vacuuming, dusting, mopping, collecting, and disposing of trash" as they are included in "cleaning and sanitizing."

In (17) lines 36-37, add a comma after "including" and the first "to" in line 33.

In (18) lines 4-5, delete the last "s" in "supports." Delete "state of health, throughout which time" and replace with "health condition, such as when."

In (28) line 26, consider adding "have" before "access."

In the History Note, why is 143B-153 listed as Authority for this Rule?

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

Travis Wiggs
Commission Counsel
Date submitted to agency: May 22, 2024

10A NCAC 13G .0102 is adopted as published in 38:11 NCR 662-677 as follows:

10A NCAC 13G .0102 LIST OF DEFINITIONS

In addition to the definitions set forth in G.S. 131D-2.1, the following definitions shall apply throughout this Subchapter:

- (1) "Abuse" as defined in G.S. 131D-2.1.
- (2) "Activities of daily living" means bathing, dressing, personal hygiene, ambulation, or locomotion, transferring, toileting, and eating.
- (3) "Acute care needs" means symptoms or a condition that develops quickly and is not a part of the resident's baseline health or mental health status or is a change or worsening in the symptoms of a resident's chronic condition, which may have a slower onset and worsen over time.
- (4) "Administrator" means the term as defined in G.S. 90-288.13 and G.S. 131D-2.1.
- (5) "Adult care home" means the term as defined in G.S. 131D-2.1.
- (6) "Alternative examination" means a test developed and administered by the Department to meet the educational requirements of an activity director or supervisor-in-charge for those applicants who do not possess a high school diploma or General Education Diploma (G.E.D.) prior to September 1, 2024.
- (7) "Aide duty" means time spent by qualified staff providing assistance with activities of daily living, medication administration, or supervision of residents as determined by the resident's assessment, care plan, physician's orders, and current symptoms.
- (8) "Ambulatory" means able to respond and evacuate a facility without physical or verbal prompting from staff or another person.
- (9) "Department" means the North Carolina Department of Health and Human Services.
- (10) "Discharge" means a resident's termination of their residency at the adult care home, resulting in the resident's move to another location.
- (11) "Exploitation" means the term as defined in G.S. 131D-2.1.
- (12) "Facility" means a licensed family care home.
- (13) "Family care home" means the term as defined in G.S. 131D-2.1.
- (14) "First shift" means between the hours of 7:01 a.m. and 3:00 p.m.
- (15) "Food service duties" means tasks that may be performed by staff related to serving meals to residents, including assisting with food preparation, arranging, and setting the dining tables, serving food and beverages, and cleaning the dining room after meal service is complete.
- (16) "Housekeeping duties" means tasks that may be performed by staff such as cleaning and sanitizing facility common areas and resident rooms, sweeping, vacuuming, dusting, mopping, collecting, and disposing of trash.
- (17) "Legal representative" means a person authorized by state or federal law (including but not limited to power of attorney representative payee) to act on behalf of the resident to support the resident in

- 1 decision-making; access medical, social, or other personal information of the resident; manage
 2 financial matters or receive notifications.
- 3 (18) “Long-term care” means a continuum of care and services available in an individual's community
 4 that provides the care and supports required during a persistent or chronic state of health, throughout
 5 which time a person is unable to independently perform some or all activities of daily living or
 6 requires supervision due to physical or cognitive impairment.
- 7 (19) “Medication aide” means an individual who administers medications to residents and meets all
 8 requirements as set forth in Rule .0403 of this Subchapter.
- 9 (20) “Neglect” means the term as defined in G.S. 131D-2.1.
- 10 (21) “Non-ambulatory” means not able to respond and evacuate a facility without physical or verbal
 11 prompting from staff or another person.
- 12 (22) “On-call” means able to be contacted by two-way telecommunication.
- 13 (23) “On-duty” in reference to an administrator means the administrator is on-site and directly
 14 responsible for the day-to-day operations of a facility. “On-duty” in reference to a supervisor-in-
 15 charge means a supervisor-in-charge designated by the facility as required in Rule .0402 of this
 16 Subchapter and who is on-site and directly responsible for the day-to-day operations of a facility
 17 under the direction and supervision of the administrator.
- 18 (24) “Personal care aide” means a staff member who performs personal care services as defined by G.S.
 19 131D-2.1.
- 20 (25) “Physical restraint” means any physical or mechanical device attached to or adjacent to the
 21 resident’s body that the resident cannot remove easily, and which restricts freedom of movement or
 22 normal access to one’s body.
- 23 (26) “Physician extender” means a licensed physician assistant or licensed nurse practitioner.
- 24 (27) “Resident” means the term as defined in G.S. 131D-2.1.
- 25 (28) “Responsible person” means a person chosen by the resident to act on their behalf to support the
 26 resident in decision-making; access to medical, social, or other personal information of the resident;
 27 manage financial matters; or receive notifications.
- 28 (29) “Second shift” means between the hours of 3:01 p.m. and 11:00 p.m.
- 29 (30) “Staff” means any person who performs duties as an employee, paid or unpaid, on behalf of the
 30 family care home.
- 31 (31) “Supervision” means oversight, monitoring, and interventions implemented by the facility for the
 32 purpose of mitigating the risk of an accident, incident, illness, or injury to a resident to ensure the
 33 health, safety, and welfare of the resident and other residents.
- 34 (32) “Supervisor-in-charge” means an individual responsible for the total operation of a family care home
 35 in the absence of the administrator and under the direction and supervision of the administrator as
 36 described in Rule .0402 of this Subchapter.
- 37 (33) “Third shift” means between the hours of 11:01 p.m. and 7:00 a.m.

1
2 History Note: Authority G.S. 131D-2.16; 143B-153;
3 Eff. September 1, 2024.