

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

General Notes:

These rules govern the actions of supervising agencies. In addition, some of the rules directly govern foster parents, though it is not always clear whether the intention is to control foster parents directly or, instead, to require supervising agencies to manage foster parents. First, please assure that each rule is clear as to who must comply with the rule. Secondly, clearly identify the statute that authorizes the Commission to adopt rules directly governing foster parents, if that is the intention.

Why do you cite to G.S. 131D-10.1 in your History Notes? Consider deleting this citation from each of the rules.

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .0602

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 3 – what does this mean: “Except when the context of the Rule indicates that the term has a different meaning”? Do the defined terms mean different things in different rules? If not, delete this phrase.

Lines 8-11 – revise as follows, if the meaning of the item is not changed:

(3) "Family Foster Care" means foster care, as defined in G.S. 131D-10.2(9), that is provided in a family foster home.

Line 13 – replace “the” with “an”

Line 22 – delete the comma and replace “as defined in” with “has the meaning set forth in”

Line 22 – replace “131D-10.2” with “131D-10.2A” if that is what is meant.

Line 24 – add “131D-10.2A” to the History Note and list the statutes in numerical order

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70E .0602 is amended as published in 31:14 NCR 1379 as follows:

2 **10A NCAC 70E .0602 DEFINITIONS**

3 Except when the context of the Rule indicates that the term has a different meaning the following definitions shall
4 apply to the rules in Subchapter 70E:

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

7 (2) "Family Foster Home" has the meaning as defined in G.S. 131D-10.2(8).

8 (3) "Family Foster Care" means a planned, goal-directed service in which the temporary protection and
9 care of children take place in a family foster home. Family foster care is a child welfare service for
10 children and their parents who must live apart from each other for a period of time due to abuse,
11 neglect, dependency, or other circumstances necessitating out-of-home care.

12 (4) "Licensing Authority" means the North Carolina Division of Social Services.

13 (5) "Owner" means any person who holds an ownership interest of five percent or more of the applicant.
14 A person includes a sole proprietor, co-owner, partner or shareholder, principal or affiliate, or any
15 person who is the applicant or any owner of the applicant.

16 (6) "Supervising Agency" means a county department of social services or a private child-placing
17 agency that is authorized by law to receive children for purposes of placement in foster homes or
18 adoptive homes. Supervising agencies are responsible for recruiting, training, and supporting foster
19 parents. Supervising agencies recommend the licensure of foster homes to the licensing authority.

20 (7) "Therapeutic Foster Care" means a foster home where the foster parent has received additional
21 training in providing care to children with behavioral mental health or substance abuse problems.

22 (8) The "reasonable and prudent parent standard", as defined in G.S.131D-10.2.

23

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

25 *Amended Eff. August 1, 2017; September 1, 2007.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .0702

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – what specific topics are to be included in the assessment? How is the assessment to be conducted?

Lines 5-6 – what does “continuing to issue” mean – relicensing? If so, replace “basis of either issuing or continuing to issue licenses” with “basis for issuing a license”

Line 7 – replace “data” with “the following information”

Line 7 – replace “of the following events to report” with “after any of the following events occur”

Lines 8 and 12 – define “significant”

Line 10 – replace “composition” with “members” if that is what is meant

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70E .0702 is amended as published in 31:14 NCR 1379 as follows:

2

3 **10A NCAC 70E .0702 RESPONSIBILITY**

4 (a) Each supervising agency providing foster care services shall assess its applicants and licensees. Supervising
5 agencies shall submit to the licensing authority information and reports that are used as the basis of either issuing or
6 continuing to issue licenses.

7 (b) The supervising agency shall submit data to the licensing authority within 30 days of the following events to report:

8 (1) significant changes in household income;

9 (2) criminal charges of any household member;

10 (3) changes in the composition of the household;

11 (4) change of address; and

12 (5) significant changes in physical or mental health.

13

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

15 *Eff. September 1, 2007;*

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .0805

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – add “annually” after “assessed” and delete “at least annually” after “agency”

Lines 5-7 – what specific topics are to be included in the assessment? How is the assessment to be conducted?

Line 5 – what does “mutual” mean” Consider deleting this word.

Line 5 – add a comma after “skills”

Line 10 – delete the underscore under the last letter in “Reassessments”

Line 10 – replace “tool for relicensing the home. on a biennial basis” with “tool for biennial relicensing of the home”

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70E .0805 is amended as published in 31:14 NCR 1379 as follows:

2

3 **10A NCAC 70E .0805 PERIODIC REASSESSMENT OF HOME**

4 (a) A ~~family or therapeutic~~ foster home shall be reassessed ~~by the supervising agency~~ at least ~~biennially~~. annually.

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

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

10 (d) Reassessments shall be used as a tool for relicensing the home- ~~on a biennial basis~~.

11

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

13 *Amended Eff. August 1, 2017; September 1, 2007.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .0902

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

This rule appears to directly govern foster parents, though it could be revised to apply to supervising agencies instead. First, please assure that the rule is clear as to who must comply with the rule. Secondly, clearly identify the statute that authorizes the Commission to adopt rules directly governing foster parents, if that is the intention.

Line 4 – replace “under” with “pursuant to”

Line 5 – replace “the representative” with “a representative”

Lines 9-10 – replace “... the family, and when so advised by the supervising agency, make every effort to support ...” with “... the family and, when so advised by the supervising agency, support ...”

Line 12 – define or delete “continuous”

Line 12 – delete “of” and replace “between” with “with”

Lines 12-13 – delete “and the foster parents”

Line 15 – delete the comma and replace “professional people” with “professionals”

Lines 18-21 – revise as follows if this is what is meant:

- (6) report to the supervising agency any change of address before it occurs and any of the following within 72 hours of its occurrence:
 - (A) planned changes in the composition of the household;
 - (B) changes in physical or mental health of any household member;
 - (C) criminal charges against any household member; and
 - (D) changes in the financial resources or income of the household;

Jason Thomas
Commission Counsel
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Line 24 – delete the comma and add “for” after “and”

Line 26 – what does “appropriate” mean – consistent with the agreement or plan?

Line 26 – replace “childs” with “child’s”

Line 30 – specifically cite the laws that are applicable. Do not capitalize “federal.”

Line 32 – what does “overall planning” mean?

Line 33 – replace “responsibility” with “responsibilities”

Line 36 – delete the comma and add a comma after “and”

Page 2, line 10 – the correct way to show the change of punctuation is as follows:

licensing ~~record~~. record; and

Page 2, line 13 – replace “any” with “all”

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

1 10A NCAC 70E .0902 is amended as published in 31:14 NCR 1379 as follows:

2

3 **10A NCAC 70E .0902 AGENCY FOSTER PARENTS' AGREEMENT**

4 (a) Foster parents shall sign an agreement under which the foster parents shall:

5 (1) allow the representative of the supervising agency to visit the home in conjunction with licensing
6 procedures, foster care planning, and placement;

7 (2) accept children into the home only through the supervising agency and not through other individuals,
8 agencies, or institutions;

9 (3) treat a child placed in the home as a member of the family, and when so advised by the supervising
10 agency, make every effort to support, encourage, and enhance the child's relationship with the child's
11 parents or guardian;

12 (4) maintain continuous contact and exchange of information between the supervising agency and the
13 foster parents about matters affecting the adjustment of any child placed in the home. The foster
14 parents shall agree to keep these matters confidential and discuss them only with the supervising
15 agency staff members, or with other professional people designated by the agency;

16 (5) obtain the permission of the supervising agency if the child is to be out of the home for a period
17 exceeding ~~two nights~~ 72 hours;

18 (6) report to the supervising agency any planned changes in the composition of the household, change
19 of address before they occur, report changes in physical or mental health, criminal charges of any
20 household member, or change in the employment status of any adult member of the household
21 and changes in the financial resources or income of the household within 72 hours;

22 (7) make no independent plans for a child to visit the home of the child's parents, guardian, or relatives
23 without prior consent from the supervising agency;

24 (8) adhere to the supervising agency's plan of medical care, both for routine care and treatment, and
25 emergency care and hospitalization; ~~and~~

26 (9) provide any child placed in the home with supervision that is appropriate for the child's age,
27 intelligence, emotional make up, and past experience at all times while the child is in the home, not
28 leave the child unsupervised, and adhere to the supervision requirements specified in the out-of-
29 home family services agreement or person-centered plan; and

30 (10) agree to comply with all applicable State and Federal laws pertaining to nondiscrimination.

31 (b) The supervising agency shall sign an agreement under which the supervising agency shall:

32 (1) assume responsibility for the overall planning for the child and assist the foster parents in meeting
33 their day-to-day responsibility towards the child;

34 (2) inform the foster parents concerning the agency's procedures and financial responsibility for
35 obtaining medical care and hospitalization;

36 (3) pay the foster parents a monthly room and board payment, and if applicable, a respite care payment
37 for children placed in the home;

- 1 (4) discuss with the foster parents any plans to remove a child from the foster home;
2 (5) give the foster parents notice before removing a child from the foster home;
3 (6) visit the foster home and child according to the out-of-home family services agreement or person-
4 centered plan and be available to give needed services and consultation concerning the child's
5 welfare;
6 (7) respect the foster parents' preferences in terms of sex, age range, and number of children placed in
7 the home;
8 (8) provide or arrange for training for the foster parents;
9 (9) include foster parents as part of the decision-making team for a child; ~~and~~
10 (10) allow foster parents to review and receive copies of their licensing record; and
11 (11) notify foster parents of their right to obtain personal liability insurance in accordance with G.S. 58-
12 36-44.

13 (c) The agreement shall also contain any other provisions mutually agreed by the parties.

14 (d) The foster parents and a representative of the supervising agency shall sign and date the agreement initially and
15 at each relicensure. The foster parents and the supervising agency shall retain copies of the agreements.

16

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

18 Amended Eff. August 1, 2017; September 1, 2007.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .1101

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

This rule appears to directly govern foster parents, though it could be revised to apply to supervising agencies instead. First, please assure that the rule is clear as to who must comply with the rule. Secondly, clearly identify the statute that authorizes the Commission to adopt rules directly governing foster parents, if that is the intention.

Line 8 – replace “variations in” with “the child’s” if that is what is meant

Line 9 – add “his or her” or “their” before “religious” if that is what is meant

Line 11 – what does “identified in connection with the supervising agency in any way” mean? Consider replacing with “identified as a foster child in a way” if that is what is meant.

Line 14 – delete the comma and replace “when not” with “unless”

Lines 16 and 24, and page 2, line 4 – what does “appropriate” mean? Is there a standard or definition that can be referenced?

Line 18 – what does “cruel or abusive punishment” mean? Is there a rule or statute that defines or explains this phrase?

Line 24 – replace “time alone” with “the isolation time-out” if that is what is meant

Line 25-26 – replace “himself/herself or his/her families” with “himself or herself or his or her family”

Line 29 – what does “good,” “proper,” and “frequent” mean in this context? Is there a standard or definition that can be referenced?

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

Line 31 – replace “Any diets” with “Diets”

Line 33 – what is the mandatory school age? Consider stating the age or citing the statute or rule that establishes that age.

Line 35 – add “to” before “have” and add a comma after “home”

Line 36 – add “to” before “visit”

Page 2, line 1 – replace “himself/herself” with “himself or herself”

Page 2, line 1 – add “for” before “household”

Page 2, line 1 – replace “his/her” with “his or her”

Page 2, lines 1 and 6 – what does “in accordance with” a child’s age mean?

Page 2, line 4 – is (a)(20) needed in light of (a)(25)?

Page 2, line 4 – replace “task which is in violation of child labor laws or not appropriate” with “task that violates child labor laws or is not appropriate” What “child labor laws” are you referring to – can you cite these laws?

Page 2, line 8 – add a comma after “pounds” and delete or define “properly”

Page 2, lines 9-10 – can the authorized car seat installation method be referenced here?

Page 2, lines 11-12 – consider revising as follows:

- (24) is protected from disclosure of confidential information about the child or the child’s family. Such confidential information shall not be shared unless lawfully authorized; and*

Page 2, line 20 – list the statutes in numerical order

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

1 10A NCAC 70E .1101 is amended as published in 31:14 NCR 1380 as follows:

2

3 **10A NCAC 70E .1101 CLIENT RIGHTS**

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

5 (1) has clothing to wear that is appropriate to the weather;

6 (2) is allowed to have personal property;

7 (3) is encouraged to express opinions on issues concerning care;

8 (4) is provided care in a manner that recognizes variations in cultural values and traditions;

9 (5) is provided the opportunity for spiritual development and is not denied the right to practice religious
10 beliefs;

11 (6) is not identified in connection with the supervising agency in any way that would bring the child or
12 the child's family embarrassment;

13 (7) is not forced to acknowledge dependency on or gratitude to the foster parents;

14 (8) is encouraged to contact and have telephone conversations with family members, when not
15 contraindicated in the child's visitation and contact plan;

16 (9) is provided training and discipline that is appropriate for the child's age, intelligence, emotional
17 makeup, and past experience;

18 (10) is not subjected to cruel or abusive punishment;

19 (11) is not subjected to corporal punishment;

20 (12) is not deprived of a meal or contacts with family for punishment or placed in isolation time-out
21 except when isolation time-out means the removal of a child to an unlocked room or area from
22 which the child is not physically prevented from leaving. The foster parent may use isolation time-
23 out as a behavioral control measure when the foster parent provides it within hearing distance of a
24 foster parent. The length of time alone shall be appropriate to the child's age and development;

25 (13) is not subjected to verbal abuse, threats, or humiliating remarks about himself/herself or his/her
26 families;

27 (14) is provided a daily routine in the home that promotes a positive mental health environment and
28 provides an opportunity for normal activities with time for rest and play;

29 (15) is provided training in good health habits, including proper eating, frequent bathing, and good
30 grooming. Each child shall be provided food with nutritional content for normal growth and health.
31 Any diets prescribed by a licensed medical provider shall be provided;

32 (16) is provided medical care in accordance with the treatment prescribed for the child;

33 (17) of mandatory school age maintains regular school attendance unless the child has been excused by
34 the authorities;

35 (18) is encouraged to participate in neighborhood and group activities, have friends visit the home and
36 visit in the homes of friends;

- 1 (19) assumes responsibility for himself/herself and household duties in accordance with his/her age,
2 health, and ability. Household tasks shall not interfere with school, sleep, or study periods;
3 (20) is provided opportunities to participate in recreational activities;
4 (21) is not permitted to do any task which is in violation of child labor laws or not appropriate for a child
5 of that age;
6 (22) is provided supervision in accordance with the child's age, intelligence, emotional makeup, and
7 experience; ~~and~~
8 (23) if less than eight years of age and weighs less than 80 pounds is properly secured in a child passenger
9 restraint system that is approved and installed in a manner authorized by the Commissioner of Motor
10 Vehicles;
11 (24) receives appropriate protection of confidential information about the child or the child's family and
12 that confidential information will not be shared unless properly authorized; and
13 (25) is encouraged to participate in extracurricular, enrichment, cultural, and social activities as
14 appropriate and in accordance with 131D-10.2.

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

19
20 *History Note:* Authority G.S. 143B-153; 131D-10.2; 131D-10.1; 131D-10.3; 131D-10.5;
21 Amended Eff. August 1, 2017; September 1, 2007.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .1103

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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This rule appears to directly govern foster parents, though it could be revised to apply to supervising agencies instead. First, please assure that the rule is clear as to who must comply with the rule. Secondly, clearly identify the statute that authorizes the Commission to adopt rules directly governing foster parents, if that is the intention.

Line 7 – add “a” at the beginning of this line

Line 8 – add “the” at the beginning of this line

Line 9 – delete or define “imminent”

Line 9 – replace “himself/herself” with “himself, herself”

Line 12 – delete or define “adequate”

Line 12 – add a comma after “supervision”

Line 13 – delete the comma and add “medication” after “standard” if that is what is meant. If that is the intended meaning, what is a “standard medication”?

Line 15 – delete “shall” and replace “administer” with “administers”

Lines 16 and 19 – delete “at least”

Line 17 – delete or define “appropriate”

Line 19 – add a comma before “including”

Line 21 – replace “shall” with “may”

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

Line 22 – revise as follows, if this is what is meant:

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

Lines 23, 25, 27; page 2, lines 1, 3, 4, and 7 – delete “instructors shall”

Line 28 – how is a passing grade determined? Based on what standards?

Line 30 – delete the comma

Lines 30-32 – what does “measurable” mean in this context?

Line 33 – by what process is the instructor training approved? Is there a rule that can be cited here?

Line 34 – delete the comma

Lines 34-35 – what does “presentation of understanding the adult learner” mean?

Line 36 – add a comma after “performance”

Page 2, line 1 – delete “at least.” How is competence demonstrated?

Page 2, line 3 – who provides the CPR training – anyone?

Page 2, line 4 – replace “coached experience” with “been coached”

Page 2, lines 4-5 – “two times” over what period of time – two years (see line 9)?

Page 2, line 5 – is a “trainer” the same as the “instructor” referred to in line 4? If so, in line 5 delete the comma and delete “trainers” In any event, consistently use the same word for a particular thing or concept.

Page 2, lines 6 and 7 – delete “at least”

Page 2, lines 9-14 – what rule governs the approval of physical restraint holds? Does the Quality Assurance Committee adopt a rule that lists the approved holds?

Page 2, line 15 – what does “take into consideration” mean?

Page 2, line 17 – replace “utilize” with “use” What is a protective or mechanical device?”

Page 2, lines 21 and 24 – delete or define “imminent”

Page 2, line 25 – what does “calm” mean?

Page 2, line 25 – replace the period with a semicolon

Page 2, line 28 – delete “second trained foster parent or with a”

Page 2, line 32 – replace “motorically in control” with “has motor control” (see page 3, lines 7 and 9).

Page 2, lines 34-35 – delete the phrase “, and completion of the waiver request form”

Page 2, line 35 – add “a complete waiver request form;” after “receives.” Note that the APA requires that the substantive contents of forms be set forth in either rules or statute. Wherever you refer to forms, you should either state the substantive contents of the form in the rule or know of rules or statutes where the substantive content is stated. In addition, the rule should also state, with specificity, where the form may be obtained.

Page 2, line 37 – replace the comma with a semicolon

Page 3, line 2 – replace the comma with a semicolon and delete “and”

Page 3, line 3 – add a semicolon after “team” and replace “documented” with “documentation”

Page 3, lines 7 and 10 – delete or define “immediately”

Page 3, lines 7 and 10 – delete the commas

Page 3, line 11 – how is “distress” identified?

Page 3, lines 13 and 15 – replace the periods with semicolons

Page 3, lines 14-15 – is Subparagraph (e)(7) needed – doesn’t (e)(8) cover this as a practical matter? If you need the paragraph, explain what the interview must be used for.

Page 3, line 23 – delete “trained foster parent or”

Page 3, line 26 – replace “necessitated” with “required”, replace the period with a semicolon, and add “and” at the end of this line

Page 3, lines 28-30 – what will be approval be based on – completed training? Please clarify. Is there a rule that sets out the approval process? If so, please reference it.

Page 3, lines 28-29 – replace “director or his/her designee of the supervising agency before administering” with “director of the supervising agency or his or her designee before administering”

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70E .1103 is amended as published in 31:14 NCR 1381 as follows:

2

3 **10A NCAC 70E .1103 PHYSICAL RESTRAINTS**

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

- 6 (1) protective or mechanical restraints;
- 7 (2) drug used as a restraint, except as outlined in Paragraph (b) of this Rule;
- 8 (3) seclusion of a child in a locked room; or
- 9 (4) physical restraint holds except for a child who is at imminent risk of harm to himself/herself or
10 others until the child is calm.

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

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

22 (d) Foster parents shall be trained by instructors who have met the following qualifications and training requirements:

- 23 (1) instructors shall demonstrate competence by scoring 100 percent on testing in a training program
24 aimed at preventing, reducing, and eliminating the need for restrictive interventions;
- 25 (2) instructors shall demonstrate competence by scoring 100 percent on testing in a training program
26 teaching the use of physical restraint;
- 27 (3) instructors shall demonstrate competence by scoring a passing grade on testing in an instructor
28 training program as determined by the North Carolina Division of Mental Health, Developmental
29 Disabilities and Substance Abuse Services;
- 30 (4) the instructors' training shall be competency-based, and shall include measurable learning
31 objectives, measurable testing (written and by observation of behavior) on those objectives, and
32 measurable methods to determine passing or failing the course;
- 33 (5) the content of the instructor training shall be approved by the Division of Mental Health,
34 Developmental Disabilities and Substance Abuse Services, and shall include presentation of
35 understanding the adult learner, methods of teaching content of the course, evaluation of trainee
36 performance and documentation procedures;

- 1 (6) instructors shall be retrained at least annually and demonstrate competence in the use of physical
2 restraint to the North Carolina Interventions (NCI) Quality Assurance Committee;
- 3 (7) instructors shall be trained in CPR;
- 4 (8) instructors shall have coached experience in teaching the use of restrictive interventions at least two
5 times with a positive review by the coach, and trainers shall teach a program on the use of physical
6 restraints at least once annually; and
- 7 (9) instructors shall complete a refresher instructor training at least every two years.
- 8 (e) In administering physical restraints, the following shall apply:
- 9 (1) foster parents shall use only those physical restraint holds approved by the North Carolina
10 Interventions (NCI) Quality Assurance Committee. Approved physical restraint holds can be found
11 at the following web site: ~~http://www.dhhs.state.nc.us/mhddsas/training/rscurricula/agencylist10-~~
12 ~~18-06web.pdf~~ <https://www2.ncdhhs.gov/mhddsas/providers/trainingandconferences/restraints.htm>
13 (Reviewed Restrictive and Physical Interventions Curricula by Name) which are hereby
14 incorporated by reference including subsequent amendments and editions;
- 15 (2) before employing a physical restraint hold, the foster parent shall take into consideration the child's
16 medical condition and any medications the child may be taking;
- 17 (3) no child shall be restrained utilizing a protective or mechanical device;
- 18 (4) no child or group of children shall be allowed to participate in the physical restraint of another child;
- 19 (5) physical restraint holds shall:
- 20 (A) not be used for purposes of discipline or convenience;
- 21 (B) be used only when there is imminent risk of harm to the child or others and less restrictive
22 approaches have failed;
- 23 (C) be administered in the least restrictive manner possible to protect the child or others from
24 imminent risk of harm; and
- 25 (D) end when the child becomes calm.
- 26 (6) The foster parent shall:
- 27 (A) ensure that any physical restraint hold utilized on a child is administered by a trained foster
28 parent with a second trained foster parent or with a second trained adult in attendance.
29 Concurrent with the administration of a physical restraint hold and for a minimum of 15
30 minutes subsequent to the termination of the hold, a foster parent shall monitor the child's
31 breathing, ascertain the child is verbally responsive and motorically in control, and ensure
32 the child remains conscious without any complaints of pain. The supervising agency may
33 seek a waiver from the licensing authority for a foster parent to administer a physical
34 restraint hold without a second trained adult in attendance, and completion of the waiver
35 request form. The licensing authority shall grant the waiver if it receives written approval
36 from the child's parent, guardian, or custodian that the administering of a physical restraint
37 hold without a second trained person present is acceptable, written approval from the

- 1 supervising agency that the foster parent is authorized to administer a physical restraint
2 hold without a second trained person present, and documentation that there is approval by
3 the child and family team and documented in the person-centered plan or out-of-home
4 family services agreement that it is acceptable for the foster parent to administer a physical
5 restraint hold without a second trained person present;
- 6 (B) immediately terminate the physical restraint hold or adjust the position to ensure that the
7 child's breathing and motor control are not restricted, if at any time during the
8 administration of a physical restraint hold the child complains of being unable to breathe
9 or loses motor control;
- 10 (C) immediately seek medical attention for the child, if at any time the child appears to be in
11 distress; and
- 12 (D) conduct an interview with the foster child about the incident following the use of a physical
13 restraint hold.
- 14 (7) The supervising agency shall interview the foster parent administering the physical restraint hold
15 about the incident following the use of a physical restraint hold by the supervising agency.
- 16 (8) The supervising agency shall document each incident of a child being subjected to a physical
17 restraint hold on an incident report provided by the licensing authority. The incident report shall
18 include:
- 19 (A) the child's name, age, height, and weight;
- 20 (B) the type of hold utilized;
- 21 (C) the duration of the hold;
- 22 (D) the trained foster parent administering the hold;
- 23 (E) the trained foster parent or trained adult witnessing the hold;
- 24 (F) the less restrictive alternatives that were attempted prior to utilizing physical restraint;
- 25 (G) the child's behavior that necessitated the use of physical restraint; and
- 26 (H) whether the child's condition necessitated medical attention.
- 27 (9) Physical restraints where a person ends up in a prone or face down position are prohibited.
- 28 (f) Foster parents shall annually receive written approval from the executive director or his/her designee of the
29 supervising agency before administering physical restraint holds. The foster parent shall retain a copy of the written
30 approval and a copy shall be placed in the foster home record.
- 31
- 32 *History Note: Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;*
33 *Amended Eff. August 1, 2017; September 1, 2007.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .1107

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

This rule appears to directly govern foster parents, though it could be revised to apply to supervising agencies instead. First, please assure that the rule is clear as to who must comply with the rule. Secondly, clearly identify the statute that authorizes the Commission to adopt rules directly governing foster parents, if that is the intention.

Delete "(s)" throughout this rule

Line 6 – replace "or" with "and"

Line 13 – replace "Subparagraphs (a)(1) through (5)" with "Paragraph (a)"

Line 17 – specify ".0104(19)" Why is .0203 cited?

Line 17 – .0203 doesn't define "qualified professional," so consider deleting it. The correct way to show this punctuation change and the added "and" is:

.~~0203~~, .0203; and

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70E .1107 is amended as published in 31:14 NCR 1383 as follows:

2

3 **10A NCAC 70E .1107 RELATIONSHIP TO SUPERVISING AGENCY**

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

5 (1) work with the child and the child's parent(s) or guardian(s) in the placement process, reunification
6 process, adoption process, or any change of placement process;

7 (2) consult with social workers, mental health personnel, licensed medical providers, and other persons
8 authorized by the child's parent(s), guardian(s) or custodian who are involved with the child;

9 (3) maintain confidentiality regarding children and their parent(s) or guardian(s);

10 (4) keep records regarding the child's illnesses, behaviors, social needs, educational needs, and family
11 visits and contacts; and

12 (5) report to the supervising agency any changes as required by 10A NCAC 70E .0902.

13 (b) In addition to Subparagraphs (a)(1) through (5) of this Rule, foster parents who provide therapeutic foster care
14 services shall:

15 (1) be trained as set out in 10A NCAC 70E .1117; ~~and~~

16 (2) allow weekly supervision and support from a qualified professional as defined in 10A NCAC 27G
17 .0104 and .0203; ~~and~~

18 (3) allow weekly supervision and support from a qualified professional as outlined in 10A NCAC 70G
19 .0503(r).

20

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

22 *Eff. September 1, 2007;*

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .1116

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – add “who is” after “household”

Line 6 – correct the font at the end of this line

Lines 13-15 – how is (a)(4) different from (b)?

Line 15 – if you keep (a)(4), add “identified” or “listed” after “authority”

Lines 15 and 27 require the use of a form. The APA requires that the substantive contents of forms be set forth in either rules or statute. Wherever you refer to forms, you should either state the substantive contents of the form in the rule or know of rules or statutes where the substantive content is stated. In addition, the rule should also state, with specificity, where the form may be obtained. Why refer to the form at all – why not just state “submit the results of the criminal history checks to the licensing authority [or to the N.C. Division of Social Services]”?

Lines 16-21 – consider listing as follows:

- (5) obtain a signed statement that
 - (A) the individual has no criminal, social or medical history which would adversely affect their capacity to work with children and adults;
 - (B) obtain a signed statement that the individual has not abused or neglected a child or been a respondent in a juvenile court proceeding that resulted in the removal of a child or had child protective services involvement that resulted in the removal of a child; and
 - (C) obtain a signed statement that the applicant has not abused, neglected, or exploited a disabled adult and has not been a domestic violence perpetrator;

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

Lines 17 and 30-31 – what does “adversely affect their capacity to work with children and adults” mean?

Lines 18 and 31-32 – what is “abused or neglected”? Has this been defined somewhere?

Lines 20-21 and 34 - what is “abused, neglected, or exploited”? Has this been defined somewhere?

Lines 21 and 34 – what is “a domestic violence perpetrator”? Is this someone who has been charged with a crime or was served with a 50B order?

Line 23 – replace “Registry (pursuant to G.S. 131E-256)” with “Registry pursuant to G.S. 131E-256”

Lines 29-36 – list as follows:

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

- (1) a signed statement that the individual has no criminal, social, or medical history which would adversely affect their capacity to work with children and adults;
- (2) a signed statement that the individual has not abused or neglected a child or been a respondent in a juvenile court proceeding that resulted in the removal of a child or had child protective services involvement that resulted in the removal of a child;
- (3) a signed statement that the applicant has not abused, neglected, or exploited a disabled adult and has not been a domestic violence perpetrator; and
- (4) a signed statement that the applicant is not listed on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256.

Page 2, line 1 – add “131D-10.3A” to the History Note.

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

1 10A NCAC 70E .1116 is amended as published in 31:14 NCR 1383 as follows:

2
3 **10A NCAC 70E .1116 CRIMINAL HISTORY CHECKS**

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

- 6 (1) furnish the written notice as required by G.S. 131D-10.3A(e);
- 7 (2) obtain a signed consent form for a criminal history check and submit the signed consent form to the
8 Department of Health and Human Services, Criminal Records Check Unit;
- 9 (3) obtain two sets of fingerprints on SBI identification cards and forward both sets of fingerprints to
10 the Department of Health and Human Services, Criminal Records Check Unit. Once an individual's
11 fingerprints have been submitted to the Department of Health and Human Services, Criminal
12 Records Check Unit, additional fingerprints shall not be required; ~~and~~
- 13 (4) conduct a local criminal history check through accessing the Administrative Office of the Courts
14 and the Department of Corrections Offender Population Unified System and submit the results of
15 the criminal history checks to the licensing authority on the Foster Home Application form; ~~;~~
- 16 (5) obtain a signed statement that the individual has no criminal, social or medical history which would
17 adversely affect their capacity to work with children and adults; obtain a signed statement that the
18 individual has not abused or neglected a child or been a respondent in a juvenile court proceeding
19 that resulted in the removal of a child or had child protective services involvement that resulted in
20 the removal of a child; and obtain a signed statement that the applicant has not abused, neglected,
21 or exploited a disabled adult, and has not been a domestic violence perpetrator;
- 22 (6) conduct a search of the North Carolina Sex Offender and Public Protection Registry; and
- 23 (7) conduct a search of the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256).

24 (b) The supervising agency shall conduct a local criminal history check through accessing the Administrative Office
25 of the Courts and the ~~Department of Corrections Offender Population Unified System~~ North Carolina Department of
26 Public Safety, Division of Adult Correction, Offender Information and submit the results of the criminal history checks
27 to the licensing authority on the Foster Home Relicensure, Termination and Change Request Application form at
28 relicensure for foster parents and any member of the prospective foster parents' household 18 years of age or older.

29 (c) Every two years, the supervising agency shall require that foster parents and any adult member of the household
30 provide a signed statement that the individual has no criminal, social, or medical history which would adversely affect
31 their capacity to work with children and adults; obtain a signed statement that the individual has not abused or
32 neglected a child or been a respondent in a juvenile court proceeding that resulted in the removal of a child or had
33 child protective services involvement that resulted in the removal of a child; obtain a signed statement that the
34 applicant has not abused, neglected, or exploited a disabled adult, and has not been a domestic violence perpetrator;
35 and obtain a signed statement that the applicant is not listed on the North Carolina Health Care Personnel Registry
36 (pursuant to G.S. 131E-256).

- 1 *History Note:* Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153;
- 2 Amended Eff. August 1, 2017; September 1, 2007.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70E .1117

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

This Rule is confusing because it seems to conflate requirements imposed on supervising agencies with requirements imposed on foster parent applicants. Carefully review each Item in the Rule and assure that the requirements apply to agencies, as stated in line 4. If the intent is to control foster parents directly, please assure that it is clear as to who must comply with the rule and clearly identify the statute that authorizes the Commission to adopt rules directly governing foster parents.

Line 7 – delete or define “successfully”

Line 8 – delete “components”

Lines 9-25 – why are all these words capitalized?

Line 27 – delete “at least” and “additional”

Lines 25, 29, 35, 36, and 37 – add “the” to the beginning of these lines

Line 28 – add “in addition to the training required by Item (1) of this Rule,” after “services”

Page 2, line 10 – delete or define “successfully”

Page 2, lines 11, 15, 20, 22, and 23 – add a comma after “CPR”

Page 2, line 17 – replace “Successfully completed is defined as demonstrating” with ““Successfully completed” shall mean demonstrating”

Page 2, lines 17 and 19 – add a comma after “Cross”

Page 2, line 19 – add a comma after “Association”

Jason Thomas
Commission Counsel
Date submitted to agency: June 28, 2017

Page 2, line 23 – replace “are not” with “shall not be”

Page 2, line 27 – replace “When” with “If”

Page 2, lines 27-28 – what does “– reactive, sexually reactive and sexual offender behaviors” mean? Perhaps replace with: “, for example, if the child or adolescent engages in reactive, sexually reactive, or sexual offender behaviors” if that is what is meant.

Page 2, lines 28 and 32 – replace “his/her” with “his or her”

Page 2, line 29 – replace “offender specific” with “offender-specific”

Page 3, line 1 – delete or define “successfully”

Page 3, lines 1 and 4 – delete “at least”

Page 3, line 9 – delete the semicolon

Page 3, line 10 – what will the “approval” be based on – is it left to the discretion of the supervising agency?

Page 3, line 16 – replace “may” with “shall” if that is what is meant

Page 3, line 17 – is the supervising agency required to provide the “training requirements” or the “training”? Also, please complete this incomplete sentence.

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

1 10A NCAC 70E .1117 is amended as published in 31:14 NCR 1384 as follows:

2

3 **10A NCAC 70E .1117 TRAINING REQUIREMENTS**

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

6 (1) Prior to licensure or within six months from the date a provisional license is issued, each applicant
7 shall successfully complete 30 hours of preservice training. Preservice training shall include the
8 following components:

- 9 (a) General Orientation to Foster Care and Adoption Process;
- 10 (b) Communication Skills;
- 11 (c) Understanding the Dynamics of Foster Care and Adoption Process;
- 12 (d) Separation and Loss;
- 13 (e) Attachment and Trust;
- 14 (f) Child and Adolescent Development;
- 15 (g) Behavior Management;
- 16 (h) Working with Birth Families and Maintaining Connections;
- 17 (i) Lifebook Preparation;
- 18 (j) Planned Moves and the Impact of Disruptions;
- 19 (k) The Impact of Placement on Foster and Adoptive Families;
- 20 (l) Teamwork to Achieve Permanence;
- 21 (m) Cultural Sensitivity;
- 22 (n) Confidentiality; ~~and~~
- 23 (o) Health and Safety;
- 24 (p) Trauma Informed Care; and
- 25 (q) Reasonable and Prudent Parent Standard as defined in 131D-10.2.

26 (2) Prior to licensure or within six months from the date a provisional license is issued, therapeutic
27 foster parent applicants shall receive at least ten additional hours of preservice training in behavioral
28 mental health treatment services including the following:

- 29 (a) role of the therapeutic foster parent;
- 30 (b) safety planning; and
- 31 (c) managing behaviors.

32 (3) During the initial two years of licensure, each therapeutic foster parent shall receive additional
33 training in the following areas:

- 34 (a) development of the person-centered plan;
- 35 (b) dynamics of emotionally disturbed and substance abusing youth and families;
- 36 (c) symptoms of substance abuse;
- 37 (d) needs of emotionally disturbed and substance abusing youth and families; and

1 (e) crisis intervention.

2 (4) ~~Training in first-aid, cardiopulmonary resuscitation (CPR) and universal precautions such as those~~
3 ~~provided by the American Red Cross, the American Heart Association, or equivalent organizations~~
4 ~~shall be provided to foster parents before a foster child is placed with the foster family. Training in~~
5 ~~CPR shall be appropriate for the ages of children in care. First-aid, CPR, and universal precautions~~
6 ~~training shall be updated as required by the American Red Cross, the American Heart Association,~~
7 ~~or equivalent organizations. The supervising agency shall ensure that family foster parents and~~
8 ~~therapeutic foster parents are trained in medication administration before a child is placed with the~~
9 ~~foster family.~~

10 Foster parents shall successfully complete certification in first-aid, cardiopulmonary resuscitation
11 (CPR) and universal precautions provided by either the American Heart Association or the
12 American Red Cross or other organizations approved by the Division of Social Services before a
13 foster child is placed with the foster family. Other organizations shall be approved if the Division
14 of Social Services determines that courses offered are substantially equivalent to those offered by
15 the American Heart Association or the American Red Cross. First-aid, CPR and universal
16 precautions training shall be renewed as required by the American Heart Association, the American
17 Red Cross or equivalent organizations. Successfully completed is defined as demonstrating
18 competency, as evaluated by the instructor who has been approved by the American Heart
19 Association or the American Red Cross or other organizations approved by the Division of Social
20 Services to provide first-aid, CPR and universal precautions training. Training in CPR shall be
21 appropriate for the ages of children in care. Documentation of successful completion of first-aid,
22 CPR and universal precautions shall be maintained by the supervising agency. Web-based trainings
23 are not acceptable methods of successfully completing certification in first-aid, CPR and universal
24 precautions.

25 (5) Child-specific training shall be provided to the foster parents as required in the out-of-home family
26 services agreement or person-centered plan as a condition of the child being placed in the foster
27 home. When the child or adolescent requires treatment for abuse – reactive, sexually reactive and
28 sexual offender behaviors, specific treatment shall be identified in his/her person-centered plan.
29 Training of therapeutic foster parents is required in all aspects of reactive and offender specific
30 sexual treatment and shall be made available by a provider who meets the requirements specified
31 for a qualified professional as defined in 10A NCAC 27G .0104. When the child or adolescent
32 requires treatment for substance abuse, specific treatment shall be identified in his/her person-
33 centered plan. Training and supervision of therapeutic foster parents are required in all aspects of
34 substance abuse and shall be made available by a provider who meets the requirements specified for
35 a qualified substance abuse prevention professional as defined in 10A NCAC 27G .0104. This
36 training shall count towards the training requirements of Item (6) of this Rule.

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

18
19 *History Note: Authority G.S. 131D-10.1; 131D-10.2; 131D-10.3; 131D-10.5; ~~131D-10.6~~; 131D-10.6A;*
20 *Eff. September 1, 2007;*
21 *Amended Eff. August 1, 2017; November 1, 2009.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70F .0202

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – add “agency’s” before “administrative” if that is what is meant

Lines 6-7 – consider revising as follows:

geographical boundaries of North Carolina and shall delegate responsibility for the administration and operation of the agency to that director, including the employment and discharge of all agency staff.

Lines 8-22 – consider revising as follows:

- (c) The governing body shall:
- (1) require the executive director provide a signed statement that the executive director has no criminal, social, or medical history that would adversely affect his or her capacity to work with children and adults;
 - (2) ensure that the criminal histories of an executive director are completed;
 - (3) ensure that searches of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256 are completed;
 - (3) submit authorization to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70A .0102, to determine if the executive director has had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
 - (5) make all determinations concerning an individual's fitness for employment based on the requirements of this Paragraph prior to employment;
 - (6) require that the executive director provide a signed statement prior to employment that he or she has not abused or neglected 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; and

Jason Thomas
Commission Counsel
Date submitted to agency: June 29, 2017

- (7) require that the executive director provide a signed statement that he or she has not abused, neglected, or exploited a disabled adult and that he or she has not been a domestic violence perpetrator.

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

Lines 17-18 – what is “abused or neglected”? Has this been defined somewhere?

Line 20-21 - what is “abused, neglected, or exploited”? Has this been defined somewhere?

Line 21 – what is “a domestic violence perpetrator”? Is this someone who has been charged with a crime or was served with a 50B order?

Line 26 – replace “children (including child pornography);” with “children, including child pornography;”

Line 33 – add a comma after “performance”

Page 2, line 1 – please confirm that full name of the Rate Setting Branch is accurate.

Page 2, line 1 – replace “in compliance with” with “and shall comply with”

Page 2, line 3 – what, specifically, will the “evaluation” assess?

Page 2, line 10 – what must the “plan” contain or address?

Page 2, lines 10-12 – consider revising as follows:

- (k) The governing body shall develop a plan for retaining and storing client records in the event of the closing of the agency. This plan shall be submitted to the licensing authority before the actual closing of the agency.

Page 2, lines 13-14 - specifically cite the laws that are applicable. Do not capitalize “federal.”

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 29, 2017

1 10A NCAC 70F .0202 is amended as published in 31:15 NCR 1536 as follows:

2

3 **10A NCAC 70F .0202 RESPONSIBILITIES OF THE GOVERNING BODY**

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

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

8 (c) The governing body shall require the executive director provide a signed statement that the executive director has
9 no criminal, social or medical history that would adversely affect his or her capacity to work with children and adults.

10 The governing body shall ensure that the criminal histories of an executive director are completed. The governing
11 body shall ensure that searches of the North Carolina Sex Offender and Public Protection Registry and the North
12 Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed. The governing body shall submit
13 authorization to the licensing authority to search the Responsible Individuals List as defined in 10A NCAC 70A .0102
14 to determine if the executive director has had child protective services involvement resulting in a substantiation of
15 child abuse or serious neglect. The employing agency shall make all determinations concerning an individual's fitness
16 for employment based on the requirements of this Paragraph prior to employment. The governing body shall require
17 that the executive director provide a signed statement prior to employment that he or she has not abused or neglected
18 a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child
19 protective services involvement that resulted in the removal of a child. The governing body shall require that the
20 executive director provide a signed statement that he or she has not abused, neglected or exploited a disabled adult
21 and that he or she has not been a domestic violence perpetrator. Agencies or applicants that do not have a governing
22 body shall provide this information directly to the licensing authority.

23 (d) The executive director is not eligible for employment if he or she has been convicted of a felony involving:

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

28 (e) The executive director is not eligible for employment if within the last five years he or she has been convicted of
29 a felony involving:

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

33 (f) The governing body shall annually evaluate the executive director's performance except a sole proprietor or partner
34 is exempt from this Rule if he or she serves as executive director.

35 (g) The governing body shall approve the annual budget of anticipated income and expenditures necessary to provide
36 the services described in its statement of purpose. Child-placing agencies and residential maternity homes receiving
37 foster care payments or state maternity home funds shall submit an annual audit of their financial statements to the

1 Department of Health and Human Services, Controller's Office, Rate Setting Branch in compliance with 10A NCAC
2 70D .0105(a)(5).

3 (h) The governing body shall annually evaluate the agency's services. This evaluation shall include the agency's
4 interaction with other community agencies to serve its clients.

5 (i) The governing body shall establish in writing confidentiality policies and procedures for control and access to and
6 receipt, use, or release of information about its clients.

7 (j) The governing body of child-placing agencies providing foster care services shall develop a written disaster plan
8 that is provided to agency personnel and foster parents. The disaster plan shall be prepared and updated at least
9 annually. The governing body of residential maternity homes shall comply with 10A NCAC 70K .0315(g).

10 (k) The governing body, in the event of the closing of the agency, shall develop a plan for the retention and storage
11 of client records. The specifics of this plan shall be submitted to the licensing authority before the actual closing of
12 the agency.

13 (l) The governing body shall develop and implement policies and procedures to comply with all applicable State and
14 Federal laws pertaining to nondiscrimination.

15 (m) The governing body shall insure that the agency complies with the Multiethnic Placement Act (MEPA) of 1994,
16 P.L. 103-82, as amended by the Interethnic Adoption Provisions (IEP) of 1996, which is incorporated by reference,
17 including subsequent amendments and editions.

18 (n) The governing body shall comply with the terms and conditions of State and Federal requirements to participate
19 in procurement contracts and covered non-procurement transactions as required by 45 C.F.R. 82.510 and 49 C.F.R.
20 29.630, which is incorporated by reference, including subsequent amendments and editions.

21

22 *History Note: Authority G.S. 131D-10.5; 131D-10.6; 131D-10.10; 143B-153;*

23 *Eff. February 1, 1986;*

24 *Amended Eff. July 1, 1990;*

25 *Temporary Amendment Eff. February 1, 2002;*

26 *Amended Eff. August 1, 2017; June 1, 2010; November 1, 2009; October 1, 2008; July 18, 2002.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70F .0205

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – what information is required to be in the report?

Line 11 – revise this line as follows: “shall not institute any changes in policies and procedures until after it receives written approval from the licensing authority.”

Lines 13 and 14 – add a comma after “incidents”

Line 15 – replace “When” with “If”

Line 18 – delete “is an owner and”

Line 18 – replace “at least five percent interest of” with “at least a five percent interest in”

Lines 19-20 – replace “owner and individuals” with “person”

Line 20 add “in the agency” after “interest”

Line 22 – the correct way to show the capital “S” is: “services Services” – but do you wish to make this change? It makes better sense without the capitalized word “Services.”

Line 24 – delete the comma

Line 25 – define “immediately” by stating a specific period of time

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 29, 2017

1 10A NCAC 70F .0205 is amended as published in 31:15 NCR 1537 as follows:

2

3 **10A NCAC 70F .0205 RESPONSIBILITY TO LICENSING AUTHORITY**

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

6 (b) The agency shall submit to the licensing authority a biennial statistical report of program activities.

7 (c) The agency shall provide written notification to the licensing authority of a change in the executive director within
8 72 hours.

9 (d) The agency shall provide written notification to the licensing authority of any changes in policies and procedures
10 to assure that the changes are in compliance with the rules in Subchapters 70E, 70F, 70G, 70H, or 70K. The agency
11 shall receive written approval from the licensing authority before instituting any changes in policies and procedures.

12 (e) Child-placing agencies for foster care shall comply with requirements related to the handling and reporting of
13 critical incidents in accordance with 10A NCAC 70G .0513. Residential maternity homes shall comply with
14 requirements related to the handling and reporting of critical incidents in accordance with 10A NCAC 70K .0210.

15 (f) When there is a death of a child or resident in placement in a home supervised by the agency, the executive director
16 or his or her designee shall notify the licensing authority within 72 hours.

17 (g) The agency shall provide to the licensing authority at the time of license application the legal name and social
18 security number of each individual who is an owner and holds at least five percent interest of the agency.

19 (h) The agency shall provide to the licensing authority written notification of a change in the legal name of any owner
20 and individuals holding an interest of at least five percent within 30 days following the changes.

21 (i) The agency shall notify the local management entity within 24 hours of placement that a child may require Mental
22 Health, Developmental Disability or Substance Abuse ~~s~~ Services.

23 (j) If a child-placing agency for foster care is monitored by a local management entity, the agency shall provide data
24 to the local management entity, as required by Department of Health and Human Services for monitoring and reporting
25 to the General Assembly.

26 (l) The agency shall notify the licensing authority immediately if the agency receives notice of debarment that
27 prohibits the agency from participating in State and Federal procurement contracts and covered non-procurement
28 transactions.

29

30 *History Note: Authority G.S. 131D-1; 131D-10.3; 131D-10.5; 143B-153;*

31 *Eff. February 1, 1986;*

32 *Amended Eff. July 18, 2002; July 1, 1990;*

33 *Temporary Amendment Eff. July 1, 2003;*

34 *Amended Eff. August 1, 2017; October 1, 2008; August 1, 2004.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70F .0208

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – delete “will”

Line 5 – replace “identify” with “identifies”

Lines 6-10 – consider listing, as follows:

- (2) specify that persons who have access to records or specified information in a record be limited to persons authorized pursuant to law, including:
 - (A) the client;
 - (B) the parents or guardian or legal custodian if the client is a minor;
 - (C) agency staff;
 - (D) auditing, licensing, or accrediting personnel; and
 - (E) those persons for whom the agency has obtained a signed consent for release of confidential information;

Line 11 – replace “require” with “requires”

Line 12 requires the use of a form. The APA requires that the substantive contents of forms be set forth in either rules or statute. Wherever you refer to forms, you should either state the substantive contents of the form in the rule or know of rules or statutes where the substantive content is stated. In addition, the rule should also state, with specificity, where the form may be obtained.

Line 12 – replace “parent(s)” with “parent” or with “parent or parents”

Line 12 – the proper way to add a comma is “~~custodian~~ custodian.”

Line 12 – delete the comma after “client”

Jason Thomas
Commission Counsel
Date submitted to agency: June 29, 2017

Line 14 – replace “provide” with “provides for”

Line 15 – replace “inform” with “informs”

Line 16 – replace “ensure” with “ensures”

Line 17 – replace “which” with “that”

Line 18 – replace “permit” with “permits”

Line 22 – replace “document” with “documents” and replace “refusals” with “refusal”

Line 23 – add a comma after “guardian”

Line 24, 25, and 26 – replace “maintain” with “maintains”

Lines 27, 30, 33, and page 2 lines 1 and 3 – add “its” before “office” if that is what is meant

Lines 30 and 33, and page 2 line 3 – replace “then” with “in which case”

Line 32 – replace “age” with “the age of”

Line 35 – add a comma after “parents”

Page 2, line 5 – replace “10D-10.3” with “131D-10.3” if that is what is meant.

Page 2, line 5 – do you intend to cite “131D-10.5” or “131D-10.5A”?

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 29, 2017

1 10A NCAC 70F .0208 is amended as published in 31:15 NCR 1537 as follows:

2

3 **10A NCAC 70F .0208 CONFIDENTIALITY**

4 (a) The agency shall develop and enforce a policy on confidentiality that will:

5 (1) identify the individuals with access to or control over confidential information;

6 (2) specify that persons who have access to records or specified information in a record be limited to
7 persons authorized pursuant to law. These persons include the client; the parents or guardian or
8 legal custodian when the client is a minor; agency staff; auditing, licensing, or accrediting personnel;
9 and those persons for whom the agency has obtained a signed consent for release of confidential
10 information;

11 (3) require that when a client's information is disclosed, a signed consent for release of information is
12 obtained on a consent for release form signed by the parent(s), guardian, legal custodian, or client,
13 if age 18 or older;

14 (4) provide a secure place for the storage of records with confidential information;

15 (5) inform any individual with access to confidential information of the provisions of this Rule;

16 (6) ensure that, upon employment and whenever revisions are made to the policy, staff sign a
17 compliance statement which indicates an understanding of the requirements of confidentiality;

18 (7) permit a client to review his or her case record in the presence of agency personnel on the agency
19 premises, in a manner that protects the confidentiality of other family members or other individuals
20 referenced in the record, unless agency personnel determines the information in the client's case
21 record would be harmful to the client;

22 (8) in cases of perceived harm to the client, document in writing any refusals to share information with
23 the client, parents, guardian or legal custodian;

24 (9) maintain a confidential case record for each client;

25 (10) maintain confidential personnel records for all employees (full-time, part-time and contracted); and

26 (11) maintain confidential records for all volunteers and interns;

27 (b) A child-placing agency for foster care and a residential maternity home may destroy in office:

28 (1) the closed record of a child or resident who has been discharged from foster care or residential
29 maternity care for a period of three years unless included in a federal or state fiscal audit or program
30 audit that is unresolved, then the agency may destroy the record in office when released from all
31 audits; and

32 (2) a record three years after a child or resident has reached age ~~18~~21, unless included in a federal fiscal
33 audit or program audit that is unresolved, then the agency may destroy the record in office when
34 released from all audits.

35 (c) All individual children, birth parents and adoptive family records shall be permanently retained by the agency.

36 After a period of seven years, the files may be microfilmed or scanned in accordance with provisions of G.S. 8-45.1,

37 following which the original files may be destroyed by a shredding process. The adoption agency may destroy in

1 office the closed records of applicants who were not accepted or who did not have a child placed with them three years
2 after the date of their application, unless included in a federal or state fiscal audit or program audit that is unresolved,
3 then the agency may destroy the record in office when released from all audits.

4

5 *History Note: Authority G.S. 131D-1; 10D-10.3; 131D-10.5; 143B-153;*
6 *Temporary Adoption Eff. February 1, 2002;*
7 *Eff. July 18, 2002*
8 *Amended Eff. August 1, 2017; October 1, 2008.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70F .0214

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Properly format the line numbers, please

Lines 4-5 – replace “in accordance with 131D-10.2” with “to implement the reasonable and prudent parent standard established in G.S. 131D-10.2A.”

Line 6 – replace “includes” with “include”

Lines 7, 9, 10, and 12 – number correctly, please – (1), not 1.

Line 7 – replace “official(s)” with “official”

Line 9 – replace “parenting” with “parent” and replace “decision maker” with “decision-maker”

Line 10 – delete “area of”

Line 12 – replace “the implementation of” with “implementing the”

Line 15 – do you intend to cite “131D-10.2” or “131D-10.2A”?

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 29, 2017

1 10A NCAC 70F .0214 is adoption as published in 31:15 NCR 1538 as follows:

2

3 **10A NCAC 70F .0214 NORMALCY FOR FOSTER CHILDREN**

4 (a) Child placing agencies and residential maternity homes shall develop and follow policies and procedures in
5 accordance with 131D-10.2.

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

7 1. appointment of a designated official(s) to apply the reasonable and prudent parent standard when determining
8 whether to allow a child to participate in extracurricular, enrichment, cultural, and social activities;

9 2. documentation of reasonable and prudent parenting standard decision making;

10 3. training for residential maternity home staff, child placing agency staff, and foster parents in the area of
11 reasonable and prudent parent standard; and

12 4. supervision and support to staff and foster parents in the implementation of reasonable and prudent parent
13 standard.

14

15 History Note: Authority G.S. 131D-10.2; 131D-10.6; 131D-10.5; 143B-153;

16 Eff. August 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

General Notes:

These rules govern the actions of supervising agencies. In addition, some of the rules directly govern foster parents, though it is not always clear whether the intention is to control foster parents directly or, instead, to require supervising agencies to manage foster parents. First, please assure that each rule is clear as to who must comply with the rule. Secondly, clearly identify the statute that authorizes the Commission to adopt rules directly governing foster parents, if that is the intention.

Why do you cite to G.S. 131D-10.1 in your History Notes? Consider deleting this citation from each of the rules.

Please check the cites to G.S. 131D-10.2 – do you intend to cite to 131D-10.2A instead or in addition?

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0402

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – what does this mean: “Except when the context of the Rule indicates that the term has a different meaning”? Do the defined terms mean different things in different rules? If not, delete this phrase.

Lines 9-12 – delete this item and replace it with the following, if the meaning is not changed:

- (3) "Family Foster Care" means foster care, as defined in G.S. 131D-10.2(9), that is provided in a family foster home.

Lines 13-23 – delete this item and replace it with the following, if the meaning is not changed:

- (4) "Guardian" means an individual as defined in G.S. 7B-600 who is appointed by the court to serve as the guardian of the person for a juvenile pursuant to G.S. 7B, Article 6.

Lines 27-33 – revise these lines as follows, if the meaning is not changed:

- (7) "Out-of-Home Family Services Agreement" means a document prepared by the Division of Social Services regarding a child in the custody of a county department of social services who receives family foster care services or therapeutic foster care services. This agreement defines the primary permanency plan, identifies the family's strengths and needs, sets objectives and case activities to assist the family in resolving those issues that place the child at risk, specifies consequences if the plan does not succeed, and establishes an alternative permanency plan if the primary plan does not succeed.

Lines 29-33 – alternatively, the sentence beginning “This agreement...” could be moved to Rule .0504.

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

Lines 33-35 – the substance of the sentence beginning “The agreement must...” should be moved to Rule .0504. Replace “must” with “shall” and consider revising the sentence into a list.

Page 2, line 1 – replace “the” with “an”

Page 2, lines 5-11 – replace Item (10) with the following, if the meaning is not changed:

- (10) "Person-Centered Plan" means a document prepared by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services regarding a child receiving therapeutic foster care services the includes all planning for treatment, services and support.

Page 2, lines 8-11 – the remaining text in Item (10), beginning with “Person-centered planning...” should be deleted or revised and moved to Rule .0505.

Page 2, line 16 – replace “shall mean those who have” with “means an individual who has earned”

Page 2, line 19 – replace “where” with “in which”

Page 2, line 20 – add commas after “behavioral” and “health”

Page 2, line 21 – delete the comma and replace “as defined in” with “has the meaning set forth in”

Page 2, line 21 – replace “131D-10.2” with “131D-10.2A” if that is what is meant.

Page 2, line 23 – add “131D-10.2A” to the History Note and list the statutes in numerical order

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

1 10A NCAC 70G .0402 is amended as published in 31:18 NCR 1797 as follows:

2

3 **10A NCAC 70G .0402 DEFINITIONS**

4 Except when the context of the Rule indicates that the term has a different meaning the following definitions shall
5 apply to the rules in Subchapter 70G:

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

8 (2) "Family Foster Home" has the meaning as defined in G.S. 131D-10.2(8).

9 (3) "Family Foster Care" means a planned, goal-directed service in which the temporary protection and
10 care of children take place in a family foster home. Family foster care is a child welfare service for
11 children and their parents who must live apart from each other for a period of time due to abuse,
12 neglect, dependency, or other circumstances necessitating out-of-home care.

13 (4) "Guardian" means an individual as defined in G.S. 7B-600 who is appointed by the court to serve
14 as the guardian of the person for a juvenile. The guardian shall have the care, custody, and control
15 of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile
16 in legal actions before any court. The guardian may consent to certain actions on the part of the
17 juvenile in place of the parent including marriage, enlisting in the armed forces and enrollment in
18 school. The guardian may also consent to any necessary remedial, psychological, medical, or
19 surgical treatment for the juvenile. Guardian also means an individual appointed by the clerk of
20 court in North Carolina to exercise all the powers conferred by G.S. 35A-1241, including a standby
21 guardian appointed under Article 21A of Chapter 35A whose authority has actually commenced and
22 also means an individual appointed in another jurisdiction according to the law of that jurisdiction
23 who has the powers consistent with G.S. 35A-1241.

24 (5) "Legal Custodian" means a person or agency that has been awarded legal custody of a juvenile by a
25 court of competent jurisdiction.

26 (6) "Licensing Authority" means the North Carolina Division of Social Services.

27 (7) "Out-of-Home Family Services Agreement" is a Division of Social Services document required of
28 all children in the custody of a county department of social services receiving family foster care
29 services or therapeutic foster care services. This agreement is used to define the primary
30 permanency plan; to identify the family's strengths and needs; to set objectives and case activities
31 to assist the family in resolving those issues that place the child at risk; to specify consequences if
32 the plan does or does not succeed; and to establish the alternative permanency plan if the primary
33 plan does not succeed. The agreement must address the services to be provided or arranged; the
34 visitation plan designed to maintain links with the family; expectations of the family, agency,
35 placement provider and community members; target dates; and expected outcomes.

- 1 (8) "Owner" means any person who holds an ownership interest of five percent or more of the applicant.
2 A person includes a sole proprietor, co-owner, partner or shareholder, principal or affiliate, or any
3 person who is the applicant or any owner of the applicant.
- 4 (9) "Parent" means the birth parent or adoptive parent.
- 5 (10) "Person-Centered Plan" is a Division of Mental Health, Developmental Disabilities and Substance
6 Abuse Services document and must be completed on all children receiving therapeutic foster care
7 services. The person-centered plan is the umbrella under which all planning for treatment, services
8 and supports occurs. Person-centered planning begins with the identification of the reason the
9 individual/family is requesting assistance. It focuses on the identification of the individual's/family's
10 needs and desired life outcomes--not just a request for a specific service. The plan captures all goals
11 and objectives and outlines each team member's responsibilities within the plan.
- 12 ~~(11) "Supervising Agency" means a county department of social services or a private child placing
13 agency that is authorized by law to receive children for purposes of placement in foster homes or
14 adoptive homes. Supervising agencies are responsible for recruiting, training, and supporting foster
15 parents. Supervising agencies recommend the licensure of foster homes to the licensing authority.~~
- 16 (11) "Social worker" shall mean those who have a bachelor's, master's, or doctorate degree in social
17 work from a social work program accredited by the Council on Social Work Education (CSWE) as
18 provided in the Social Worker Certification and Licensure Act (G.S. 90B).
- 19 (12) "Therapeutic Foster Care" means a foster home where the foster parent has received additional
20 training in providing care to children with behavioral mental health or substance abuse problems.
- 21 (13) The "reasonable and prudent parent standard", as defined in G.S.131D-10.2.
- 22

23 *History Note: Authority G.S 131D-10.1; 131D-10.2; 131D-10.3; 131D-10.5; 143B-153;*
24 *Eff. October 1, 2008;*
25 *Amended Eff. August 1, 2017;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0501

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – replace “is responsible for the general management and administration of” with “shall manage and administer”

Lines 11-12, 21, and 31-32 – delete “by viewing site”

Line 13 – replace “is responsible for supervising, evaluating, and monitoring” with “shall supervise, evaluate, and monitor”

Lines 23-25 – revise as follows:

(c) The social worker or case manager shall provide intake services and casework or group work services for children and their families, conduct home-finding and assessment studies related to foster parents and planning, and coordinate the services and resources affecting foster children and their families.

Line 28 – replace “viewed” with “found”

Line 34 – replace “(licensing workers)” with “(in this Rule, “licensing workers)”

Page 2, line 6 – delete “child placing” (Rule .0402 defines “agency” as a “child placing agency”).

Page 2, line 7-8 – is “trauma informed care” a term of art? If so, revise it to read “trauma-informed care”

Page 2, line 8 – add a comma after “care and add “the” before “reasonable”

Page 2, line 10 – is this all the authority you wish to cite? What about 131D-10.2A?

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

1 10A NCAC 70G .0501 is amended as published in 31:18 NCR 1798 as follows:

2
3 10A NCAC 70G .0501 PERSONNEL

4 (a) The executive director is responsible for the general management and administration of the agency in accordance
5 with licensing requirements and policies of the governing body. The executive director shall meet the requirements of a
6 Social Services Program Administrator I as defined by the North Carolina Office of State ~~Personnel.~~ Human Resources.
7 A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388 or by~~
8 ~~reviewing~~ reviewed at the following web site: (~~http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-~~
9 ~~04099/PDF_Files/04077.pdf~~). (<http://www.oshr.nc.gov/state-employee-resources/classifications/job-classification>). The
10 college or university degree shall be from a college or university listed at the time of the degree in the Higher Education
11 Directory. This information can be obtained by calling Higher Education Publications, Inc. at ~~1-888-349-7715.~~ or by
12 viewing site at: <http://www.hepinc.com>.

13 (b) The social work supervisor is responsible for supervising, evaluating, and monitoring the work and progress of the
14 social work or case management staff. The social work supervisor or case manager supervisor shall meet the
15 requirements of a Social Work Supervisor II as defined by the North Carolina Office of State ~~Personnel.~~ Human
16 Resources. A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388~~
17 ~~or by reviewing the following web site:~~ (~~http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-~~
18 ~~04099/PDF_Files/04016.pdf~~). found at ([http://www.oshr.nc.gov/state-employee-resources/classification/job-](http://www.oshr.nc.gov/state-employee-resources/classification/job-classification)
19 [classification](http://www.oshr.nc.gov/state-employee-resources/classification/job-classification)). The college or university degree shall be from a college or university listed at the time of the degree in
20 the Higher Education Directory. This information can be obtained by calling Higher Education Publications, Inc. at ~~1-~~
21 ~~888-349-7715.~~ or by viewing the site at: <http://www.hepinc.com>. Social work supervisors shall receive 24 hours of
22 continuing education annually.

23 (c) The social worker or case manager is responsible for intake services, providing casework or group work services for
24 children and their families, conducting home-finding and assessment studies related to foster parents and planning and
25 coordinating the services and resources affecting children and their families. The social worker or case manager shall
26 meet the requirements of a Social Worker II as defined by the North Carolina Office of State ~~Personnel.~~ Human
27 Resources. A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388~~
28 ~~or by reviewing~~ reviewed at the following web site: (~~http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-~~
29 ~~04099/PDF_Files/04012.pdf~~). (<http://www.oshr.nc.gov/state-employee-resources/classification/job-classification>). The
30 college or university degree shall be from a college or university listed at the time of the degree in the Higher Education
31 Directory. This information can be obtained by calling Higher Education Publications, Inc. at ~~1-888-349-7715.~~ or by
32 viewing at site: <http://www.hepinc.com>. Social workers shall receive 24 hours of continuing education annually.

33 (d) Social workers or case managers serving children in family foster homes shall serve no more than 15 children.
34 Social workers or case managers serving children in therapeutic foster homes shall serve no more than 12 children.
35 Social workers or case managers providing foster home licensing services (licensing workers) shall serve no more than
36 32 foster families. Agencies providing family foster care services may combine the duties of the social worker or case
37 manager and licensing worker and serve no more than ten children and ten foster families. Agencies providing

1 therapeutic foster care services may combine the duties of the social worker or case manager and licensing worker and
2 serve no more than eight children and eight foster families.

3 (e) Supervision of social workers or case managers shall be assigned as follows:
4

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

5
6 (f) The child placing agency shall ensure that the social work supervisors and social workers receive training in the areas
7 of child development, permanency planning methodology, family systems and relationships, child sexual abuse, trauma
8 informed care and reasonable and prudent parent standard.

9
10 *History Note: Authority G.S. 131D-10.5; 143B-153;*
11 *Eff. October 1, 2008;*
12 *Amended Eff. August 1, 2017; June 1, 2010.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0503

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

This Rule is confusing because it seems to conflate requirements imposed on supervising agencies with requirements imposed on foster parent applicants. The changes include revisions that make it clear that the Rule sets requirements for agencies and their personnel, rather than for foster children and parents.

Lines 10 and – add commas after “guardian”

Line 11 – replace “which” with “that”

Line 12 – add “goals of the” before “person”

Line 13 – delete “goals”

Lines 14 and 17 – what does “appropriate” mean? What standards guide this determination?

Lines 14-17 – revise as follows, but make additional revisions as needed to define or explain what “appropriate” means:

- (e) The agency shall select the most appropriate form of family foster care or therapeutic foster care for the child consistent with the needs of the child, parents, and guardian. The agency shall provide for any services the child may need and, when placing the child, shall select the least restrictive and most appropriate setting closest to the child's home.

Line 19 – delete “child placing” (Rule .0402 defines “agency” as a “child placing agency”).

Line 22 – delete “make concerted efforts to”

Line 23 – add a comma after “school”

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

Line 25 – add a comma after “7B-902.1(d)” and replace “they” with “it”

Lines 25 and 27 – what does “supervising agency” mean? Do you simply mean “agency”?

Line 29 – revise as follows: “Each family foster home or the therapeutic foster home in which a foster child is placed shall be licensed by the Division of Social Services.”

Line 32 – replace “in the case of” with “if the child is” if that is what is meant.

Line 36 – add “the” before “foster”

Page 2, line 16 – add a comma after “family”

Page 2, lines 17-22 – revise as follows, if the meaning is not changed:

(m) The agency shall provide children in family foster homes and therapeutic foster homes with a face-to-face meeting with the social worker or case manager per month or more frequently if specified in the out-of-home family services agreement or person-centered plan. The agency shall provide the parents or guardian of children in family foster care and therapeutic foster care with a face-to-face meeting with the social worker or case manager per month unless the out-of-home family services agreement or person-centered plan indicates a different schedule of face-to-face meetings.

Page 2, line 23 – add a comma after “guardian”

Page 2, line 25 – add a comma after “plan”

Page 2, line 33 – replace “it is” with “these services”

Page 2, line 36 – add commas after “health” and “services”

Page 3, lines 2-5 –revise as follows, if the meaning is not changed:

The agency shall provide foster parents with one face-to-face meeting with the social worker or case manager per month by unless the out-of-home family services agreement or person-centered plan indicates a different schedule of face-to-face meetings for each foster child placed in the home.

Page 3, line 9 – replace “face to face” with “face-to-face”

Page 3, line 10 – delete the hyphens

Page 3, line 10 – do not capitalize “foster parents”

Page 3, line 11 – replace “children/youth” with “children or youths” if there is any difference in the meaning of those terms.

Page 3, line 13 – are the “requirements” outlined in the Handbook found in rules or statutes?

Page 3, line 16 – do you mean to cite G.S. 131D-10.2A rather than 131D-10.2?

Page 3, lines 17 and 19 – delete the extra lines.

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

1 10A NCAC 70G .0503 is amended as published in 31:18 NCR 1799 as follows:

2
3 **10A NCAC 70G .0503 PLACEMENT SERVICES**

4 (a) The agency shall assist the parents or guardian to assume or resume their parental roles and
5 responsibilities as specified in the out-of-home family services agreement or person-centered plan.

6 (b) The agency shall assist the parents or guardian to gain access to the services necessary to accomplish
7 the goals and objectives specified in the out-of-home family services agreement or person-centered plan.

8 (c) The agency shall encourage contacts between parents or guardian and children after placement, in
9 accordance with the visitation and contact plan.

10 (d) The agency shall have a signed agreement with the parents, guardian or legal custodian of the child in
11 care which includes the expectations and responsibilities of the agency and the parents, guardian or legal
12 custodian for carrying out the steps to meet the out-of-home family services agreement or person-centered
13 plan goals, the financial arrangements for the child in care, and visitation and contact plans.

14 (e) The agency shall select the most appropriate form of care for the child consistent with the needs of the
15 child, parents and guardian for family foster care or therapeutic foster care. The agency shall provide for
16 any services the child may need and shall make every effort when placing the child to select the least
17 restrictive and most appropriate setting closest to the child's home.

18 (f) The agency shall document any need to place a child in a family foster home or therapeutic foster home
19 that is beyond a radius of 150 miles from the child placing agency and the child's parents or guardian.

20 ~~(g) The agency, when selecting care, shall take into consideration a child's racial, cultural, ethnic, and
21 religious heritage and preserve them to the extent possible without jeopardizing the child's right to care.~~

22 (g) The agency, when selecting care, shall make concerted efforts to maintain the child's connections to
23 their neighborhood, community, faith, extended family, tribe, school and friends.

24 (h) The agency shall involve the parents or guardian in the selection of the placement. In accordance with
25 7B-903.1(d) when the supervising agency intends to change a child's placement, they shall give the parent
26 or guardian notice of its intention unless precluded by emergency circumstances. Where emergency
27 circumstances exist, the supervising agency shall notify the parent or guardian within 72 hours of the
28 placement change.

29 (i) The family foster home or the therapeutic foster home shall be licensed by the Division of Social
30 Services.

31 (j) The agency social worker for the child shall become acquainted with the child and family prior to
32 placement, except when a child is placed on an emergency basis or in the case of an infant.

33 (k) The agency social worker shall help the child understand the reasons for placement and prepare him or
34 her for the new environment. The social worker shall, except when placing under emergency conditions,
35 arrange at least one preplacement visit for the child and shall be available to the child, the parents or
36 guardian, and foster parents for supportive services.

1 ~~(l) No child shall be accepted into a foster home without having had a current medical examination by a~~
2 ~~licensed medical provider (physician, physician's assistant or nurse practitioner). Medical examinations~~
3 ~~completed by a licensed medical provider within 12 months prior to the admission of the child in foster~~
4 ~~care are considered current. If a child has not had a medical examination by a licensed medical provider~~
5 ~~within 12 months prior to admission, the agency shall arrange a medical examination for the child within~~
6 ~~two weeks after admission or sooner if indicated by the child's health condition. The medical examination~~
7 ~~report shall include a signed statement by a licensed medical provider specifying the child's medical~~
8 ~~condition and medications prescribed and indicating the presence of any communicable disease which may~~
9 ~~pose a risk of transmission in the foster home. If a child is in the custody of a county department of social~~
10 ~~services, is already scheduled to have and is having a medical examination completed annually, and is~~
11 ~~entering a foster home, the schedule of annual medical examinations do not have to be changed. A copy of~~
12 ~~the most recent medical examination report shall be obtained from the responsible county department of~~
13 ~~social services by the agency.~~

14 ~~(m) The agency shall obtain and record a developmental history for each child.~~

15 ~~(n)(l)~~ The agency shall supervise the care of the child and shall coordinate the planning and services for the
16 child and family as stated in the out-of-home family services agreement or person-centered plan.

17 ~~(o)(m)~~ Children in family foster homes and therapeutic foster homes shall have a monthly face-to-face
18 contact by the social worker or case manager or more if specified in the out-of-home family services
19 agreement or person-centered plan. The parents or guardian of children in family foster care and
20 therapeutic foster care shall have a monthly face-to-face contact by the social worker or case manager
21 unless the out-of-home family services agreement or person-centered plan indicates a different schedule of
22 face-to-face contacts.

23 ~~(p)(n)~~ The agency social worker or case manager shall meet with the children and the parents, guardian or
24 legal custodian, either separately or together based on the out-of-home family services agreement or
25 person-centered plan to assess and work on the following:

- 26 (1) progress in resolving problems which precipitated placement;
- 27 (2) parent and child relationship difficulties;
- 28 (3) adjustment to separation;
- 29 (4) adjustment to placement; ~~and~~
- 30 (5) achievement of out-of-home family services agreement goals or person-centered plan goals; and
- 31 (6) the reasonable and prudent parent standard.

32 ~~(q)(o)~~ The agency shall refer the child's parents or guardian to other agencies in the community if they
33 require services the agency does not provide and it is specified in the out-of-home family services
34 agreement or person-centered plan. The agency shall receive reports from the agency providing services
35 regarding the parents' or guardian's progress or lack of progress.

36 ~~(r)(p)~~ The agency shall make provisions for social work, mental health and health care services as stated in
37 the out-of-home family services agreement or person-centered plan.

1 ~~(s)~~(q) The agency shall give foster parents assistance, training, consultation, and emotional support in
2 caring for children and in resolving problems related to their role as foster parents. Foster parents shall
3 have one face-to-face contact per month by the social worker or case manager unless the out-of-home
4 family services agreement or person-centered plan indicates a different schedule of face-to-face contacts for
5 each foster child placed in the home. Phone support and 24-hour on-call support shall be provided to foster
6 parents. Therapeutic foster care parents shall have at least 60 minutes of supervision by a qualified
7 professional as defined in 10A NCAC 27G .0104 on a weekly basis for each therapeutic foster child placed
8 in the foster home- unless the person-centered-plan indicates a different schedule of supervision for each
9 therapeutic foster child placed in the home. At least fifty percent of the supervision shall be face to face in
10 the foster home unless specified differently in the person-centered-plan. Therapeutic Foster Parents
11 providing treatment to children/youth with substance abuse treatment needs shall receive supervision from
12 a qualified substance abuse professional as defined in 10A NCAC 27G .0104. The agency shall provide
13 each foster parent with a Foster Parent Handbook that outlines agency procedures, requirements and
14 expectations.

15

16 *History Note: Authority G.S. 131D-10.2; 131D-10.5; 143B-153;*

17

18 *Eff. October 1, 2008;*

19

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0504

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

This Rule is confusing because it seems to conflate requirements imposed on supervising agencies with requirements imposed on foster parent applicants. The changes include revisions that make it clear that the Rule sets requirements for agencies and their personnel, rather than for foster children and parents.

Line 7 – add a comma after “custodian”

Line 7 – does “when possible” modify only “foster parents”? What does “when possible” mean in this context?

Line 10 – add a comma after “foster parents”

Line 11 – consider adding a list of issues to be addressed in the agreement here, taken from the text deleted from Rule .0402.

Line 12 – replace the semicolon with a comma

Lines 14-15 – replace “as well as any individual or agency” with “and individuals or agencies”

Lines 15 and 16 – delete the commas

Lines 18, 21, 26, 28-29, and 29 – delete “child placing” (Rule .0402 defines “agency” as a “child placing agency”).

Line 19 – add “the” before “parents,” “foster” and “child” and add a comma after “providers”

Line 21 – add a comma after “designee”

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

Line 23 – add “to” before “his or her”

Line 24 – replace “age appropriate” with “age-appropriate”

Line 26 – what statute authorizes the Commission to require foster parents to attend court reviews and other meetings?

Line 29 – revise the last phrase as follows: “by the parents, agency, and foster parents.”

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

1 10A NCAC 70G .0504 is amended as published in 31:18 NCR 1800 as follows:

2

3 **10A NCAC 70G .0504 OUT-OF-HOME FAMILY SERVICES AGREEMENT FOR CHILDREN**
4 **RECEIVING FAMILY FOSTER CARE SERVICES**

5 (a) The agency shall develop a written out-of-home family services agreement within 30 days of admission of a child
6 in a family foster home. The out-of-home family services agreement shall be developed in cooperation with the child,
7 parents, guardian or legal custodian and foster parents when possible. The out-of-home family services agreement
8 shall be based upon an assessment of the needs of the child, parents or guardian. The out-of-home family services
9 agreement shall include goals stated in specific, realistic, and measurable terms and plans that are action oriented,
10 including responsibilities of staff, parents or guardian, other family members, legal custodian, foster parents and the
11 child.

12 (b) The out-of-home family services agreement shall be reviewed by the agency within 60 days of placement; the
13 second out-of-home family services agreement review shall occur within 90 days of the first review, and subsequent
14 reviews shall be held every six months. Parents, guardian, legal custodian, foster parents, the child, as well as any
15 individual or agency designated as providing services, shall participate in the reviews to determine the child's and
16 parents' or guardian's progress or lack of progress towards meeting the goals and objectives, and to determine changes
17 that need to be made in the out-of-home family services agreement.

18 (c) If the legal custodian is a county department of social services, the child-placing agency, the department of social
19 services, parents or guardian, foster parents, other service providers and child shall develop a single out-of-home
20 family services agreement. A copy of the child's out-of-home family services agreement shall be provided to the
21 parents, guardian, the executive director of the child-placing agency or his or her designee and the foster parents by
22 the county department of social services serving as the legal custodian. The child's out-of-home family services
23 agreement shall be provided to other agencies and individuals listed as providing services to the child and his or her
24 parents or guardian. An age appropriate version of the out-of-home family services agreement shall be written and
25 provided to each child by the legal custodian.

26 (d) The child-placing agency and foster parents shall attend court reviews, child and family team meetings, agency
27 reviews and permanency planning action team meetings. The Out-of-Home Family Services Agreement (DSS-5240
28 or DSS-5241) and the Transitional Living Plan may serve as the out-of-home family services agreement for the child-
29 placing agency if the documents reflect input and participation by the parents, child-placing agency and foster parents.

30

31 *History Note: Authority G.S. 131D-10.5; 131D-10.10; 143B-153;*

32

33 *Eff. October 1, 2008;*

34

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0506

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 4 and 31 – replace “which” with “that”

Line 7 – add a comma after “information”

Line 9 – add a comma after “religion”

Line 15 – replace the period with a semicolon

Line 16 – add a comma after “child” and delete “any”

Line 18 – delete “status” How is the need for an earlier examination determined, and by whom?

Line 21 – add a comma after “and”

Line 22 – add a comma after “disabilities”

Line 30 – add a comma after “records”

Lines 33-37 – revise as follows if the meaning is not changed thereby:

- (7) signed out-of-home family services agreement or person-centered plan and reviews of the agreement or plan that describe the child’s status and the progress or lack of progress in achieving the goals of the agreement or plan;

Page 2, line 2 – replace “which reflects” with “that reports”

Page 2, line 4 – add a comma after “guardian”

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

Page 2, line 6 – replace “which” with “that”

Page 2, line 8 – add a comma after “members”

Page 2, line 10 – add a comma after “guardian”

Page 2, lines 12 and 13 – add commas after “address”

Page 2, line 15 – add a comma after “custodian”

Page 2, line 18 – add “the” before “age” and delete the comma

Page 2, line 19 – add a comma after “contraband”

Page 2, line 21 – add “and” after “search,”

Page 2, line 22 – add a comma after “guardian”

Page 2, line 25 – delete the comma and add “and” after “care”

Page 3, line 1 – revise as follows if this is what is meant: “The agency shall document events and enter information required by the Rule in the records of the child, parent, or guardian within five days of the event or receipt of the information by the agency.”

Page 3, line 2 – replace “which” with “that”

Page 3, lines 3-7, 9-12, 14, and 17 – begin these lines with “the”

Page 3, line 8 – whose diploma or GED – the foster parents?

Page 3, line 9 – what “workers”? Agency personnel?

Page 3, lines 15, 19, and 23 – begin these lines with “a”

Page 3, line 24 – what does “confirmed or substantiated” mean?

Page 3, line 24 – add a comma after “neglecting”

Page 3, line 25 – replace “defined” with “described”

Page 3, line 20 – what is “abused or neglected”? Has this been defined somewhere?

Page 3, line 24 - what is “abused, neglected, or exploited”? Has this been defined somewhere?

Page 3, line 29 – what is “a domestic violence perpetrator”? Is this someone who has been charged with a crime or was served with a 50B order?

Page 3, line 34 – replace “, as specified in” with “authorized by”

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

Page 3, line 37 – replace “check(s)” with “checks”

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

1 10A NCAC 70G .0506 is amended as published in 31:18 NCR 1801 as follows:

2

3 **10A NCAC 70G .0506 CLIENT RECORDS**

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

5 (1) an application for services that includes:

6 (A) demographic information about the child, including name, address, sex, race, birth date,
7 birth place, educational information, medical information and client record number;

8 (B) demographic information about the parents or guardian of the child, including names,
9 addresses, telephone numbers, birth dates, races, religion and marital status;

10 (C) demographic information about the siblings and other relatives of the child, including
11 names, addresses, and telephone numbers;

12 (D) the reasons the child was removed from the home of his or her parents;

13 (E) a record of the child's prior placements with names and addresses of foster parents and
14 other caregivers and dates of care provided by each foster parent or caregiver, and

15 (F) the services the agency shall provide the child and his or her parents or guardian.

16 (2) legal documents of importance to the child including a birth certificate and any court dispositions;

17 (3) pre-admission medical examination report or a medical examination report completed within two
18 weeks of admission (unless the child's health status indicates the completion of a medical
19 examination report sooner) and copies of subsequent medical examination reports;

20 (4) medical reports including medical history, cumulative health history, immunization records, and
21 available psychological and psychiatric reports; and if applicable:

22 (A) documentation of mental illness, developmental disabilities or substance abuse diagnosis
23 coded according to the latest edition of the Diagnostic and Statistical Manual of Mental
24 Disorders; ~~Fourth Edition Revised DSM IV;~~

25 (B) documentation of screening and assessment;

26 (C) medication orders and Medication Administration Record (MAR);

27 (D) documentation of medication administration errors;

28 (E) documentation of adverse drug reactions; and

29 (F) orders and copies of lab tests;

30 (5) educational assessments, records and reports of school-age children;

31 (6) intake study which includes initial social assessment and background of parents or guardian and the
32 circumstances leading to the decision to place the child;

33 (7) signed out-of-home family services agreement or person-centered plan along with out-of-home
34 family services agreement or person-centered plan reviews which reflect the status of the child,
35 parents or guardian in relation to the out-of-home family services agreement or person-centered plan
36 and any progress or lack of progress in the goals of the out-of-home family services agreement or
37 person-centered plan;

- 1 (8) documentation of services provided;
- 2 (9) documentation which reflects the dates and content of social worker's or case manager's visits with
3 the child;
- 4 (10) documentation of the agency's involvement with the parents, guardian or legal custodian, including
5 services offered, delivered, or rejected;
- 6 (11) documentation which includes the content of any administrative or service reviews;
- 7 (12) a visitation and contact plan that specifies the child's contacts with parents, guardian, siblings and
8 other family members and individuals who may have contact with the child;
- 9 (13) consents for release of information;
- 10 (14) a signed statement from the parents, guardian or legal custodian, granting permission to seek
11 emergency care from a hospital or licensed medical provider;
- 12 (15) emergency information for each child that shall include the name, address and telephone number of
13 the person to be contacted in case of sudden illness or accident and the name, address and telephone
14 number of the child's preferred licensed medical provider;
- 15 (16) authorization from the parents, guardian, legal custodian or licensed medical provider to administer
16 non-prescription medications;
- 17 (17) consents for time-limited audio-visual recordings signed by the parents, guardian or legal custodian,
18 and child, if 12 years of age or older;
- 19 (18) documentation of searches for drugs, weapons, contraband or stolen property, including date and
20 time of the search, action taken by foster parents and the agency, name of foster parent informing
21 the agency, the date and time the agency is informed of the search, the date and time of the
22 notification to the child's parents, guardian or legal custodian; and
- 23 (19) discharge summary including date and time of discharge, the name, address, telephone number, and
24 relationship of the person or agency to whom the child was discharged, a summary of services
25 provided during care, needs which remain to be met, and plans for the services needed to meet these
26 goals.

27 ~~(b) If the agency maintains a separate record on the parents and guardians of children whom they place into care, the~~
28 ~~parents' or guardians' record shall contain:~~

- 29 ~~(1) demographic information including names, addresses, birth dates, races, religion, family~~
30 ~~composition;~~
- 31 ~~(2) social histories, including any psychological or psychiatric reports and medical histories;~~
- 32 ~~(3) strengths and needs of the parents or guardian and the services required;~~
- 33 ~~(4) signed agreements between the agency and parents or guardian;~~
- 34 ~~(5) summary of dates of contacts and progress toward goals;~~
- 35 ~~(6) case review reports; and~~
- 36 ~~(7) discharge summary.~~

37

- 1 ~~(b)~~ (b) Documentation shall be entered into the child's, parents' or guardian's records within five days of occurrence.
- 2 ~~(c)~~ (c) The agency shall keep separate records for each family foster home which contains:
- 3 (1) application;
- 4 (2) mutual home assessment;
- 5 (3) medical examination reports;
- 6 (4) fire inspection safety report;
- 7 (5) environmental conditions checklist;
- 8 (6) proof of high school diploma or GED;
- 9 (7) dates and content of worker's contacts with the foster family;
- 10 (8) training record that includes all required and ongoing training;
- 11 (9) foster parent agreement signed by foster parents and agency representative;
- 12 (10) discipline agreement signed by foster parents and agency representative;
- 13 (11) three references relevant to the role and responsibilities of a foster parent;
- 14 (12) annual assessment of strengths and needs of the foster family in providing foster care to children;
- 15 (13) chronological record of all placements of children receiving care in the home, including the dates
- 16 of their care and an assessment of the care;
- 17 (14) written approval letter from executive director or his or her designee authorizing foster parents to
- 18 administer physical restraint holds, if applicable;
- 19 (15) signed statement by the foster parents and adult members of the household that they have not been
- 20 found to have abused or neglected a child or have not been a respondent in a juvenile court
- 21 proceeding that resulted in the removal of a child or has had child protective services involvement
- 22 that resulted in the removal of a child;
- 23 (16) signed statement by the foster parents and adult members of the household that they have not been
- 24 confirmed or substantiated for abusing, neglecting or exploiting a disabled adult;
- 25 (18) documentation of the results of the search of the Responsible Individual's List as defined in 10A
- 26 NCAC 70A .0102 for all adult members of the household that indicate they have not had child
- 27 protective services involvement resulting in a substantiation of child abuse or serious neglect;
- 28 (18) signed statement by the foster parents and adult members of the household that they have not been
- 29 a domestic violence perpetrator;
- 30 (19) documentation of the results of the search of the North Carolina Sex Offender and Public Protection
- 31 Registry of all adult members of the household;
- 32 (20) documentation of the results of the search of the North Carolina Health Care Personnel Registry
- 33 pursuant to G.S. 131E-256 of all adult members of the household;
- 34 (21) copies of waivers, as specified in 10A NCAC 70L .0102; ~~and~~
- 35 (22) when closed, a summary containing reasons for the closing of the home and an assessment of the
- 36 strengths and needs of the foster family in providing foster care to ~~children-~~ children;
- 37 (23) documentation of the results of criminal record check(s) of all adult members of the household;

- 1 (24) fingerprint clearance letters of all adult members of the household;
- 2 (25) documentation of the results of child abuse and neglect registry checks of every state where the
- 3 foster parent resided in the past five years; and
- 4 (26) documentation of the results of the search of the North Carolina Department of Public Safety,
- 5 Division of Adult Correction, Offender Information for all adult members of the household.

6

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

8

9 *Eff. October 1, 2008;*

10

11 *Amended Eff. August 1, 2017; May 1, 2010.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0507

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 refers to Rule 70E .1101(a). Please identify the statute that authorizes the Commission to adopt rules directly governing foster parents.

Line 7 – replace “in funds solicitation” with “in soliciting funds”

Line 8 – replace “, which” with “that”

Line 10 – add a comma after “and,” add “the” before “child” and delete the comma after “child.”

Line 11 – replace “relevant to” with “about”

Line 12 – delete “as”

Lines 14 and 16 – replace “131D-10.2” with “131D-10.2A” if that is what is meant.

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

1 10A NCAC 70G .0507 is amended as published in 31:18 NCR 1803 as follows:

2

3 **10A NCAC 70G .0507 CLIENT RIGHTS**

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

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

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

8 (d) The agency shall have a policy, which prohibits the child's participation in any activities involving audio or visual
9 recording and research without the voluntary signed, time-limited consent of the parents, guardian or legal custodian
10 and child, if 12 years of age or older.

11 (e) Each agency shall ensure that information relative to AIDS or related conditions is disclosed only in accordance
12 with the communicable disease laws as specified in G.S. 130A-143.

13 (f) The agency shall have a policy to comply with the reasonable and prudent parent standard in accordance with G.S.
14 131D-10.2.

15

16 *History Note: Authority G.S. 131D-10.2; 131D-10.5; 143B-153;*

17 *Eff. October 1, 2008;*

18 *Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0510

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – add a comma after “guardian” and delete the comma after “custodian”

Line 9 – add a comma after “storage”

Line 13 – delete the period, as follows: ~~reactions.~~ reactions; and

Line 14 – add “of” before “all”

Line 15 – delete “following:” and add “the” before the last word in the line

Line 16 –add “the” before “date”

Line 18 – add “the” before “name” and “person”

Lines 19 and 20 – add “the” before “child’s”

Line 21 – please identify the statute that authorizes the Commission to adopt rules directly governing foster parents.

Line 23 – add a comma after “adulterated”

Line 24-25 – add “, incorporated by reference with subsequent amendments and editions” if that is what is meant.

Line 28 – what does “questionable” mean in this context? What standards guide this determination? Who decides whether the child’s understanding is “questionable”?

Line 34 – replace “No child shall be accepted” with “The agency shall not accept a child”

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

Line 35 – replace “licensed medical provider (physician, physician's assistant or nurse practitioner)” with “physician, physician's assistant, or nurse practitioner (in this Rule, a “licensed medical provider)”

Line 36 – replace “are” with “shall be”

Page 2, line 1 – How is the need for an earlier examination determined, and by whom?

Page 2, line 6 – delete the comma after “home” and replace “do not have” with “are not required”

Page 2, line 9 – what is a developmental history” – is this term well-understood by your regulated public?

Page 2, line 10 – delete the commas

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

1 10A NCAC 70G .0510 is amended as published in 31:18 NCR 1803 as follows:

2

3 **10A NCAC 70G .0510 ~~MEDICATION ADMINISTRATION REQUIREMENTS~~ HEALTH SERVICES**

4 (a) The agency shall have written policies and procedures regarding foster parents administering medications to
5 children placed in their home that shall be discussed with each child and the child's parents, guardian or legal custodian,
6 prior to or upon placement.

7 (b) These policies and procedures shall address medication:

8 (1) administration;

9 (2) dispensing, packaging, labeling, storage and disposal;

10 (3) review;

11 (4) education and training; ~~and~~

12 (5) documentation, including medication orders, Medication Administration Record (MAR), orders and
13 copies of lab tests, and medication administration errors and adverse drug reactions. ; and

14 (6) record in a medical administration record (MAR) provided by the supervising agency all
15 medications administered to each child. The MAR shall include the following: child's name; name,
16 strength, and quantity of the medications; instructions for administering the medications; date and
17 time the medication is administered, discontinued, or returned to the supervising agency or the
18 person legally authorized to remove the child from foster care; name or initials of person
19 administering or returning the medications; child's request for changes or clarifications concerning
20 medications; and child's refusal of any prescribed medications.

21 (c) Upon discharge of a child from foster care, the foster parents or the agency shall return prescription medication to
22 the person or agency legally authorized to remove the child from foster care. Unwanted, out-dated, improperly labeled,
23 damaged, adulterated or discontinued prescription medications shall be ~~returned to a pharmacy for disposal.~~ disposed
24 in accordance with the Federal Drug Administration guidelines found at:
25 <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm101653.htm>.

26 (d) The agency shall ensure that each child started or maintained on a medication by a licensed medical provider
27 receives either oral or written education regarding the prescribed medication by the licensed medical provider or his
28 or her designee. In instances where the ability of the child to understand the education is questionable, the agency
29 shall ensure that a responsible person receives either oral or written education regarding the prescribed medication by
30 the licensed medical provider or his or her designee and provides either oral or written instructions to the child. The
31 agency shall ensure that the medication education provided is sufficient to enable the child or other responsible person
32 to make an informed consent, to safely administer the medication and to encourage compliance with the prescribed
33 regimen.

34 (e) No child shall be accepted into a foster home without having had a current medical examination by a licensed
35 medical provider (physician, physician's assistant or nurse practitioner). Medical examinations completed by a
36 licensed medical provider within 12 months prior to the admission of the child in foster care are considered current.
37 If a child has not had a medical examination by a licensed medical provider within 12 months prior to admission, the

1 agency shall arrange a medical examination for the child within two weeks after admission or sooner if indicated by
2 the child's health condition. The medical examination report shall include a signed statement by a licensed medical
3 provider specifying the child's medical condition and medications prescribed and indicating the presence of any
4 communicable disease which may pose a risk of transmission in the foster home. If a child is in the custody of a
5 county department of social services, is already scheduled to have and is having a medical examination completed
6 annually, and is entering a foster home, the schedule of annual medical examinations do not have to be changed. A
7 copy of the most recent medical examination report shall be obtained from the responsible county department of social
8 services by the agency.

9 (f) The agency shall obtain and record a developmental history for each child.

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

13

14 *History Note: Authority G.S. 131D-10.5;*
15 *Eff. October 1, 2008;*
16 *Amended Eff. August1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0512

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

This Rule is confusing because it seems to conflate requirements imposed on supervising agencies with requirements imposed on foster parent applicants. The changes include revisions that make it clear that the Rule sets requirements for agencies and their personnel, rather than for foster children and parents.

Line 5 – Who uses a physical restraint hold – surely not an agency? Agency personnel?

Line 11 – add a comma after “evaluate”

Line 12 – add a comma after “staff,” add “shall” before “make,” and replace “them” with “the reports”

Line 14 – replace the existing line with “(d) Agencies shall provide foster parents and agency staff authorized to use physical restraint holds with 16 hours of training in”

Line 15 – replace the comma after “behavior” with a semicolon

Line 16 – replace the commas after “holds” and “indicators” with semicolons and add a comma after “parents”

Lines 17-18 – replace the phrase “Foster parents and agency staff authorized to use physical restraint holds shall annually complete at least eight hours of behavior management training, including” with “Agencies shall provide foster parents and agency staff authorized to use physical restraint holds with eight hours of behavior management training annually, including”

Lines 19-20 – replace “Foster parents and agency staff shall be trained by instructors who have met the following qualifications and training requirements:” with “Instructors

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

who train foster parents and agency staff shall have met the following qualifications and training requirements:”

Lines 21, 23, 33, 35, 36, and page 2, lines 1 and 2 – delete “trainers shall”

Line 24 – replace “; trainers shall demonstrate competence” with “and”

Lines 24-25 – how is a passing grade determined? Based on what standards?

Line 26 – delete the comma

Lines 26-27 – what does “measurable” mean in this context?

Line 29 – by what process is the instructor training approved? Is there a rule that can be cited here?

Lines 30-31 – what does “presentation of understanding the adult learner” mean?

Line 32 – add a comma after “performance”

Line 33 – delete “at least.” How is competence demonstrated?

Line 35 – who provides the CPR training – anyone?

Line 36 – replace “coached experience” with “been coached”

Lines 36-37 – “two times” over what period of time – two years (see line 9)?

Page 2, lines 1 and 2 – delete “at least”

Page 2, lines 3-7 – what rule governs the approval of physical restraint holds? Does the Quality Assurance Committee adopt a rule that lists the approved holds?

Page 2, line 8 – replace “where a person ends up” with “that place a person” (and conform this language with that of 70E .1103(e)(9)).

Page 2, lines 9-10 – replace the first sentence with: “The executive director of the [supervising] agency or his or her designee shall issue approvals to administer physical restraint holds to foster parents and agency staff, pursuant to the rules in this Chapter.

Page 2, line 10 – the term “supervising agency” is not defined – is “supervising” superfluous?

Page 2, line 13 – replace “utilized” with “used”

Page 2, line 17 – add “G.S. 131D-10.5A” to your authority. What is “P.L. 113-183”?

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

1 10A NCAC 70G .0512 is amended as published in 31:18 NCR as follows:

2

3 **10A NCAC 70G .0512 PHYSICAL RESTRAINT HOLDS, BEHAVIOR MANAGEMENT AND**
4 **DISCIPLINE**

5 (a) Agencies using physical restraint holds shall, within 72 hours of an incident involving a physical restraint, review
6 the incident report to ensure that correct steps were followed and forward the report to the parents, guardian or legal
7 custodian and the licensing authority on a report form developed by the licensing authority.

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

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

14 (d) Foster parents and agency staff who utilize physical restraint holds shall receive at least 16 hours of training in
15 behavior management, including techniques for de-escalating problem behavior, the appropriate use of physical
16 restraint holds, monitoring of vital indicators, and debriefing children, foster parents and agency staff involved in
17 physical restraint holds. Foster parents and agency staff authorized to use physical restraint holds shall annually
18 complete at least eight hours of behavior management training, including techniques for de-escalating problem
19 behavior. Foster parents and agency staff shall be trained by instructors who have met the following qualifications
20 and training requirements:

21 (1) trainers shall demonstrate competence by scoring 100 percent on testing in a training program aimed
22 at preventing, reducing and eliminating the need for restrictive interventions;

23 (2) trainers shall demonstrate competence by scoring 100 percent on testing in a training program
24 teaching the use of physical restraint; trainers shall demonstrate competence by scoring a passing
25 grade on testing in an instructor training program;

26 (3) the training shall be competency-based, and shall include measurable learning objectives,
27 measurable testing (written and by observation of behavior) on those objectives and measurable
28 methods to determine passing or failing the course;

29 (4) the content of the instructor training shall be approved by the Division of Mental Health,
30 Developmental Disabilities and Substance Abuse Services and shall include presentation of
31 understanding the adult learner, methods of teaching content of the course, evaluation of trainee
32 performance and documentation procedures;

33 (5) trainers shall be retrained at least annually and demonstrate competence in the use of physical
34 restraint;

35 (6) trainers shall be trained in CPR;

36 (7) trainers shall have coached experience in teaching the use of restrictive interventions at least two
37 times with a positive review by the coach;

1 (8) trainers shall teach a program on the use of physical restraints at least once annually; and

2 (9) trainers shall complete a refresher instructor training at least every two years.

3 (e) Foster parents and agency staff shall only use physical restraint holds approved by the North Carolina Interventions
4 (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse
5 Services, 3022 Mail Service Center, Raleigh, NC 27699-3022. Requests for approval shall be submitted to the North
6 Carolina Interventions (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities
7 and Substance Abuse Services, 3022 Mail Service Center, Raleigh, NC 27699-3022.

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

9 ~~(g)~~ (g) Foster parents and agency staff shall receive written approval from the executive director or his or her designee
10 of the supervising agency to administer physical restraint holds. A copy of this letter shall be placed in the foster
11 home record of foster parents and the personnel file of agency staff members.

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

16

17 *History Note: Authority G.S. 131D-10.5; P.L.113-183; 143B-153;*

18 *Eff. October 1, 2008;*

19 *Amended eff. August 1, 2017; November 1, 2009.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70G .0513

DEADLINE FOR RECEIPT: Friday, July 14, 2017

NOTE WELL: This request extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – add a comma after “interns”

Line 12 – add a comma after “guardian”

Line 15 – add a comma after “volunteer”

Line 21 – replace “investigative assessment” with “investigation”

Line 24 – add “shall” before “include”

Lines 27 and 30 – begin these lines with “an”

Lines 28, 29, 34, and 36 – begin these lines with “a”

Lines 32, 33, 35, and 37 and Page 2, lines 1 and 3 – begin these lines with “the”

Page 2, line 1 – do not capitalize “name”

Page 2, line 1 – replace “notified” with “who was notified”

Page 2, line 1 – replace the coma after “notification” with a semicolon

Page 2, line 2 – delete the semicolon

Page 2, line 4 – replace “When” with “If”

Page 2, line 5 – add a comma after “guardian”

Page 2, line 7 – replace “that” with “and shall”

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

Page 2, line 8 – add commas after “evaluate” and “staff”

Page 2, lines 11-12 – what statute authorizes the Commission to require foster parents to make this notification?

Page 2, line 12 – delete or define “immediately”

Page 2, line 14 – add “G.S. 131D-10.5A” to your authority.

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

Jason Thomas
Commission Counsel
Date submitted to agency: June 30, 2017

1 10A NCAC 70G .0513 is amended as published in 31:18 NCR 1804 as follows:

2

3 **10A NCAC 70G .0513 CRITICAL INCIDENTS**

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

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

7 The policies and procedures shall include:

8 (1) a provision for reporting any suspicion of abuse or neglect to the appropriate county department of
9 social services for investigation;

10 (2) a provision for recording any suspected incident of abuse or neglect and for reporting it to the
11 executive director or to the governing body;

12 (3) a provision for notifying parents, guardian or legal custodian;

13 (4) a provision for preventing a recurrence of the alleged incident pending the investigative assessment;

14 (5) a policy concerning personnel action to be taken when the incident involves a staff member,
15 subcontractor, volunteer or intern;

16 (6) a policy concerning the action to be taken when the incident involves a foster parent;

17 (7) a provision for submitting a critical incident report to the licensing authority within 72 hours of the
18 incident being accepted for an investigative assessment by a county department of social services;
19 and

20 (8) a provision for submitting written notification to the licensing authority within 72 hours of the case
21 decision by the county department of social services conducting the investigative assessment.

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

25 (1) a death of a child;

26 (2) reports of abuse and neglect;

27 (3) admission to a hospital;

28 (4) suicide attempt;

29 (5) runaway lasting more than 24 hours; and

30 (6) arrest for violations of state, municipal, county or federal laws.

31 (d) Documentation of critical incidents shall include:

32 (1) name of child or children involved;

33 (2) date and time of incident;

34 (3) brief description of incident;

35 (4) action taken by staff;

36 (5) need for medical attention;

37 (6) name of staff involved and person completing the report;

1 (7) Name of child's parent, guardian or legal custodian notified and the date and time of notification,
2 and;

3 (8) approval of supervisory or administrative staff reviewing the report.

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

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

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

13

14 *History Note: Authority G.S. 131D-1; 131D-10.5; 143B-153;*
15 *Eff. October 1, 2008;*
16 *Amended Eff. August 1, 2017; November 1, 2009.*