



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

July 20, 2017

Carlotta Dixon, Rulemaking Coordinator
Social Services Commission

Sent via email only: Carlotta.Dixon@dhhs.nc.gov

Re: Extension of the Period of Review for Rules 10A NCAC 70I .0101, .0201, .0202, .0302, .0305, .0306, .0405, .0503, .0504, .0506, .0601, .0604, .0609, .0613, and .0614.

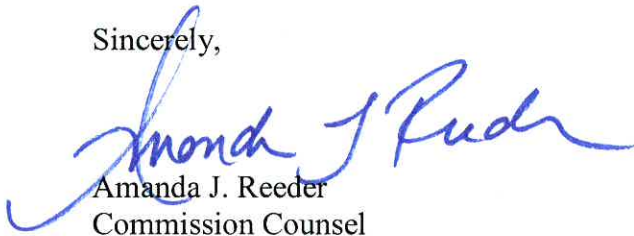
Dear Ms. Dixon:

At this morning's meeting, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to complete requested technical changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

Should you have any questions regarding the Commission's actions, please let me know.

Sincerely,



Amanda J. Reeder
Commission Counsel

cc: Nancy Dunn, Attorney General

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
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July 20, 2017

Carlotta Dixon, Rulemaking Coordinator
Social Services Commission
Sent via email only: Carlotta.Dixon@dhhs.nc.gov

Re: Objection to Rule 10A NCAC 70I .0308

Dear Ms. Dixon:

At its meeting this morning, the Rules Review Commission objected to the above-captioned rule in accordance with G.S. 150B-21.10.

The Commission objected to the Rule based upon ambiguity. Specifically, the Commission found that the policies and procedures required by this Rule address application, documentation, and training regarding a "reasonable and prudent parent standard." This standard is not defined in the cited statute or elsewhere within the Subchapter. Therefore, the Rule is unclear as written, because this standard is not defined, and the Rule purports to require enforcement of this unknown standard.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

cc: Nancy Dunn, Attorney General

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0101

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

NOTE: This request when viewed on computer 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:

In (b)(1), line 6, consider stating "Social Services, hereafter referred to as the "licensing authority," shall...

On line 8, you state that 70J applies. Why don't you say that in (a)?

Also, 70J applies to specialized residential child care. What if the facility is not for specialized care? Or are they all going to be specialized?

What is your authority for (b)(4)? G.S. 131D-10.3(g) allows accreditation in lieu of standards, not as additional standards. Are you relying upon general licensure authority?

(g) In accordance with Commission rules, a person may submit to the Department documentation of compliance with the standards of a nationally recognized accrediting body, and the Department on the basis of such accreditation may deem the person in compliance with one or more Commission licensing rules.

In (b)(4), do you mean those initially licensed after August 2011? If so, state that. If not, then won't all facilities fit into this category now, such that you can delete the date?

Lines 12-13, do you need to retain "formerly known as the Joint Commission on Accreditation of Healthcare Organizations"?

Line 14, the name of the organization is "The Commission on Accreditation of Rehabilitation Facilities" according to the CARF website.

Also on line 14, please insert a comma after "(CARF)"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

In (c)(1), what is this contemplating? Is this after a request from a home, such that (c)(2) should be first? If not, then when shall the change occur, since it appears to be following some sort of notification from the facility?

In (c)(2), line 18, state "A residential child-care facility shall send a written request for a change in its license to the licensing authority. The request shall include..."

Line 19, who determines this necessity?

In (d), is this Paragraph contemplating only voluntary termination of the license?

In (d)(1), line 24, insert a comma after "reason"

In (d)(2), do you mean not renewed by the licensee, the licensing authority, or both?

In (d)(3), what happens if the license has been terminated for fewer than 60 days?

In (d)(4), is this part of (d)(1)? And what happens if it's been closed or licensed less than one year?

What is your authority for the plan of correction in (e)(1), when the license is not provisional? G.S. 131E-10.3(f) refers to it only in a provisional sense. Is there additional authority you need to cite to here?

(f) Persons licensed or seeking a license who are temporarily unable to comply with a rule or rules may be granted a **provisional license**. The provisional license can be issued for a period not to exceed six months. The noncompliance with a rule or rules shall not present an immediate threat to the health and safety of the children, and **the person shall have a plan approved by the Department to correct the area(s) of noncompliance within the provisional period**. A provisional license for an additional period of time to meet the same area(s) of noncompliance shall not be issued.

In (e)(1), line 31, insert a comma after "suspend"

Line 34, replace "working" with "business"

In (e)(1)(D), Page 2, line 3, insert a comma after "corrected"

Line 4, is this the only way that a plan will be required – an issue identified in routine monitoring? Not in response to a complaint?

In (e)(2), line 6, insert a comma after "suspend"

In (e)(3), line 8, insert a comma after "suspend"

In (f), line 9, isn't the proper term here (if needed at all), "Denial of license"?

In (f)(1), line 10, replace "his/her" with "his or her"

Why do you need (f)(1)(A)? Doesn't this recite G.S. 131D-10.3(h)(2)? However, I note that the statute also bars principals and affiliates, as well as owners. So, did you intend to only enforce part of the statute? Or is this addressed by the definition of "owner" in Rule .0201?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Also, how does the ban in (f)(1)(A) work in combination with G.S. 131D-10.3(i), which allows the Secretary to allow these individuals to open a facility under certain conditions?

In (f)(1)(B), what is the corresponding statute for this? G.S. 131D-10.3(h)(1) or (4)? Should this be clearer? Or, do you need this at all?

What is your authority for (f)(1)(D), (E), and (F)?

In (f)(2), Page 3, lines 2-3, you can delete this sentence.

In (f)(3), line 5, insert a comma after “agencies”

Line 7, insert a comma after “penalties”

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

1 10A NCAC 70I .0101 is readopted as published in 31:20 NCR 2019 as follows:

2
3 **10A NCAC 70I .0101 LICENSING ACTIONS**

4 (a) All rules in 10A NCAC 70I apply to residential child-care facilities.

5 (b) License.

6 (1) The Department of Health and Human Services, Division of Social Services (licensing authority) shall
7 issue a license when it determines that a residential child-care facility is in compliance with rules in
8 Subchapters 70I and 70J of this Chapter.

9 (2) A license shall be issued for a period of two years.

10 (3) A residential child-care facility shall not be licensed under both G.S. 131D and G.S. 122C.

11 (4) Residential child-care facilities licensed after August 1, 2011 shall have a three year or longer
12 accreditation from either the Council on Accreditation (COA), The Joint Commission (TJC), formerly
13 known as the Joint Commission on Accreditation of Healthcare Organizations, The Commission on
14 Accreditation and Rehabilitation Facilities (CARF) or The Council on Quality and Leadership (CQL).

15 (c) Changes in any information on the license.

16 (1) The licensing authority shall change a license during the period of time it is in effect if the change is in
17 compliance with rules in Subchapters 70I and 70J.

18 (2) A residential child-care facility shall notify the licensing authority in writing of its request for a change
19 in license, including information that is necessary to assure the change is in compliance with the rules
20 in Subchapters 70I and 70J of this Chapter.

21 (d) Termination.

22 (1) When a residential child-care facility voluntarily discontinues child-caring operations, either
23 temporarily or permanently, the residential child-care facility shall notify the licensing authority in
24 writing of the date, reason and anticipated length of closing.

25 (2) If a license is not renewed by the end of the licensure period, the licensing authority shall
26 automatically terminate the license.

27 (3) If a license issued pursuant to this Subchapter is terminated for more than 60 days, the facility shall
28 meet all requirements for a new facility before being relicensed.

29 (4) Any existing licensed residential child-care facility that is closed or vacant for more than one year
30 shall meet all requirements of a new facility prior to being relicensed.

31 (e) Adverse Licensure Action.

32 (1) The licensing authority shall deny, suspend or revoke a license when a residential child-care facility is
33 not in compliance with the rules in Subchapters 70I and 70J unless the residential child-care facility,
34 within 10 working days from the date the residential child-care facility initially received the deficiency
35 report from the licensing authority, submits a plan of correction. The plan of correction shall specify
36 the following:

37 (A) the measures that will be put in place to correct the deficiency;

- (B) the systems that will be put in place to prevent a re-occurrence of the deficiency;
- (C) the individual or individuals who will monitor the corrective action; and
- (D) the date the deficiency will be corrected which shall be no later than 60 days from the date the routine monitoring was concluded.

(2) The licensing authority shall notify a residential child-care facility in writing of the decision to deny, suspend or revoke a license.

(3) Appeal procedures specified in 10A NCAC 70L .0301 are applicable for persons seeking an appeal to the licensing authority's decision to deny, suspend or revoke a license.

(f) Licensure Restriction.

(1) An applicant who meets any of the following conditions shall have his/her licensure denied:

(A) the applicant owns a facility or agency licensed under G.S. 122C and that facility or agency incurred a penalty for a Type A or B violation under Article 3 of G.S. 122, or any combination thereof, and any one of the following conditions exist:

(i) A single violation has been assessed in the six months prior to the application.

(ii) Two violations have been assessed in the 18 months prior to the application and 18 months have not passed from the date of the most recent violation.

(iii) Three violations have been assessed in the 36 months prior to the application and 36 months have not passed from the date of the most recent violation.

(iv) Four or more violations have been assessed in the 60 months prior to application and 60 months have not passed from the date of the most recent violation.

(B) the Department of Health and Human Services has initiated revocation or summary suspension proceedings against any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that was previously held by the applicant and the applicant voluntarily relinquished the license and 60 months have not passed from the date of the revocation or summary suspension;

(C) there is a pending appeal of a denial, revocation or summary suspension of any facility licensed pursuant to G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; or G.S. 110, Article 7 that is owned by the applicant;

(D) the applicant has an individual as part of their governing body or management who previously held a license that was revoked or summarily suspended under G.S. 122C, Article 2; G.S. 131D, Articles 1 or 1A; and G.S. 110, Article 7 and the rules adopted under these laws and 60 months have not passed from the date of the revocation or summary suspension;

(E) the applicant is an individual who has a finding or pending investigation by the Health Care Personnel Registry in accordance with G.S. 131E-256; or

(F) the applicant is an individual who has a finding on the Responsible Individual's List as described in 10A NCAC 70A .0102.

1 (2) The denial of licensure pursuant to this Paragraph shall be in accordance with G.S. 122C-23(e1) and
2 G.S. 131D-10.3(h). A copy of these statutes may be obtained through the internet at
3 <http://www.ncleg.net/Statutes/Statutes.html>.

4 (3) The facility or agency shall inform the licensing authority of any current licenses or licenses held in
5 the past five years for residential child-care facilities, child-placing agencies or maternity homes in
6 other states. The agency shall provide written notification from the licensing authority in other states
7 regarding violations, penalties or probationary status imposed in that state. The licensing authority
8 shall take this information into consideration when granting a North Carolina license.

9
10 *History Note:* *Authority G.S. 131D-10.3; 131D-10.5; 143B-153;*
11 *Eff. July 1, 1999 (See S. L. 1999, c. 237, s. 11.30);*
12 *Temporary Amendment Eff. July 1, 2003;*
13 *Amended Eff. May 1, 2004 (this amendment replaces the amendment approved by RRC on December*
14 *18, 2003);*
15 *Amended Eff. August 1, 2011; September 1, 2007;*
16 *Readopted Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0201

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In Item (1), line 9, by "this number" do you mean the 25 maximum children in a public residential child care facility or group home? And is there no limit for private facilities?

Line 10, what are "relative children"? Children related to the caregiver, but not his or her own children?

So that I'm clear, a public facility can have up to two children under the age of two, four children under the age of six, six children under the age of 12, and 15 children age 12 or older?

Consider breaking down lines 11-12 into a list.

Line 12, consider replacing "do" with "shall"

Line 14, what is "primarily"?

Line 15, determined by whom?

Item (2) is the definition of "children's camp" in G.S. 131D-10.2. Why not just refer to it here? "Children's foster care camp" means the term "children's camp" as defined in G.S. 131D-2."

In Item (3), line 20, insert a comma after "families"

Also on line 20, what is "house/teaching parents"? Does your regulated public know?

Line 21, what are "recreation and education staff"?

In Item (6), please confirm that this complies with G.S. 108A-48, as amended by SL 2015-241.

In Item (7), I do not see that you use this term anywhere else in Subchapters 70I or 70J. Do you need to retain it?

If you are going to use Item (8) to define "social worker" please put the term in alphabetical order.

Amanda J. Reeder

Commission Counsel

Date submitted to agency: June 28, 2017

On line 36, state “Social worker” means an individual who has a bachelors...”

Page 2, lines 2-3, state “... case manager or case manager supervisor to refer to these individuals.”

In Item (9), line 4, I recommend stating “License” means written permission granted to ...”

Line 4, insert a comma after ‘agency’

Line 6, if by “biennially thereafter” you mean that licenses expire after two years, consider stating that instead.

Line 6, replace “such” with “the”

Line 7, do you need both “met” and “complied with”? I think that’s duplicative.

In Item (11), line 10, insert a comma after “assistant”

In Item (12), who will develop this document with the custodian? Staff of the facility? DSS?

Line 13, I believe you should replace the “and” with “or”

Line 13 and 15, insert a comma after “goals”

Line 16, you are missing a verb before “specify” Is it “shall”?

In Sub-Item (12)(b), what are “realistic and achievable”?

In Sub-Item (12)(d), what is “necessary for success”?

In Sub-Item (12)(f), review by whom?

In item (13), why are you defining this term to include other terms, when statute [see G.S. 131D-10.3(h)] treats these as distinct terms?

In Item (15), line 30, insert a comma after “management” and “proprietorship”

Item (16) is defined in G.S. 131D-10.2. Why are you defining it here? Is it to bring the terms of G.S. 131D-10.3 into the definition as well?

In Item (17), so that I’m clear – this is not subject to the number restriction in Item (1)?

Line 37, insert a comma after “management’

Item (18), Page 3, line 2, insert a comma after “management”

Item (19), does this include paid and unpaid positions? I ask because Item (21) seems to indicate it is both paid and paid.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Line 4, insert a comma after “part-time”

Item (20), line 5, delete “specific”

Item (22), this is not correct. Please define the standard using a current citation, if that is the intent. Also, assuming you can define it, please put this in alphabetical order.

In the History Note, line 11, the semicolon after “History Note” should be a colon. Please simply change it; do not show it as change.

Also on line 11, please put the citations in numerical order.

Finally, on line 11, the citation is 131D-10.5. As it is correct in the Code, do not show this as a change – simply do it.

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

1 10A NCAC 70I .0201 is readopted as published in 31:20 NCR 2019 as follows:

3 **10A NCAC 70I .0201 DEFINITIONS**

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

- 6 (1) ~~"Child-caring institution" means a residential child-care facility utilizing permanent buildings~~
7 ~~located on one site for 13 or more foster children.~~ "Child-caring institution" means a private
8 residential child-care facility or group home that cares for foster children or a public residential
9 child-care facility or group home that cares for no more than 25 children. This number includes the
10 caregivers' own children and other relative children under the age of 18 residing in the facility. The
11 composition of the facility shall include no more than two children under the age of two, four
12 children under the age of six, and six children under the age of 12. Child-caring institutions do not
13 include detention facilities, forestry camps, children's foster care camps, residential therapeutic
14 (habilitative) camps, training schools, or any other facility operated primarily for the detention of
15 children who are determined to be delinquent or undisciplined. A child-caring institution shall not
16 provide day care, nor shall it be available to adults in the community who wish to rent rooms.
- 17 (2) "Children's foster care camp" means a residential child-care facility that provides foster care at either
18 a permanent camp site or in a wilderness setting.
- 19 (3) "Direct service personnel" means staff responsible for the direct services provided to children and
20 their families including child-care workers, residential counselors, house/teaching parents, social
21 workers, recreation and education staff.
- 22 (4) "Emergency shelter care" means 24 hour care provided in a residential child-care facility for a period
23 not to exceed 90 days, in accordance with 10A NCAC 70J .0200.
- 24 (5) "Executive director" means the person who is in charge of the agency and who is responsible for
25 developing and supervising the program of residential child-care and services.
- 26 (6) "Foster child" means an individual less than 18 years of age who has not been emancipated under
27 North Carolina law, or one who is 18 to 21 years of age and continues to reside in a residential child-
28 care facility, who is dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined,
29 delinquent, or otherwise in need of care away from home and not held in detention.
- 30 (7) "Full license" means a license issued for two years when all licensing requirements are met.
- 31 (8) ~~"Group home" means a residential child-care facility operated either under public or private auspices~~
32 ~~that receives for 24 hour care no more than 12 children. This number includes the caregivers' own~~
33 ~~children and other relative children residing in the home under the age of 18. The composition of~~
34 ~~the group shall include no more than two children under the age of two, four children under the age~~
35 ~~of six, and six children under the age of 12. A group home shall not provide day care, nor shall it~~
36 ~~be available to adults in the community who wish to rent rooms.~~ "Social worker" means those who
37 have a bachelor's, master's, or doctorate degree in social work from a social work program

1 accredited by the Council on Social Work Education (CSWE) as provided in the Social Worker
 2 Certification and Licensure Act (G.S. 90B). Agencies may use terms such as case manager, case
 3 manager supervisor, etc.

- 4 (9) "License" means permission granted in writing to a corporation, agency or county government by
 5 the licensing authority to engage in the provision of full-time residential child-care or child-placing
 6 activities based upon an initial determination, and biennially thereafter, that such corporation,
 7 agency, or a county government has met and complied with standards set forth in this Subchapter.
- 8 (10) "Licensing authority" means the North Carolina Department of Health and Human Services,
 9 Division of Social Services.
- 10 (11) "Licensed medical provider" means a physician, physician's assistant or certified nurse practitioner.
- 11 (12) "Out-of-home family services agreement" means a document developed with the child's custodian
 12 that identifies a child's permanency plan (return to parents, placement with relatives, guardianship,
 13 and adoption). The out-of-home family services agreement describes a child's needs, goals and
 14 objectives in a residential child-care facility and the tasks and assignments of the staff of the
 15 residential child-care facility to meet a child's and family's needs, goals and objectives. The out-of-
 16 home family services agreement specify what must change in order for the parents to meet the needs
 17 of the child. Basic goal planning steps include:
- 18 (a) involving the family in the process;
 - 19 (b) identifying goals that are both realistic and achievable;
 - 20 (c) using family strengths when outlining objectives and activities to attain the goals;
 - 21 (d) spelling out the steps necessary for success;
 - 22 (e) documenting who will do what and when they will do it; and
 - 23 (f) providing for review.
- 24 (13) "Owner" means any individual who is a sole proprietor, co-owner, partner or shareholder holding
 25 an ownership or controlling interest of five percent or more of the applicant entity. Owner includes
 26 a "principal" or "affiliate" of the residential child-care facility.
- 27 (14) "Private agency residential child-care facility" means a residential child-care facility under the
 28 auspices of a licensed child-placing agency or another private residential child-care facility.
- 29 (15) "Private residential child-care facility" means a residential child-care facility under the control,
 30 management and supervision of a private non-profit or for-profit corporation, sole proprietorship or
 31 partnership that operates independently of a licensed child-placing agency or any other residential
 32 child-care facility.
- 33 (16) "Provisional license" means a license issued for a maximum of six months enabling a facility to
 34 operate while some below standard component of the program is being corrected. A provisional
 35 license for the same below standard program component shall not be renewed.
- 36 (17) "Public agency residential child-care facility" means a residential child-care facility under the
 37 control, management or supervision of a county department of social services.

- (18) "Public residential child-care facility" means a residential child-care facility under the control, management or supervision of a county government other than a county department of social services.
- (19) "Staff" means full-time, part-time and contracted staff persons.
- (20) "Visitation and contact plan" means a specific document that is developed by the child's custodian for each child that specifies whom the child may visit with and have contact with and the circumstances under which the visits and contacts shall take place.
- (21) "Volunteer" means a person working in a staff position for an agency who is not paid.
- (22) The "reasonable and prudent parent standard", as defined in G.S.131D-10.2.

History Note; Authority G.S. 131D-10.3; 131D10.5; 131D-10.2; 143B-153;
Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);
Amended Eff. July 18, 2002;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. October 1, 2008; August 1, 2004;
Readopted Eff. August 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0202

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In this Rule, you repeatedly state that the Division must be notified. Does your regulated public know how to contact you?

In (a), can't this be simplified to state that facilities shall submit so many days before the expiration of the license this information?

Also, who "information and materials required by rules in Subchapter 70I and 70J" are you referring to? Does your regulated public know?

In (b), line 7, what is the "biennial statistical report or program activities"? Is this defined somewhere?

In (c), is there a timeframe for the facility to provide this notification?

In (d), line 11, state "any proposed changes..."

Line 12, how is this assured?

Is there a timeframe for submitting these or for the Division to respond to this?

In (f), line 17, define "conspicuous"

In (g), line 20, so that I'm clear – "immediate" is defined by Rule .0614(d) as within 72 hours?

What is the purpose of (h)? Is this to enforce G.S. 131D-10.3(h)?

In (i), you defined "owner" in Rule .0201 to include someone with an interest of five percent or more. Why do you need to repeat this on line 24?

In (j), line 25, and (k), line 27, confirm this is the correct name, rather than "Local Management Entity – Managed Care Organization."

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Also, I take it your regulated public is familiar with this term?

Line 26, insert a comma after “disabilities”

In (k), line 27, delete the comma after “a” and insert it after the correct term for local management entity.

Line 29, since this is not your standard, please properly incorporate this Rule using G.S. 150B-21.6. Also, I do not see that the Rule requires reporting to the General Assembly. If the intent is that the report will be used by the Division to submit a report to the General Assembly, please state that.

In (l), line 30, define “immediately”

What entities will send this notice? Does your regulated public know?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70I .0202 is amended as published in 31:20 NCR 2019 as follows:

2
3 **10A NCAC 70I .0202 RESPONSIBILITY TO LICENSING AUTHORITY**

4 (a) A residential child-care facility shall biennially submit to the licensing authority the information and materials
5 required by rules in Subchapters 70I and 70J of this Chapter to document compliance and to support issuance of a
6 license.

7 (b) A residential child-care facility shall submit to the licensing authority a biennial statistical report of program
8 activities.

9 (c) A residential child-care facility shall provide written notification to the licensing authority of a change in the
10 executive director.

11 (d) A residential child-care facility shall provide written notification to the licensing authority of any changes in
12 policies and procedures to assure that the changes are in compliance with the rules in Subchapters 70I and 70J of this
13 Chapter. The residential child-care facility shall receive written approval from the licensing authority before
14 instituting any changes in policies and procedures.

15 (e) The office of a residential child-care facility shall be maintained in North Carolina. The licensee shall carry out
16 activities under the North Carolina license from this office.

17 (f) The current license of a residential child-care facility shall be posted at all times in a conspicuous place within the
18 facility.

19 (g) When there is a death of a child who is a resident of a residential child-care facility, the executive director or his
20 or her designee shall immediately notify the licensing authority in accordance with Rule. 0614 of this Subchapter.

21 (h) The agency shall provide to the licensing authority at the time of license application the legal name and social
22 security number of each individual who is an owner.

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

25 (j) A residential child-care facility shall notify the local management entity where services are being provided within
26 24 hours of placement that a child may require mental health, developmental disabilities or substance abuse services.

27 (k) If a residential child-care facility is monitored by a, local management entity the residential child-care facility
28 shall provide data to the local management entity as required by Department of Health and Human Services, pursuant
29 to 10A NCAC 27G .0608, for monitoring and reporting to the General Assembly.

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

33
34 *History Note: Authority G.S. 131D-10.3; 131D-10.5; 143B-153;*

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

36 *Amended Eff. July 18, 2002;*

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

1 *Amended Eff. October 1, 2008; August 1, 2004;*
2 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,*
3 *2016;*
4 *Amended Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0302

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

On line 4, so that I'm clear – the composition of the governing body will be entirely up to the facility, pursuant to Rule .0301 of the Section?

In Item (1), replace “which” with “that” and is the review by the governing body? If so, state “... policies and review them ...” Or mirror the language in Item (3).

Also, on line 5 and elsewhere whenever the term is used, I assume you need to retain “at least”?

In Item (3), the governing body is required to create a policy for investment management?

In Item (4), line 8, what is the financial audit?

Also, is Item (4) only applicable to private residential child-care facilities? If so, I recommend starting the sentence “In the case of a private...”

In Item (5), line 9, are the terms in the parenthesis the alternative terms for the executive director? If so, state something like “(also called CEO, ...”

In Item (6), line 13, lines 16-17, and lines 20 -21, replace “a determination is made concerning” to “determine”

On line 14, how is this ensured?

On line 15, you give a citation for one Registry but not the Sex Offender and Public Protection Registry. Why is this?

On lines 17-18, the governing body will ask the licensing authority to search the Responsible Individuals List on their behalf?

Line 22, replace “he/she” with “he or she”

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

On lines 22-23, what is “abuse and neglect”? Is this defined somewhere? Is this to address a charge against the individual?

On line 26, what is “abused, neglected, or exploited”? Has this been defined somewhere?

Also, on line 26, insert a comma after “neglected”

Line 27, define “a domestic violence perpetrator”? Is this someone who has been charged or had a 50B order?

On lines 27-28, how will there not be a governing body, since it appears all facilities must have one pursuant to Rule .0301? If this covers only initial applicants, state this.

You are ending line 28 with a period, but you ended Items (1) through (5) with semicolons. I do not have a preference of what you use to end Items, but please be consistent. (Also, consider Items (7) and (8).)

In Item (7), line 29, is the intent that if the individual has ever been convicted? If so, I suggest stating that.

In Item (9), Page 2 line 2, do you mean “permit” or do you want to have the Executive Director attend all meetings except those for performance reviews?

In Item (10), line 5, delete or define “specific” And how are these criteria and objectives created? By the governing body? If so, state that.

In Item (11), is the evaluation referred to on line 8 the one from Item (10)?

In Item (12), line 9, what is “risk management”? Does your regulated public know?

Item (13), what is a “long range plan”? Does your regulated public know?

On line 10, this is not the proper way to delete the period after “annually” and insert a semicolon. Since you published it correctly, you do not need to show this as a change; simply do it.

Items (14) through (16), lines 11, 13, and 15, do not begin the sentence with “shall” It is unnecessary due to the use of the word on Page 1, line 4.

In Item (14), what are these laws and who determines whether they are applicable?

In Items (15) and (16), please incorporate these federal standards by reference using G.S. 150B-21.6.

In Item (16), line 16, the citation is “45 CFR 82.510” and please confirm that this citation is still accurate.

On line 17, please ensure this citation is still accurate.

Do you need to retain the language on lines 17-18?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Line 19, assuming this is the correct citation, state "G.S. Chapter 64, Article 2" Since you published it this way, you do not need to show this as a change; simply do it.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70I .0302 is amended as published in 31:20 NCR 2021 as follows:

2
3 **10A NCAC 70I .0302 RESPONSIBILITIES OF THE GOVERNING BODY**

4 The governing body shall:

- 5 (1) adopt administrative, personnel, and program policies which are reviewed at least every two years;
- 6 (2) review and approve a budget prior to the beginning of the fiscal year;
- 7 (3) establish and review policies on fundraising and investment management at least every two years;
- 8 (4) annually review and accept the financial audit, in the case of a private residential child-care facility;
- 9 (5) employ an executive director (CEO, director, president, superintendent) and delegate authority to
10 that person to employ and dismiss staff, implement board policies, and manage day-to-day operation
11 of the facility;
- 12 (6) ensure that the criminal history of the executive director is checked prior to employment, and based
13 on the criminal history, a determination is made concerning the individual's fitness for employment.
14 The governing body shall ensure that searches of the North Carolina Sex Offender and Public
15 Protection Registry and the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-
16 256) are completed prior to employment, and based on these searches, a determination is made
17 concerning the individual's fitness for employment. The governing body shall submit authorization
18 to the licensing authority to search the Responsible Individuals List, as defined in 10A NCAC 70I
19 .0102, to determine if the executive director has had child protective services involvement resulting
20 in a substantiation of child abuse or serious neglect, and based on this search, a determination is
21 made concerning the individual's fitness for employment. The governing body shall require that the
22 executive director provide a signed statement prior to employment that he/she has not abused or
23 neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal
24 of a child or has had child protective services involvement that resulted in the removal of a child.
25 The governing body shall require that the executive director provide a signed statement that the
26 executive director has not abused, neglected or exploited a disabled adult and that the executive
27 director has not been a domestic violence perpetrator. Agencies or applicants that do not have a
28 governing body shall provide this information directly to the licensing authority.
- 29 (7) not employ an executive director who has been convicted of a felony involving:
 - 30 (A) child abuse or neglect;
 - 31 (B) spouse abuse;
 - 32 (C) a crime against a child or children (including child pornography); or
 - 33 (D) a crime of rape, sexual assault, or homicide.
- 34 (8) not employ an executive director who has been convicted of a felony within the last five years
35 involving:
 - 36 (A) assault;
 - 37 (B) battery; or

- (C) a drug-related offense.
- (9) permit the executive director or his or her designee to attend all meetings of the governing body and committees with the exception of those held for the purpose of reviewing his or her performance, status, or compensation;
- (10) annually evaluate and document the executive director's performance through specific criteria and objectives;
- (11) initiate and review an annual evaluation of services and direct needed changes based on the evaluation;
- (12) annually review facility needs related to risk management; ~~and~~
- (13) maintain a long range plan and review annually;
- (14) shall develop and implement policies and procedures to comply with all applicable State and Federal laws pertaining to nondiscrimination;
- (15) shall ensure that the agency complies with the Multiethnic Placement Act (MEPA) of 1994, P.L. 103-382, as amended by the Interethnic Adoption Provisions (IEP) of 1996; and
- (16) shall ensure the agency complies with the terms and conditions of State and Federal requirements to participate in procurement contracts and covered non-procurement transactions. (45 D.F.R. 82.510, P.L. 103-227 15 C.F.R. 29.630; Title 15-Commerce and Foreign Trade; Subtitle A-Office of the Secretary of Commerce; Part 29-Government wide Requirements for Drug Free Workplace and N.C.G.S. Article 2, Chapter 64.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0305

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (a)(1), line 5, what do you mean by "control"? Have the ability to put things into the record?

In (a)(2), consider breaking this into a further list.

"... persons authorized by law, including:

(A) the parents, guardian, or legal custodian (if applicable);

(B) children ages 12 years or older;

(C) agency staff,...

On line 8, I take it you mean a child may access his or her own record?

On line 8, is this restriction to only auditing, licensing, or accrediting personnel of the agency? If not, to whom are you referring?

On lines 9 – 10, consider stating "individuals that the parent, guardian, or legal custodian (if applicable) have given written consent for release of confidential information; and"

In (a)(3), line 12, what are the contents of the form?

In (b)(1), line 14, define "secure"

In (b)(3), line 16, what revisions? To the policy in (a)? If so, state "revisions to the policy are made"

On line 17, delete "which states indicates an" and "of" so it reads "staff sign a compliance statement understanding the requirements..."

In (b)(4), line 19, what do you mean by "in a manner that protects the confidentiality..."? How is this done – redaction?

On lines 20 -21, what will this determination be based upon?

Amanda J. Reeder

Commission Counsel

Date submitted to agency: June 28, 2017

In (b)(5), (b)(4) referred to not allowing a child to see his or her own record. In (b)(5), you are now saying the parent/guardian/legal custodian (if applicable) will not be able to see it either? How will that determination be made and by whom?

In (b)(8), what will be included in the volunteer's records?

In (c), line 27, replace "in which" with "when" before "a child"

On line 28, insert a comma after "years"

On lines 28 and 29, state "unless the record is included" or "unless it is included..."

Line 29, insert a comma after "21"

On line 31, is this "released from all audits involving these records."?

In the History Note, line 33, why did you include G.S. 48-2-502 (which involves a report to the court for an adoption) and G.S. 48-3-303 (which involves adoption preplacement assessments)?

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

1 10A NCAC 70I .0305 is amended as published in 31:20 NCR 2022 as follows:

2
3 **10A NCAC 70I .0305 RECORDKEEPING AND REPORTING**

4 (a) A residential child-care facility shall develop and enforce a policy on confidentiality that shall:

- 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 by law specifically including the parents, guardian or legal custodian (if
- 8 applicable) and children (12 years of age and older), agency staff auditing, licensing, or accrediting
- 9 personnel; and those persons for whom the agency has obtained a consent for release of confidential
- 10 information signed by the parents, guardian or legal custodian; and
- 11 (3) require that when a child's information is disclosed, a signed consent for release of information is
- 12 obtained on a consent for release form.

13 (b) A residential child-care facility shall:

- 14 (1) provide a secure place for the storage of records with confidential information;
- 15 (2) inform any individual with access to confidential information of the provisions of this Rule;
- 16 (3) ensure that, upon employment and whenever revisions are made, staff sign a compliance statement
- 17 which indicates an understanding of the requirements of confidentiality;
- 18 (4) permit a child to review his or her case record in the presence of facility personnel on the facility
- 19 premises, in a manner that protects the confidentiality of other family members or other individuals
- 20 referenced in the record, unless facility personnel determine the information in the child's case
- 21 record would be harmful to the child;
- 22 (5) in cases of perceived harm to the child, document in writing any refusals to share information with
- 23 the parents, guardian and legal custodian (if applicable) and child (12 years of age and older);
- 24 (6) maintain a confidential case record for each child;
- 25 (7) maintain confidential personnel records for all employees; and
- 26 (8) maintain confidential records for all volunteers.

27 (c) A residential child-care facility may destroy in office a closed record in which a child has been discharged for a

28 period of three years unless included in a federal or state fiscal or program audit that is unresolved. A residential

29 child-care facility may destroy in office a record three years after a child has reached age ~~48~~ 21 unless included in a

30 federal or state fiscal or program audit that is unresolved. The agency may destroy these closed records in office when

31 the federal or state fiscal or program audits have been resolved and the agency is released from all audits.

32
33 *History Note: Authority G.S. 48-2-502; 48-3-303; 131D-10.5; 143B-153;*

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

35 *Amended Eff. October 1, 2008; July 18, 2002;*

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

37 *2016;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0306

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (a), lines 4-5, how is this protection done and what are the rights and dignity that you are referring to? Does your regulated public know what this means?

In (b), line 6, replace "which" with "that"

In (b)(2), line 9, define "adequate"

In (b)(3), line 10, define "family time"

Does your regulated public know what (b)(6) means?

In (b)(7), line 16, who determines when this is practical?

In (b)(8), who shall determine this and based upon what?

On line 18, replace "which" with "that"

In (b)(10), this is not addressed by G.S. 131D-10.2. To what standard are you referring? And who determines what is appropriate?

In (c), line 23, replace "which" with "that"

Line 23, what is "direct" involvement?

In (d), line 25, replace "which" with "that"

Line 26, how time-limited? Is there a limit that it can be – six months?

Line 27, if the intent is that if the child is over 12 years old, he or she must sign as well, state that.

In the History Note, line 29, why are you inserting G.S. 131D-10.2?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Also in the History Note, please put the statutes in numerical order. Please note, the statutes in the Code are currently in correct order, so you do not need to show rearranging them as a change; simply do it.

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

10A NCAC 70I .0306 is amended as published in 31:20 NCR 2022 as follows:

10A NCAC 70I .0306 CLIENT RIGHTS

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

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

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

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

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

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

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

Amended Eff. October 1, 2008; July 18, 2002;

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

Amended Eff. August 1, 2017.

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0308

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
 - ☐ Lack of statutory authority
 - ☒ Unclear or ambiguous
 - ☐ Unnecessary
 - ☐ Failure to comply with the APA
 - ☐ Extend the period of review

COMMENT:

Staff recommends objection to this Rule because it is unclear and ambiguous as written.

In this Rule, the agency instructs every residential child-care facility to develop policies and procedures in accordance with 131D-10.2. That statute is a definitions statute and is attached.

The policies and procedures required by this Rule address application, documentation, and training regarding a "reasonable and prudent parent standard." This standard is not defined in the cited statute or elsewhere within the Subchapter. Therefore, the Rule is unclear as written, because this standard is not defined, and the Rule purports to require enforcement of this unknown standard.

Therefore, staff recommends objection to the Rule as submitted, because it is ambiguous as written.

Amanda J. Reeder
Commission Counsel

§ 131D-10.2. Definitions

Effective: January 1, 2017

For purposes of this Article, unless the context clearly implies otherwise:

- (1) “Adoption” means the act of creating a legal relationship between parent and child where it did not exist genetically.
- (2) “Adoptive Home” means a family home approved by a child placing agency to accept a child for adoption.
- (3) “Child” means an individual less than 21 years of age, who has not been emancipated under the provisions of Article 35 of Chapter 7B of the General Statutes.
- (4) “Child Placing Agency” means a person authorized by statute or license under this Article to receive children for purposes of placement in residential group care, family foster homes or adoptive homes.
- (5) “Children’s Camp” means a residential child-care facility which provides foster care at either a permanent camp site or in a wilderness setting.
- (6a) “Criminal History” means a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment of a crime for child abuse or neglect, spousal abuse, a crime against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, other than physical assault or battery; a county, State, or federal conviction of a felony by a court of competent jurisdiction or a pending felony indictment for physical assault, battery, or a drug-related offense, if the offense was committed within the past five years; or similar crimes under federal law or under the laws of other states.
- (7) “Department” means the Department of Health and Human Services.
- (8) “Family Foster Home” means the private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship or adoption.
- (9) “Foster Care” means the continuing provision of the essentials of daily living on a 24-hour basis for dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined or delinquent children or other children who, due to similar problems of behavior or family conditions, are living apart from their parents, relatives, or guardians in a family foster home or residential child-care facility. The essentials of daily living include but are not limited to shelter, meals, clothing, education, recreation, and individual attention and supervision.
- (9a) “Foster Parent” means any individual who is 21 years of age or older who is licensed by the State to provide foster care.

Amanda J. Reeder
Commission Counsel

(10) “Person” means an individual, partnership, joint-stock company, trust, voluntary association, corporation, agency, or other organization or enterprise doing business in this State, whether or not for profit.

(11) “Primarily Educational Institution” means any institution which operates one or more scholastic or vocational and technical education programs that can be offered in satisfaction of compulsory school attendance laws, in which the primary purpose of the housing and care of children is to meet their educational needs, provided such institution has complied with Article 39 of Chapter 115C of the General Statutes.

(12) “Provisional License” means a type of license granted by the Department to a person who is temporarily unable to comply with a rule or rules adopted under this Article.

(13) “Residential Child-Care Facility” means a staffed premise with paid or volunteer staff where children receive continuing full-time foster care. Residential child-care facility includes child-caring institutions, group homes, and children’s camps which provide foster care.

(14) “Therapeutic Foster Home” means a family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency and in compliance with licensing rules adopted by the Commission.

Added by Laws 1983, c. 637, § 2. Amended by [Laws 1993, c. 180, § 5, eff. Dec. 1, 1993](#); [Laws 1995, c. 507, § 23.26\(a\), eff. Jan. 1, 1996](#); [Laws 1995, c. 507, § 28.12](#); [S.L. 1997-140, § 1, eff. June 4, 1997](#); [S.L. 1997-443, § 11A.118\(a\), eff. July 1, 1997](#); [S.L. 1998-202, § 13\(hh\), eff. July 1, 1999](#); [S.L. 2001-487, § 84\(b\), eff. Dec. 16, 2001](#); [S.L. 2007-276, § 11, eff. Oct. 1, 2007](#); [S.L. 2015-241, § 12C.9\(d\), eff. Jan. 1, 2017](#).

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0308

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

On line 4, this standard is not contained in G.S. 131D-10.2, as that is a definitions statute. What standard are you referring to?

Throughout this Rule, what is the "reasonable and prudent parent standard"? Where is this defined?

In the History Note, line 13, why are you citing to G.S. 131D-10.2?

On line 13, why are you citing to 143B-15? Did you mean to cite to G.S. 143B-153?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70I .0308 is adopted as published in 31:20 NCR 2023 as follows:

2
3 **10A NCAC 70I .0308 NORMALCY FOR FOSTER CHILDREN**

4 A residential child-care facility shall develop and follow policies and procedures in accordance with 131D-10.2.

5 The agency shall demonstrate compliance with policies and procedures that includes:

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

9 (2) Documentation of reasonable and prudent parenting standard decision making;

10 (3) Training for residential staff in the area of reasonable and prudent parent standard; and

11 (4) Supervision and support to staff in the implementation of the reasonable and prudent parent standard.

12
13 History Note: Authority G.S. 131D-10.2; 131D-10.5; 143B-15;

14 Amended Eff. August 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0405

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (a), line 5, do you need to retain "At a minimum"? Could you not just state "There shall also be a..."

In (b), if you are going to use these classifications as a standard using G.S. 150B-21.6, then you need to incorporate the first one by reference using G.S. 150B-21.6. Then you do not need to recite the url wherever else you use the OSHR classification.

On line 10, remove the parenthesis around the url.

On line 13, since you are deleting the phone number, also delete "by calling"

Properly incorporate this Higher Education Directory by reference, using G.S. 150B-21.6.

In (c)(2), line 17, insert a comma after "standards"

In (c), you refer to the "board" (see line 18) and "governing board" (see lines 16, 19, 20, and 24). What is this? Is this different from the governing body in y Rule .0302? If this is the same thing, please use the same term to describe it.

Line 18, insert a comma after "agencies"

In (c)(5), how is this done?

In (c)(6), sate "establish and oversee fiscal practices and present..."

In (c)(7), line 25, I take it you need to retain "at least"?

Line 25, replace "staff;" with "staff and plan and implement"

In (c)(8), line 27, define "regular basis"

Line 27, what is "administrative" staff?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Line 28, insert a comma after “discuss”

In (d), insert a comma after “maintenance”

Line 34, define “qualified”

Also on line 34, insert a comma after “support”

In (e), line 36, insert a comma after “accounting”

Also, on line 36, what is the difference between “business, accounting, and financial functions”? Does your regulated public know?

In (f)(1)(B), Page 2, line 5, what are the contents of the “medical history form” and who shall complete this? Please note that the contents of forms need to be in Rule or law. If the contents are set forth elsewhere, is there a cross-reference you can insert here?

Line 8, replace “which” with “that”

In (f)(1)(D), line 12, insert an “and” at the end of the line.

In (f)(2), line 14, is “living unit” known to your regulated public? But why do you need to recite this here when it’s on lines 1 and 2 of the Page?

In (f)(2)(A), is “waking” versus “overnight” hours known to your regulated public?

In (f)(2)(B), line 19, define “universal precautions”

Line 20, insert a comma after “Association”

Line 21, consider ending the sentence after “care” and then starting a new sentence. “The residential child-care facility shall ensure that direct care service ...”

On line 23, how will the Division determine this?

Line 26, who determines the appropriateness? The training agency?

Line 26, insert a comma after “CPR”

Line 28, put “Successfully completed” in quotation marks, since you are defining the term here.

Line 30, state “Association, the American Red Cross, or ...”

Lines 31 and 33, insert a comma after “CPR”

Lines 34-36, state “The Division shall not accept web-based trainings for certification in first-aid, CPR, or universal precautions.”

In (f)(2)(C), Page 3, lines 2-4, does your regulated public know what “group management” “preferred disciplinary techniques” and “health care and socialization” means?

On line 6, delete the comma after “including”

On line 7, you refer to “continuing education” Are these the topics in this Part? Or is there another Rule you can reference? Please note the same for (f)(4)(c), (g)(1), and (h)(1).

In (f)(4)(B), line 18, please insert a comma after “experience”

In (g), line 22, I take it your regulated public knows what “social work supervisors” and “case manager supervisors” are?

In (g)(1), assuming you incorporated these standards by reference on Page 1, delete the sentence on lines 25-29.

In (h), Page 4, lines 6-10, please delete this sentence, assuming you incorporated by reference on Page 1.

In (h)(2), line 13, I take it you need to retain “at least”?

In (h)(3), I take it your regulated public knows what “group dynamics” means?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70I .0405 is readopted as published in 31:20 NCR 2019 as follows:

2
3 **10A NCAC 70I .0405 PERSONNEL POSITIONS**

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

7 (b) The executive director shall meet the requirements of a Social Services Program Administrator I as defined by the
8 North Carolina Office of State ~~Personnel~~ Human Resources. A copy of these requirements can be ~~obtained by~~
9 ~~contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site~~
10 ~~(<http://www.oshr.nc.gov/Guide/CompWebSite/Class%20Specs/04077.pdf> found at: ([http://www.oshr.nc.gov/state-](http://www.oshr.nc.gov/state-employee-resources/classification/compensation/job-classification)~~
11 ~~[employee-resources/classification/compensation/job-classification](http://www.oshr.nc.gov/state-employee-resources/classification/compensation/job-classification))~~. The college or university degree shall be from a
12 college or university listed at the time of the degree in the Higher Education Directory. This information can be
13 obtained by calling Higher Education Publications, Inc. at ~~1-888-349-7715~~ or at: <http://www.hepinc.com>.

14 (c) The executive director shall:

- 15 (1) be responsible for the general management and administration of the residential child-care facility
16 in accordance with policies established by the governing board and licensing requirements;
- 17 (2) explain licensing standards, residential child-care standards and the residential child-care facility's
18 services to the board, the facility's constituency, other human service agencies and the public;
- 19 (3) initiate and carry out the program of residential child-care as approved by the governing board;
- 20 (4) report to the governing board on all phases of operation at least quarterly;
- 21 (5) delegate authority and responsibility to staff qualified to ensure the maintenance of the residential
22 child-care facility's operations;
- 23 (6) establish and oversee fiscal practices, present the annual operating budget and quarterly reports to
24 the governing board;
- 25 (7) evaluate, at least annually, the training needs of the staff; plan and implement staff training and
26 consultation to address identified needs;
- 27 (8) employ and discharge staff and meet on a regular basis with administrative and management staff
28 to review, discuss and formulate policies and procedures;
- 29 (9) supervise staff who report directly to the executive director; and
- 30 (10) conduct an annual individual written evaluation of each staff member who reports directly to the
31 executive director. This evaluation shall contain both a review of job responsibilities and goals for
32 future job performance.

33 (d) Clerical, Maintenance and Other Support Personnel. The residential child-care facility shall employ or contract
34 personnel qualified to perform all clerical, support and maintenance duties.

35 (e) Business and Financial Personnel. The residential child-care facility shall employ or contract personnel to perform
36 all business, accounting and financial functions.

(f) Direct Care Service Personnel. Any staff member who assumes the duties of direct care service personnel in the living unit shall comply with all the standards for direct care services personnel in the living unit.

(1) Direct care service personnel shall:

- (A) have a high school diploma or GED;
- (B) complete a medical history form prior to assuming the position;
- (C) have a medical examination by a licensed medical provider 12 months prior to assuming the position and biennially thereafter. This report shall include a statement indicating the presence of any communicable disease which may pose a risk of transmission in the residential child-care facility. After the initial examination, the cost of the medical examinations as required by licensure shall be at the expense of the facility;
- (D) have a TB skin test or chest x-ray, unless the medical provider advises against this test, prior to assuming the position;
- (E) be 21 years of age.

(2) Standards for direct care service personnel in the living unit:

- (A) There shall be one direct care staff personnel assigned to every six children during waking hours and one direct care staff personnel assigned to every ten children during overnight hours.
- (B) A residential child-care facility shall ensure that a staff member ~~trained~~ certified in cardiopulmonary resuscitation (CPR), ~~and~~ first aid, and universal precautions ~~such as those~~ provided by the American Red Cross, the American Heart Association or equivalent organizations, is always available to the children in care; and that direct care service personnel shall receive training in first aid, ~~and~~ CPR, and universal precautions within the first thirty days of employment. Equivalent organizations shall be approved if the Division of Social Services determines that courses offered are substantially equivalent to those offered by the American Heart Association or the American Red Cross. Training in CPR shall be appropriate for the ages of children in care. First aid, and CPR and universal precautions training shall be updated as required by the American Red Cross, the American Heart Association or equivalent organizations. Successfully completed is defined as demonstrating competency, as evaluated by the instructor who has been approved by the American Heart Association or the American Red Cross or equivalent organizations approved by the Division of Social Services to provide first-aid, CPR and universal precautions training. Training in CPR shall be appropriate for the ages of children in care. Documentation of successful completion of first-aid, CPR and universal precautions shall be maintained by the residential child-care facility. Web-based trainings are not acceptable methods of successfully completing certification in first-aid, CPR and universal precautions.

(C) A residential child-care facility shall ensure that direct care service personnel receive supervision and training in the areas of child development, permanency planning methodology, group management, preferred discipline techniques, family relationships, human sexuality, health care and socialization, leisure time and recreation. In addition, the residential child-care facility shall provide training to direct care service personnel in accordance with the needs of the client population, including, training in child sexual abuse. Direct care service personnel shall receive 24 hours of continuing education annually.

(D) A residential child-care facility shall ensure that direct care service personnel receive supervision in food preparation and nutrition when meals are prepared in the living unit.

(E) Any duties other than direct care services duties assigned to direct care service personnel shall be specified in writing and assigned in accordance with the residential child-care program.

(3) Direct care service supervisory personnel shall have a high school diploma or GED and be 21 years of age.

(4) Standards for direct care service supervisory personnel:

(A) There shall be at least one supervisor for every 15 direct care service personnel.

(B) Supervisory staff shall be selected on the basis of the knowledge, experience and competence required to manage direct service personnel.

(C) Direct care service supervisory personnel shall receive 24 hours of continuing education annually.

(g) Social work supervisors or case manager supervisors shall be employed by the residential child-care facility to supervise, evaluate and monitor the work and progress of the social work or case manager staff.

(1) Social work supervisors or case manager supervisors shall meet the requirements of a Social Work Supervisor II as defined by the North Carolina Office of State ~~Personnel~~ Human Resources. A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388~~ or by reviewing the following web site (<http://www.oshr.nc.gov/Guide/CompWebSite/Class%20Specs/04016.pdf>). found at (<http://www.oshr.nc.gov/state-employee-resources/classification/compensation/job-classification>).

The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social work supervisors or case manager supervisors shall receive 24 hours of continuing education annually.

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

Supervisors Required	Social Workers <u>or Case Managers</u> Employed
0	0-4

	(executive director serves as social work <u>or case manager</u> supervisor)
1	5
2	6-10
3	11-15
There shall be one additional supervisor for every one to five additional social workers <u>or case managers</u> .	

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

- (1) Social workers or case managers shall meet the requirements of a Social Worker II as defined by the North Carolina Office of State ~~Personnel~~ Human Resources. A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site (http://www.oshr.nc.gov/Guide/CompWebSite/Class%20Specs/04012.pdf.~~ found at: (<http://www.oshr.nc.gov/state-employee-resources/classification/compensation/job-classification>). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social workers or case managers shall receive 24 hours of continuing education annually.
- (2) There shall be at least one social worker or case manager assigned for every 15 children.
- (3) A residential child-care facility shall ensure that social workers or case managers receive supervision and training in the areas of child development, permanency planning methodology, group dynamics, family systems and relationships, and child sexual abuse.
- (4) Any duties other than social work or case management duties assigned to staff employed as social workers or case managers shall be specified in writing and assigned in accordance with the residential child-care program.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0503

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

Line 4, you cannot have an (a) without a (b). Please delete (a).

On line 4, insert a comma after "guardian"

Throughout the Rule, should it be "legal custodian if applicable" to be consistent with prior rules? If not, that's fine, but I wanted to check.

Lines 5 and 6, this is not the proper way to insert a comma after "guardian" Please properly do so by treating punctuation as part of the word that precedes it. "guardian guardian."

Line 5, replace "which" with "that"

On line 6, end the sentence after "custodian." And then state "This includes:"

Begin (1) through (8) with articles, like "a" or "the"

On lines 7, 10, 13, and 15 insert a comma after "guardian"

In (a)(5), what is "visitation and contact plan"? Is this known to your regulated public?

In (a)(6), what is "plan for payment of care"? Is it a payment plan?

In the History Note, why are you adding G.S. 131D-10.10, licensing of maternity homes? Doesn't Subchapter 70I address residential child-care?

Delete G.S. 143B-154, 155, and 156 from your History Note.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70I .0503 is amended as published in 31:20 NCR 2025 as follows:

2
3 **10A NCAC 70I .0503 ADMISSION AGREEMENT**

4 (a) At admission, a residential child-care facility shall develop a written agreement between the parents, guardian or
5 legal custodian, and the facility which specifies the services to be provided by the facility and the responsibilities of
6 the parents, guardian, or legal custodian which includes the following:

- 7 (1) statement of consent for placement by the parents, guardian or legal custodian, with the date of
8 admission;
- 9 (2) plan for providing admission information on the child's care, developmental, educational, medical,
10 and psychological needs to the parents, guardian or legal custodian, the frequency of out-of-home
11 family service agreement reviews, and receipt of program information required by 10A NCAC 70I
12 .0307(a) and 10A NCAC 70I .0504(a);
- 13 (3) statement of facility responsibility for working with the child's parents, guardian or legal custodian;
- 14 (4) statement related to the provision of religious training and practices and consent to these by the
15 parents, guardian or legal custodian;
- 16 (5) visitation and contact plan;
- 17 (6) fees and plan for payment of care;
- 18 (7) plan for discharge to include projected length of stay; and
- 19 (8) statement of facility responsibility for aftercare services.

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

23 *History Note:* Authority G.S. 131D-10.5; 131D-10.10; 143B-153; 143B-154; 143B-155; 143B-156

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

25 Amended Eff. October 1, 2008; July 18, 2002;

26 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,
27 2016;

28 Amended Eff. August 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0504

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (a), line 5, insert a comma after "guardian"

On lines 5 and 6, end the sentence after "admission." Then state "These include:"

In (a)(1), line 7, what is "family time"

Line 7, replace "which" with "that"

In (a)(6), is this the facility's use of volunteers?

In (a)(10), what is this standard? Is it defined somewhere?

In (b), you refer to the facility receiving the out-of-home family services agreement. From Paragraphs (b) and (h), it appears this is created by the county DSS, unless it is a private placement. (Line 21). However, (c) refers to the facility creating it. Who is responsible for creating this? Are there two for each child?

On line 21, does the facility create this plan on its own, or do others have to participate?

In (c), line 23, reviewed with whom? Is the intent that everyone on lines 25-26 attend all reviews? If so, that can be clarified. Perhaps a list:

"The out-of-home... shall be reviewed with parents, guardians, legal custodians, the child, and any ... providing services. The interval shall be as follows:"

On line 24, you refer to "initial" review. Is this the 60-day review on line 23?

On line 24, can't you delete "the third and" and just state "all subsequent reviews..."?

On line 25, you refer to "if different" regarding the legal custodian. You don't do that consistently elsewhere in this Rule. Should it be written the same consistently in the Rule?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

In (d), line 28, define “normal developmental tasks and needs”

On line 29, define “behaviorally specific”

On line 29, “time-limited” is hyphenated.

Line 30, define “specific”

I take it your regulated public knows what (d)(1), (2), (3), (5), and (6) mean and entail?

In (d)(1), why do you need “goals” when you have it on line 30?

In (d)(2), insert a comma after “academic”

In (e), Page 2, line 1, insert a comma after “guardian”

So that I’m clear – the parents or legal guardian or custodian will develop this plan without the input of the facility?

In (g), line 6, I suggest replacing “as described” with “set forth in”

In (h), line 7, insert a comma after “guardian”

In (h), don’t lines 7-9 repeat (b)?

On line 9, who shall provide this? DSS?

Line 10, define “age appropriate”

On lines 11-12, so that I’m clear, provided by whom? And there are supposed to be different standards for legal custodians?

In (i), line 13, is this review in Paragraph (c)?

In (i)(1), line 14, what are the “identified needs”? Is this the same as “identified issues” on Page 1, line 29?

In (i)(2), identified by whom?

On line 16, I take it “behaviorally-specific strategies” is known to your regulated public?

In (i)(4), line 18, state “the signatures...”

In (j), line 20, insert a comma after “providers”

On line 21, all staff, including direct care and supervisors?

Line 21, I take it “child and family team meetings” is a term known to your regulated public?

Also on line 21, who is the “agency”?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Line 22, insert a comma after “reviews”

Line 22, why is “Out-of-Home Family Services Agreement” capitalized? The term is not capitalized elsewhere within the Rule.

On lines 22-23, what are these DSS references? Are they forms? What are their contents? Where are they found?

On line 23, what is the “Transitional Living Plan”?

Line 24, what do you mean by “reflect”? If you mean that the facility must have participated, then state that.

Why are you inserting G.S. 131D-10.10 in the History Note?

Assuming you need to retain it, please provide the proper citation.

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

1 10A NCAC 70I .0504 is amended as published in 31:20 NCR 2026 as follows:

2
3 **10A NCAC 70I .0504 ORIENTATION**

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

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

19 (b) The residential child-care facility shall obtain the out-of-home family services agreement from the county
20 department of social services at or before admission when the county department of social services is the legal
21 custodian. In the case of a private placement, the facility shall develop an out-of-home family services agreement.

22 (c) The residential child-care facility shall develop a written out-of-home family services agreement for each child
23 within 30 days of admission. The out-of-home family services agreement shall be reviewed initially within 60 days,
24 the second review shall be within 90 days of the initial review and the third and subsequent reviews shall be held every
25 six months, inviting parents or guardian, the legal custodian, if different, the child, as well as any individual or agency
26 designated as providing services to participate.

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

- 31 (1) special interests and personal goals;
32 (2) intellectual, academic and vocational;
33 (3) psychological and emotional;
34 (4) medical;
35 (5) social and family relationships;
36 (6) cultural and spiritual; and
37 (7) basic living skills.

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

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

4 (g) Direct care staff shall be informed about the child's out-of-home family services agreement by the executive
5 director of the residential child-care facility or his or her designee and shall participate or provide input at the reviews
6 as described in Paragraph (c) of this Rule.

7 (h) A copy of the child's out-of-home family services agreement shall be provided to the parents, guardian and the
8 executive director of the residential child-care facility or his or her designee by the county department of social
9 services serving as the legal custodian. The child's out-of-home family services agreement shall be provided to other
10 agencies and individuals listed as providing services to the child and his or her parents or guardian. An age appropriate
11 version of the out-of-home family services agreement shall be written and provided to each child by the legal
12 custodian.

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

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

19 (j) If the legal custodian is a county department of social services, the residential child-care agency, department of
20 social services, parents or guardian, other service providers and child shall develop a single out-of-home family
21 services agreement. The residential child-care staff shall attend court reviews, child and family team meetings, agency
22 reviews and permanency planning action team meetings. The Out-of-Home Family Services Agreement (DSS-5240
23 or DSS-5241) and the Transitional Living Plan may serve as the out-of-home family services agreement for the
24 residential child-care facility if the documents reflect input and participation by the residential child-care facility.
25

26 *History Note: Authority G.S. 131D-10.5; 131D10.10; 143B-153;*

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

28 *Amended Eff. October 1, 2008;*

29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,*
30 *2016;*

31 *Amended Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0506

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (a), how will long will these records be maintained? Three years, per Rule .0305?

Line 4, replace "which" with "that"

In (a)(1), line 5, insert a comma after "guardian"

In (a)(3), what is the "intake study" and the "related documents"?

Begin (a)(4) with an article, such as "the"

On line 8, what is "demographic information"?

In (a)(5), what do you mean here? Do you mean something akin to a birth certificate, with information like birthplace and date? I ask because isn't being alive sufficient to verify birth?

In (a)(6), line 11, begin the sentence with an article, such as "a"

What do you mean by the language on lines 12-13?

In (a)(8), line 15, state "the out-of-home..."

In (a)(9), will there always be court orders? Should this be "any court orders"?

In (a)(10), lines 18-19, should this be (a)(11)?

In (a)(13), is an individual consent required every time there is a trip like this?

In (a)(14), so that I'm clear – this addresses the requirement of Rule .0306(d)?

In (a)(17), is "progress notes" a term known to your regulated public?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

In (a)(18), line 29, begin the sentence “a discharge...”

On line 31, replace “which” with “that”

Also on line 31, insert a comma after “met”

In (a)(19), line 33, what is “medical history” and “cumulative health history”?

On line 33, “immunization records” is already required by (a)(7). There is no need to repeat it here.

On line 34, state “reports, and, if applicable:”

In (a)(19)(A), line 35, insert a comma after “disabilities”

Please properly incorporate the DSM using G.S. 150B-21.6.

In (a)(19)(B), Page 2, line 1, screening and assessment by whom?

In (a)(19)(C), orders by whom? And what is the MAR? Is that addressed by another Rule?

In (a)(19)(D), by whom? The facility?

In (a)(19)(E), what will this documentation entail?

In (a)(20), is this all searches or only those of the individual child?

On line 6, insert a comma after “contraband”

Lines 7 and 8, what is the “agency”?

On line 8, replace “is” with “was”

On line 9, insert a comma after “guardian”

In (a)(21), insert a comma after “custodian”

On line 10, a doctor can authorize non-prescription medication? And also prescription medication?

Why do you need (b)? Is this to make sure they are kept for audits?

In (b)(1), line 13, how is this protected?

On line 13 insert a comma after “guardian”?

In (b)(2), how is this evaluation done?

In (c), is the intent for the staff to sign or initial and date the entries? If so, state that.

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

In the History Note, why are you adding G.S. 131D-10.2?

Also in the History Note, please underline the new Amended Eff. date.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

10A NCAC 70I .0506 is amended as published in 31:20 NCR 2026 as follows:

10A NCAC 70I .0506 CLIENT RECORDS

(a) A residential child-care facility shall maintain a client record for each child which contains the following:

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

- 1 (B) documentation of screening and assessment;
2 (C) medication orders and Medication Administration Record (MAR);
3 (D) documentation of medication administration errors;
4 (E) documentation of adverse drug reactions; and
5 (F) orders and copies of lab tests;
6 (20) documentation of searches for drugs, weapons, contraband or stolen property, including date and
7 time of the search, action taken by staff and the agency, name of staff informing the agency, the date
8 and time the agency is informed of the search, the date and time of the notification to the child's
9 parents, guardian or legal custodian; and
10 (21) authorization from the parents, guardian, legal custodian or licensed medical provider to administer
11 non-prescription medications.
12 (b) The residential child-care facility shall maintain client records for the purpose of:
13 (1) protecting the legal rights of the child, parents, guardian or legal custodian, and the facility;
14 (2) documenting service provision to the child and family, including an evaluation of effectiveness of
15 services provided; and
16 (3) providing a source of information about individual children, as well as information for the facility
17 in planning its program of care and services.
18 (c) Staff members recording entries in client records shall date, initial or sign entries.
19
20 *History Note: Authority G.S. 131D-10.2; 131D-10.5; 143B-153;*
21 *Eff. July 1, 1999 (See S.L. 1999, c. 237, s. 11.30);*
22 *Amended Eff. October 1, 2008; July 18, 2002;*
23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,*
24 *2016;*
25 *Amended Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0601

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (a), lines 4-5, written program policies and procedures for what? The Paragraphs of the Rule?

In (b), line 6, define "appropriate"

Line 7, "past experience" is redundant. And what do you mean here?

On line 8, does your regulated public know what a "person-centered plan" is?

On line 7, can the supervision differ from those set forth on line 6?

In (c), lines 9 -10, define "positive learning experiences"

In (d), line 11, how are these needs determined?

On line 12, replace "which allows" with "and allow"

What is the purpose of (e)?

Assuming you need to retain it, replace "which" with "that" on line 13.

Is (f) to ensure one-on-one time?

In (g), these facilities are not single-sex?

In (h), lines 18 -19, what is the difference between "personal care, hygiene, and grooming"?

On line 19, define "appropriate"

Also on line 19, insert a comma after "race"

In (i), line 20, define "normal"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Also on line 20, replace “in which” with “where”

On line 22, what is the difference between “community service” and “volunteer work”?

If you need to retain both, insert a comma after “service”

On line 23, exception by whom? And inconsistent with what plan – that for the facility or for the child?

In (j), line 24, define “encourage” How is this documented?

On line 26, all friends, or just friends from outside the facility? And who makes this exception?

In (k), this will be allowed unless contraindicated by the visitation and contact plan, correct? (As in Rule .0306(b)(3))?

And there is no requirement to allow computers?

In (l), line 29, replace “which” with “that”

Begin (l)(1) through (3) with the

In (l)(2), insert a comma after “guardian”

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

10A NCAC 70I .0601 is amended as published in 31:20 NCR 2027 as follows:

10A NCAC 70I .0601 PROGRAM POLICIES AND PRACTICES

(a) A residential child-care facility shall have a written program description and written program policies and procedures.

(b) The residential child care facility shall provide any child placed in the facility with supervision that is appropriate for the child's age, intelligence, emotional make-up and past experience, and adhere to the supervision requirements specified in the out-of-home family services agreement or person-centered plan.

~~(b)~~ (c) The residential child-care facility shall design a program to provide opportunities for positive learning experiences and to meet the needs of children and families.

~~(c)~~ (d) The residential child-care facility shall provide a daily schedule of activities to meet the needs of children, which allows time for privacy and individual pursuits.

~~(d)~~ (e) The residential child-care facility shall consider each child an unique individual, providing opportunities which take into consideration each child's ethnic and cultural backgrounds.

~~(e)~~ (f) The residential child-care facility shall give each child individual attention and nurturing.

~~(f)~~ (g) The residential child-care facility shall provide each child with the opportunity to have interaction with adults and children of both sexes.

~~(g)~~ (h) The residential child-care facility shall instruct and supervise each child in personal care, hygiene, and grooming appropriate for the age, sex, race and developmental capacity of the child.

~~(h)~~ (i) The residential child-care facility shall ensure that each child has normal contacts in the community in which the facility is located through participation in events such as school functions, recreational facilities, church youth groups, part-time paid employment, community service and volunteer work. An exception shall be made when community contact is inconsistent with the program design.

~~(i)~~ (j) The residential child-care facility shall encourage each child to form friendships with children outside the facility, to visit friends in the community, and have their friends visit them at the facility. An exception shall be made when contact with friends is inconsistent with the program design or out-of-home family services agreement.

~~(j)~~ (k) The residential child-care facility shall provide residents with access to telephones to maintain contact with friends and family members.

~~(k)~~ (l) The residential child-care facility shall maintain a log of children in residence which includes:

- (1) child's name, age, sex and race;
- (2) name of parents, guardian or legal custodian; and
- (3) dates of admission and discharge.

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

37 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,*
38 *2016;*
39 *Amended Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0604

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

On the Submission for Permanent Rule Form, Box 2, the name provided for the Rule does not match the name on the Rule itself. If you intended to rename the Rule, please do so on the rewritten Rule. If the name on the Form was in error, please resubmit the form.

In (a), how does this align with Rule .0506(a)(6), which does not speak to a 12 month prior to admission medical examination?

On line 6, what do you mean by this language "if indicated by the child's health status"?

On line 7, is this signed statement the same as the "medical examination report" in Rule .0506(6)?

On line 8, replace "which" with "that"

The sentence on lines 9-11 is garbled. What is the point of it?

Assuming you need to retain it, I suggest stating, "If a child entering a facility is in the custody of the department of social services and is already scheduled to have ..."

On lines 11-12, state "The facility shall obtain ..."

On line 11, you use the term "medical examination report" for the first time in this Rule. Should it have been used earlier in this Rule?

In (b), lines 14-15, I believe you intend to cite to 10A NCAC 41A .0401. Also, please properly incorporate this Rule by reference using G.S. 150B-21.6. Please note, in doing so, you will likely rewrite lines 15-17.

On line 15, obtain the documentation from whom?

In (c), can't you say "A residential child-care facility shall make arrangements with one or more licensed medical providers or medical clinics and dentists for the care of the children."?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

In (d), I take it that you need to retain “at least” on line 20?

On line 20, who determines when it is needed?

Line 21, define “poses risks to his or her health”

Also on line 21, insert a comma after “disease”

On line 22, define “promptly”

Line 23, indicated by whom (both places)?

In (e), line 26, this documentation is what is addressed by Rule .0506(a)(15)?

In (f), line 27, replace “which” with “that”

Line 27, define “specific”

What do you mean by the language on lines 28-29? Is this intended to ensure that direct care staff knows how to call 911?

In (g), is the facility required to pre-arrange for admission?

In (h), line 32, define “universal precautions” and insert a comma after the term.

Lines 32-33, does your regulated public know what “other precautionary equipment” means? Will they learn it from the mandatory training in Rule .0405?

In (i), line 34, define “immediate”

On line 35, insert a comma after “area”

In (j), Page 2, line 2, do you mean to refer to the entire Section? If so, you may want to state that. “10A NCAC 41A, Section .0200.” Also, please properly incorporate the standards using G.S. 150B-21.6. Please note, in doing so, you will likely rewrite lines 2-3.

In (k), line 4, define “common”

Line 5, define “proper”

Also on line 5, consider replacing “such a” with “the”

In (l), line 6, define “home health care”

Line 7, who will determine this risk?

In (n), line 12, end the sentence after “medical provider.” Then, start the next sentence and state what it is you intend to happen. Currently, the fragment is not a complete thought as written. Based upon the language in Rule .0506, it appears that the facility may also administer non-prescription medications with authorization from these folks?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

On line 14, why are you citing to G.S. 7B-505.1? Would Rule .0506 be better?

In (o), line 15, consider stating "All prescription and non-prescription medication shall be..."

On line 15, insert a comma after "closet"

In (p), line 17, replace "which" with "that"

Line 18, define "routine"

Also on line 18, is this going to be required for a child in DSS custody, given the language of G.S. 7B-505.1? Or is the intent that the facility still needs the authorization from the local DSS?

In (p), I see that Rule .0506(a)(12) requires the record of emergency treatment. What part of that Rule addresses the written consent? Is it (a)(2)?

In (q), is this not mostly a recitation of Rule .0506? If so, why do you need it here?

In (r), if you are going to keep the language on lines 24-26, do not bold it.

On line 25, insert a comma after "guardian"

Is there a reason (s) and (t) aren't combined, since they both address the contents of the MAR?

In (u), Page 3, line 3, is the determination of oral versus written instructions entirely within the purview of the facility?

On line 4, define "unwanted" "out-dated" and "improperly labeled"

On line 6, please properly incorporate this standard by reference.

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

1 10A NCAC 70I .0604 is amended with changes as published in 31:20 NCR 2028 as follows:

2
3 **10A NCAC 70I .0604 HEALTH SERVICES**

4 (a) No child shall be accepted into a residential child-care facility without having had a medical examination by a
5 licensed medical provider within 12 months prior to admission, or a medical examination by a licensed medical
6 provider within two weeks after admission or sooner if indicated by the child's health status. The medical examination
7 shall include a signed statement by the licensed medical provider specifying the child's medical condition and
8 medications prescribed and indicating the presence of any communicable disease which may pose a risk of
9 transmission in the facility. If a child is in the custody of a department of social services, is already scheduled to have
10 and is having a medical examination report completed annually, and is entering a facility, the schedule of annual
11 medical examination reports shall not be changed. A copy of the most recent medical examination report shall be
12 obtained from the responsible county department of social services by the facility.

13 (b) A child admitted to a residential child-care facility shall be immunized against diphtheria, tetanus, whooping
14 cough, poliomyelitis, red measles (rubeola), rubella, mumps, and any other disease as required by 10A NCAC 41A
15 .0400, as age appropriate, prior to admission. The facility shall obtain documentation of immunization. A copy of
16 10A NCAC 41A .0400 may be accessed at the following website (<http://www.oah.state.nc.us/rules/>) at the time of
17 adoption of this Rule.

18 (c) A residential child-care facility shall make arrangements with one or more licensed medical providers or medical
19 clinics and with at least one dentist for the care of the children.

20 (d) Each child shall have a medical examination at least once a year and more often as needed. A child shall not be
21 allowed to participate in activities that pose risks to his or her health. Any illness, disease or medical condition of a
22 child shall be identified and treated promptly through proper medical care. Children shall have a psychiatric or
23 psychological examination or both when indicated and treatment when indicated.

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

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

30 (g) The residential child-care facility shall arrange with a hospital for the admission of children from the facility in
31 the event of serious illness or emergency.

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

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

(j) The residential child-care facility shall not engage in any home health care practices that conflict with the control measures for communicable diseases in 10A NCAC 41A .0200. A copy of 10A NCAC 41A .0200 may be accessed at the following website (<http://www.oah.state.nc.us/rules/>) at the time of adoption of this Rule.

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

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

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

~~(n) Non-prescription medication shall be administered only when approved by the parents, guardian, legal custodian or a licensed medical provider.~~ Non-prescription medications shall be administered to a child taking prescription medications only when authorized by the child's licensed medical provider; allow non-prescription medications to be administered to a child not taking prescription medication, with the authorization of the parents, guardian, legal custodian, or licensed medical provider in accordance with G.S. 7B-505.1.

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

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

(q) Each child shall have a medical record which contains the preadmission medical examination report, or a medical examination report within two weeks after admission (or sooner if indicated by the child's health status), immunization records, and records of ongoing medical and dental care and examinations received, including hospitalizations, illnesses or accidents and treatment provided.

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

(1) administration;

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

(3) review;

(4) education and training; and

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

(s) The residential child-care facility shall maintain a Medication Administration Record (MAR) for each child that documents all medications administered.

(t) The residential child-care facility shall document medication errors, adverse drug reactions and medication orders in the child's Medication Administration Record (MAR).

1 (u) Upon discharge of a child, the residential child-care facility shall return prescription medications to the person or
2 agency legally authorized to remove the child from residential child-care. The residential child-care facility shall
3 provide oral or written education to the person or agency legally authorized to remove the child from residential child-
4 care regarding the medications. Unwanted, out-dated, improperly labeled, damaged, adulterated or discontinued
5 prescription medications shall be ~~returned to a pharmacy for disposal.~~ disposed of according to Federal Drug
6 Administration guidelines found at: <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm101653.htm>.

7
8 *History Note: Authority G.S. 131D-10.5; 7B-501.1; 143B-153;*
9 *Eff. July 1, 1999 (See S.L. 1999, c.237, s. 11.30);*
10 *Amended Eff. October 1, 2008;*
11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,*
12 *2016;*
13 *Amended Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0609

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (a), line 4, what is the difference between "recreational" and "leisure"?

On line 5, replace "which" with "that"

On line 5, end the sentence after "needs." Then state "The schedule shall be posted..."

In (b), line 7, define "variety"

On line 8, define "suitable space" "competent" and "appropriate"

On line 8, delete the "and" before "needs" and insert a comma after "needs"

On line 9, that statute does not contain this standard. Please provide the correct citation or definition.

In (c), line 11, is this also true for Rule .0601(g)?

In (d), will the facility create this specialized plan?

On line 12-13, does your regulated public know what "special recreational needs" means, especially in light of the language on lines 5-6 of this Rule?

In the History Note, why are you adding G.S. 131D-10.2 and 10.10?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

1 10A NCAC 70I .0609 is amended as published in 31:20 NCR 2029 as follows:

2
3 **10A NCAC 70I .0609 RECREATION AND LEISURE ACTIVITIES**

4 (a) A residential child-care facility shall develop a written schedule of planned recreational, leisure, or physical
5 exercise activities with input from both staff and children which meets the children's developmental needs, and which
6 shall be posted in each facility.

7 (b) A residential child-care facility shall provide a variety of indoor and outdoor, individual and group recreational
8 opportunities, with suitable space and competent adult supervision, appropriate to the age, interests, and needs ~~of each~~
9 ~~child.~~ and abilities of each child in accordance with the reasonable and prudent parent standard, G.S. 131D-10.2.

10 (c) A residential child-care facility shall provide recreational opportunities for children to play with children of both
11 genders. An exception shall be made when the program cares for only one gender.

12 (d) A residential child-care facility shall have an individualized recreation plan for any child who has special
13 recreational needs.

14
15 *History Note: Authority G.S. 131D-10.2; 131D-10.5; 131D-10.10; 143B-153;*

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

17 *Amended Eff. October 1, 2008;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,*
19 *2016;*

20 *Amended Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0613

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (a), line 4, I take it your regulated public knows what "discipline and behavior management" means?

On line 5, is it up to the facility whether to use physical restraints?

Line 6, insert a comma after "guardian"

In (a)(1), line 8, define "proactive means"

Line 8, replace "which" with "that"

Lines 8-9, what do you mean by "emphasize praise and encouragement"?

In (a)(2), does your regulated public know what constitutes "out of control"?

In (b), line 11, replace "which" with "that"

Also on line 11, define "reasonable" and "developmentally appropriate"

In (c), line 13, replace "which" with "that"

In (c)(2), line 15, define "cruel, severe, or humiliating actions"

In (c)(4), line 17, insert a comma after "clothing"

In (c)(5), this will be denial unless the contact is contraindicated by the child's plan, correct?

On line 18, insert a comma after "telephone"

Also on line 18, this is the first time I recall seeing "mail" as part of the family contact. Should this be included elsewhere? And does this include email?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

In (c)(6), define “extremely strenuous”

In (c)(7), define “verbal abuse or ridicule”

In (c)(9), line 22, consider replacing “outlined” with “set forth”

In (d), line 25, put “Time-out” in quotes since you are defining the term.

On line 26, what is “non-isolation time-out”?

How is the sentence on lines 27-28 determined and by whom?

In (e), line 29, put “A drug used as a restraint” in quotation marks, since you are defining the term.

Line 30, should this be “movement that is not...”?

Line 30, define “standard”

On lines 30-31, how will this work? If the drug cannot be part of the child’s standard treatment but must be used to treat a medical condition – didn’t the doctor prescribe it? Will it not then become part of the standard treatment?

Line 32, insert a comma after “convenience”

Also on line 32, define “adequate staffing.” Is it the staffing ratios in Rule .0405?

In (f), line 33, put “Physical restraint of a child” in quotation marks.

Line 33, define “imminent risk”

Also on line 33, state “himself or herself” or “the child”

On lines 34 through Page 2, line 2, where are the rules or law that govern the NCI QA committee? Where are its standards set forth? For example, on line 34, how is this approval sought and upon what standards will approval be given or denied?

Page 2, line 2, please confirm this mailing address is still correct. Do you not want to include a website, as well?

In (i), lines 6 - 7, what do you mean by “consideration” and “may be taking”?

In (j), line 8, you refer to a “protective or mechanical device.” What are these? I note that (c)(8) refers to mechanical restraints. Is this the same thing?

I believe that (j)(2) and (4) are at least partially reciting (f), lines 33-34. Do you need to recite it both places?

In (j)(3), what is “the least restrictive manner possible”? How is this determined?

In (k), line 18, define “immediate”

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

Line 19, I take it you need to retain “at a minimum” here?

Also on line 19, replace “subsequent to” with “after”

Lines 24 and 26, define “immediately”

On line 25, so that I’m clear – won’t anyone in the situation who needs a physical restraint appear to be in distress?

On line 27, is this a different staff member than the one who applied the restraint and the one who was the witness?

On line 28, who will conduct this interview?

In (k)(2)(A), line 31, insert a comma after “height”

In (k)(2)(F), lines 36-37 – the language after the semicolon should be (G).

In (k)(2)(G), Page 3, line 1, change “which” to “that”

The language on lines 1-2, beginning with “whether...” should be (I). Then renumber the rest of the parts below.

Line 6, define “correct”

Line 7, insert a comma after “guardian”

On line 8, what are the contents of this form, and where can it be found? Please note, G.S. 150B-2(8a) states that while forms themselves do not belong in Rule, the contents must be in Rule or law.

On line 10, will this report be within 72 hours of the death?

In (f)(3), line 11, define “summary repot”

Also on line 11, replace “indicating” with “stating”

In (f)(4), line 16, define “appropriate”

Line 17, insert a comma after “responsiveness”

On line 19, I take it you need to retain “at least” here?

So that I’m clear – throughout this Rule, you have required training but not stated who will provide it. It appears that (f)(4)(A) – (I) addresses the qualifications of the trainers. Is this correct?

In (f)(4)(A), what is this testing? Where is it found? Who offers it? Is there a cost?

In (f)(4)(B), who determines the passing score?

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Commission Counsel
Date submitted to agency: June 28, 2017

Also, what is an “instructor training program”? Does your regulated public know?

In (f)(4)(C), line 28, define “competency-based” and “measurable”

What does (f)(4)(C) mean?

In (f)(4)(D), line 31, how is this approved and based upon what?

Line 32, delete the comma after “include”

Lines 32-33, what does “presentation of understanding the adult learner” mean?

Line 34 insert a comma after “performance”

In (f)(4)(E), they must be retrained annually? How does this work with the language on line 19 that requires eight hours of behavior management training? And (f)(4)(I)?

What does (f)(4)(G) mean? I take it your regulated public knows, but I do not.

Page 4, line 1 what is “coached experience”?

In (f)(5), line 6, define “properly and safely”

In (f)(6), line 9, define “consistent”

On lines 9 and 11, what is the “agency”? The facility? The licensing authority?

Line 10, insert a comma after “evaluate”

Line 11, insert a comma after “staff”

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

10A NCAC 70I .0613 is amended as published in 31:20 NCR 2029 as follows:

10A NCAC 70I .0613 DISCIPLINE AND BEHAVIOR MANAGEMENT

(a) A residential child-care facility shall have written policies and procedures on discipline and behavior management, including the type and use of physical restraint holds, if utilized. A copy of the written policies and procedures shall be provided to and discussed with each child and the child's parents, guardian or legal custodian prior to or at the time of admission. Policies and procedures shall include:

- (1) proactive means for interacting with and teaching children which emphasize praise and encouragement for exhibiting self control and desired behavior; and
- (2) methods for protecting children and others when a child is out of control.

(b) A residential child-care facility shall implement standards for behavior which are reasonable and developmentally appropriate.

(c) A residential child-care facility shall not engage in discipline or behavior management which includes:

- (1) corporal and physical punishment;
- (2) cruel, severe, or humiliating actions;
- (3) discipline of one child by another child;
- (4) denial of food, sleep, clothing or shelter;
- (5) denial of family contact, including family time, telephone or mail contacts with family;
- (6) assignment of extremely strenuous exercise or work;
- (7) verbal abuse or ridicule;
- (8) mechanical restraints;
- (9) a drug used as a restraint, except as outlined in Paragraph (e) of this Rule;
- (10) seclusion or isolation time-out; or
- (11) physical restraints except as outlined in Paragraph (f) of this Rule.

(d) Time-out means the removal of a child to a separate unlocked room or area from which the child is not physically prevented from leaving. The residential child-care facility may use non-isolation time-out as a behavioral control measure when the facility provides it within hearing distance and sight of a staff member. The length of time alone shall be appropriate to the child's age and development.

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

(f) Physical restraint of a child means physically holding a child who is at imminent risk of harm to himself or others until the child is calm. A residential child-care facility shall only use physical restraint holds approved by the North Carolina Interventions (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse Services. Requests for approval shall be submitted to the North Carolina Interventions (NCI)

Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse Services,
3022 Mail Service Center, Raleigh, NC 27699-3022.

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

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

~~(h)~~ (i) Before employing a physical restraint, the residential child-care facility shall take into consideration the child's medical condition and any medications the child may be taking.

~~(i)~~ (j) No child shall be physically restrained utilizing a protective or mechanical device. Physical restraint holds shall:

- (1) not be used for purposes of discipline or convenience;
- (2) only be used when there is imminent risk of harm to the child or others and less restrictive approaches have failed;
- (3) be administered in the least restrictive manner possible to protect the child or others from imminent risk of harm; and
- (4) end when the child becomes calm.

~~(j)~~ (k) A residential child-care facility shall:

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

- (G) the child's behavior which necessitated the use of physical restraint; whether the child's condition necessitated medical attention;
- (H) planning and debriefing conducted with the child and staff to eliminate or reduce the probability of reoccurrence; and
- (I) the total number of restraints of the child since admission.

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

- (3) submit a summary report to the licensing authority by the 10th day of each month indicating the number of physical restraint holds used during the previous month on each child and any injuries that resulted;
- (4) ensure that any physical restraint hold utilized on a child is administered by a trained staff member who has completed at least 16 hours of training in behavior management, including techniques for de-escalating problem behavior, the appropriate use of physical restraint holds, monitoring of the child's breathing, verbal responsiveness and motor control. Training shall also include debriefing children and staff involved in physical restraint holds. Thereafter, staff authorized to use physical restraint holds shall annually complete at least eight hours of behavior management training, including techniques for de-escalating problem behavior. Instructor qualifications and training requirements include:
 - (A) trainers shall demonstrate competence by scoring 100 percent on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions; trainers shall demonstrate competence by scoring 100 percent on testing in a training program teaching the use of physical restraint;
 - (B) trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program;
 - (C) the training shall be competency-based, and shall include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course;
 - (D) the content of the instructor training shall be approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and shall include, presentation of understanding the adult learner, methods of teaching content of the course, evaluation of trainee performance and documentation procedures;
 - (E) trainers shall be retrained at least annually and demonstrate competence in the use of physical restraint;
 - (F) trainers shall be trained in CPR;

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

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

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

(5) complete an annual review of the discipline and behavior management policies and techniques to verify that the physical restraint holds being utilized are being applied properly and safely. This review shall be documented and submitted to the licensing authority as part of the biennial licensing renewal application; and

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

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

Eff. July 1, 1999;

Temporary Amendment Eff. July 20, 1999;

Temporary Amendment Eff. May 15, 2000;

Amended Eff. November 1, 2009; October 1, 2008; April 19, 2001;

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

Amended Eff. August 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70I .0614

DEADLINE FOR RECEIPT: Thursday, July 13, 2017

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:

In (b), line 7, what are the contents of this form? Are they in another Rule or law? And how can the facility obtain it?

In (b)(1), given the language on lines 7-8, could it not just be "death;"?

In (b)(6), line 14, insert a comma after "county"

I suggest beginning (c)(1) through (8) with articles. "the name, the date, a description, any need for medical attention"

In (c)(3), line 19, define "brief"

In (c)(7), should this read "the name... that was notified..."?

Also, is (c)(7) only applicable to (d) and (e)(3)? Or do all critical incidents require reporting to the parent/guardian/legal custodian? If so, you need to state that more clearly.

In (d), line 26, insert a comma after "guardian"

In (e), lines 28 and 37, what subcontractors? Does your regulated public know?

In (e)(1), line 31, should this reference be to G.S. 7B-302?

In (e)(2), line 32, define "promptly"

Also in (e)(2), is it up to facility to determine a report to the executive director versus the governing body?

In (e)(3), insert a comma after "guardian"

In (e)(4), just so I'm clear – how is this possible to speculate on all alleged incidents that may happen and how to avoid recurrence in a policy?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: June 28, 2017

In (e)(5), line 37, insert a comma after “volunteer”

In (e)(6), Page 2, line 1, this requirement to report to the licensing authority within 72 hours is in (b)(2). Does it need to be both places?

In (f), lines 6-7 what does this mean? Do you mean the policies explained in Rule .0613(j)(6)?

Line 7, under what circumstances will the licensing authority make this request? During a monitoring or in response to a complaint? You need to give some idea of when the request will be made in the Rule. Please note, you do not have to spell out every time you will ask, but provide some guidance within the Rule on when this will be requested.

In (g), line 8, define “appropriate”

Line 9, define “immediately”

In the History Note, please put the citations in the order they were published, with the Public Law being last.

Further, what specific part of the Public Law are you referring to?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 28, 2017

10A NCAC 70I .0614 is amended as published in 31:20 NCR 2031 as follows:

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

(a) A residential child-care facility shall have written policies and procedures for handling and reporting critical incidents.

(b) Critical incident reports shall be submitted to the licensing authority by the executive director or designee on a form developed by the licensing authority within 72 hours of the critical incident. Critical incidents involving a child who is a resident of a residential child-care facility include the following:

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

(c) Documentation of critical incidents shall include:

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

(d) When there is a death of a child who is a resident of a residential child-care facility, the executive director or his or her designee shall notify the parents, guardian or legal custodian and the licensing authority within 72 hours.

(e) The residential child-care facility shall have and follow policies and procedures for handling any suspected incidents of abuse or neglect of children involving staff, subcontractors, volunteers or interns. The policies and procedures shall include:

- (1) a provision for reporting any suspicions of abuse or neglect to the appropriate county department of social services for an investigative assessment in accordance with G.S. 7B-301;
- (2) a provision for recording any suspected incident of abuse or neglect and for promptly reporting it to the executive director or governing body;
- (3) a provision for notifying the parents, guardian or legal custodian;
- (4) a provision for preventing a recurrence of the alleged incident pending the investigative assessment.;
- (5) a policy concerning personnel action to be taken when the incident involves a staff member, subcontractor, volunteer or intern;

1 (6) a provision for submitting a critical incident report to the licensing authority within 72 hours of the
2 incident being accepted for an investigative assessment by a county department of social services;
3 and

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

6 (f) Critical incident reports shall be maintained in a manner consistent with the agency's risk management policies
7 and shall be made available to the licensing authority upon request.

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

10
11 *History Note: Authority G.S. P.L. 113-183; 131D-10.5; 143B-153;*

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

13 *Amended Eff. October 1, 2008; July 18, 2002;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,*
15 *2016;*

16 *Amended Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70K .0101

DEADLINE FOR RECEIPT: Wednesday, July 12, 2017

NOTE: This request when viewed on computer 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:

In (a), line 5, replace "which" with "that"

Also on line 5, I believe "full-time" should be capitalized.

Is there a reason you can't state "full-time care for adolescent and adult women..."? Or is the full-time care only for adolescents?

Lines 6 and 7, what are "licensed hospitals"? Does your regulated public know?

Also, so that I'm clear – this Subchapter expressly does not apply to G.S. 131D-10.10(b)(1)?

(a) The Department of Health and Human Services shall inspect and license all maternity homes established in the State under rules adopted by the Social Services Commission. The Commission shall adopt rules establishing educational requirements, minimum age, relevant experience, and criminal record status for executive directors and staff employed in maternity homes.

(b) Facilities subject to the provisions of this section shall include:

- (1) Institutions or homes maintained for the purpose of receiving pregnant women for care before, during, and after delivery, and
- (2) Institutions or lying-in homes maintained for the purpose of receiving pregnant women for care before and after delivery, when delivery takes place in a licensed hospital.

What is the purpose of the sentence on lines 7 -8? If you need to retain it, you may want to make this Paragraph (b) and rename the Rule.

For the sentence on lines 10-11, I take it you are relying upon G.S. 143B-153(7)?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 27, 2017

Paragraph (b) on line 12 is an incomplete sentence. In addition, this standard is not defined in the cited statute. If you are attempting to define this referring to a statute, please state "Reasonable and prudent parent standard" means the term as defined in G.S. XXXX."

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 27, 2017

1 10A NCAC 70K .0101 is readopted as published in 31:18 NCR 1805 as follows:

2
3 **10A NCAC 70K .0101 DEFINITION**

4 (a) For the purposes of the rules in this Subchapter, "residential maternity home" means a child-caring institution
5 which provides continuing full time care for adolescent women during pregnancy and after delivery when delivery
6 takes place in a licensed hospital, and a facility for adult women during pregnancy and after delivery when delivery
7 takes place in a licensed hospital. The rules in this Subchapter apply to persons intending to organize, develop, or
8 operate a residential maternity home. Residential maternity homes shall not hold dual licensure under G.S. 131D and
9 G.S. 122C. A residential maternity home shall not be licensed under both 10A NCAC 70I and 10A NCAC 70K.

10 The North Carolina Department of Health and Human Services, Division of Social Services, is the licensing
11 authority for residential maternity homes.

12 (b)The "Reasonable and Prudent Parent Standard", as defined in G.S.131D-10.2.

13
14 *History Note: Authority G.S. ~~131D-1~~; 131D-10.2; 131D10.10; 143B-153;*
15 *Eff. February 1, 1986;*
16 *Amended Eff. October 1, 2008; June 1, 1990;*
17 *Readopted Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70K .0201

DEADLINE FOR RECEIPT: Wednesday, July 12, 2017

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:

In (a)(1), line 7, (a)(3), line 32, and (a)(4), Page 2, line 6, the name of the agency is "Office of State Human Resources" Do not delete "State" here.

Also, if you are going to use these classifications as a standard using G.S. 150B-21.6, then you need to incorporate the first one by reference using G.S. 150B-21.6. Then you do not need to recite the url wherever else you use the OSHR classification.

On line 9, do not underline and strike the same language.

Online 10, remove the parenthesis around the url.

On line 12, since you are deleting the phone number, also delete "by calling"

Properly incorporate this Higher Education Directory by reference, using G.S. 150B-21.6.

Delete the blank line space on line 14.

In (a)(1)(A), line 17, are "license standards" known to your regulated public?

In (a)(1)(B), line 18, insert a comma after "supervise"

In (a)(1)(C), how is this assurance done?

In (a)(1)(D), line 21, established by whom?

In (a)(1)(E), line 22, define "good working relationships" and "other human service agencies"

In (a)(1)(F), what qualifications are you referring to this "this Subparagraph"? Do you really want someone who prepares the budget and recruits and fires staff?

In (a)(2), line 27, define "appropriate" and how is this assurance done?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 27, 2017

Line 28, and elsewhere where the terms are used, I take it your regulated public knows what the “case plan or out-of-home family services agreement” are?

In (a)(3), line 29, I note that you have “case manager supervisors” lowercase, but you have “Social Worker Supervisor” capitalized there, and the name of staff capitalized elsewhere. (See lines 5 and 26). Please be consistent here.

Line 30, insert a comma after “evaluate”

Assuming you incorporated by reference in (a)(1), end the sentence on line 32 after “Resources.”

In (a)(3), Page 2, line 2, and (a)(4), line 13, as well as (a)(5), line 15 and (a)(6), line 17, what is this “continuing education”? Are these requirements set forth in another Rule?

In (a)(4), line 3, should this be “Social Worker or Case Manager.”? It seems so, based upon the next usage of the terms.

Further, you state what is required for a social worker. What are the qualifications for a case manager?

Assuming you incorporated by reference in (a)(1), delete the sentence on lines 7-11.

In (a)(5), line 14, and (a)(6), line 16, “high school” is not hyphenated.

In (a)(6), is this staff known? What are the qualifications for this group? I ask because it appears that direct care providers and their supervisors have the exact same requirements.

In (a)(7), what is intended here? Is this to prevent a conflict of interest? What is your authority for this Subparagraph?

In (b), line 25, I believe this should be “Supervision by social worker or case manager supervisors shall be assigned as follows.” or something similar.

In the column “Social Workers or Case Managers Employed” should it read “the executive director...”

Page 2, line 1, delete the blank line space.

In (c), line 2, delete “Direct Care Staff.” Or state “Direct Care Staff Requirements.” to be consistent with (b).

Lines 2 and 3, consider removing the parenthesis and stating “maternity home residents, which shall include mothers and infants, as well as...”

Also, so that I’m clear you are allowing staff to have their family live at the home?

On line 4, and elsewhere you use the term, generally “at least” is not favored in Rules, as rules set minimum requirements. However, I take it you need to retain “at least” in this Rule?

On line 6, available how? Is this known to your regulated public?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 27, 2017

Also on line 6, define “emergency situations or special needs”?

In (d), line 7, either delete “Direct Care Supervisory Staff” or add “Requirements”

In (e), line 9, either delete “Volunteers and Interns” or add “Requirements”

On line 10, to what part of that Rule are you referring? Paragraphs (h), (i), or (j)? All three?

In (f), line 11, to what part of the Rule are you referring? All of it?

In (f)(1), line 13, insert a comma after “food service staff” Also, I believe this is the first time this type of staff is referenced in this Rule. Are the qualifications for this type of job known?

On lines 13-14 and 17-18, replace “the capacity of direct care staff and food service staff” with “those capacities”

Line 17, what is this “documentation”?

Line 20, replace “must” with “shall”

Line 21, as determined by whom? The physician? The facility?

Line 22, replace “which” with “that”

Lines 23-24, what is the “medical examination report”? What are the contents? And who completes it?

On line 30, what do you mean by “subsequently”?

Line 31, who determines this necessity?

Line 33, replace “which” with “that”

On lines 33-34, what are the contents of the “medical history form” and who shall complete this? Please note that the contents of forms need to be in Rule or law. If the contents are set forth elsewhere, is there a cross-reference you can insert here?

In (f)(2), Page 4, line 1, replace “which” with “that”

In (f)(2)(C), line 5, what are “adolescents” and “young adults”?

In (f)(2)(D), line 6, what are “children”?

In (f)(2)(H), line 10, what is the difference between “children” and “adolescents”?

In (f)(2)(N), line 16, is this not part of (f)(2)(C), (G), and (H)? If not, what is “child care”?

In (f)(2)(P), (Q), and (R), what are these?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 27, 2017

In (f)(2)(W), line 25, this is not the proper way to insert a semicolon. As you published this correctly in the NC Register, you do not need to show this a change, but please do so.

In (f)(2)(X), what is this standard? If you address this in Rule .0101, please be sure to insert a cross-reference here.

What does (f)(2)(Y) mean?

In (f)(3), line 30, and elsewhere the term is used, what are these equivalent organizations? Does your regulated public know?

Also on line 30, properly insert a period after “care”

On line 35, should the sentence begin “All”?

Also on line 35, why is “first aid” hyphenated? It isn’t on line 29.

On line 36, you do not need to spell out “cardiopulmonary resuscitation” here as you did so on lines 28-29. You can just state “CPR”

Line 36, define “universal precautions”

On Page 5, line 1, do not bold “within the first 30 days of employment.” As it was not published bolded, you do not need to highlight removing it as a change; simply do it.

On lines 2-3, how will the Division determine this?

Line 3, insert a comma after “CPR”

Line 5, insert a comma after “Cross”

Line 5, put “Successfully completed” in quotation marks, since you are defining the term here. (See Subparagraph (f)(1), line 15).

Line 7, state “Association, the American Red Cross, or ...”

Line 8, insert a comma after “CPR”

Line 9, who determines the appropriateness? The training agency?

Line 10, insert a comma after “CPR”

Line 10, what is the “supervising agency”? The maternity home? The training agency?

Lines 10 – 12, state “The Division shall not accept web-based trainings for certification in first-aid, CPR, or universal precautions.”

In the History Note, line 14, are you specifically referring to 131D-10.5(7)?

In the History Note, why are you adding G.S. 7B-505.1? Assuming you need to retain it, please place it in numerical order.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 27, 2017

1 10A NCAC 70K .0201 is readopted as published in 31:18 NCR 1806 as follows:

2
3 **10A NCAC 70K .0201 PERSONNEL**

4 (a) Staff Qualifications and Functions.

5 (1) Executive Director. There shall be an executive director employed for the general management and
6 supervision of the maternity home. The executive director shall meet the requirements of a Social Services Program
7 Administrator I as defined by the North Carolina Office of ~~State Personnel.~~ Human Resources. A copy of these
8 requirements can be ~~obtained by contacting the Division of Social Services at 828 669 3388 or by reviewing the~~
9 ~~following web site: (http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100_04099/PDF_Files/04077.pdf;~~
10 ~~found at (<http://www.oshr.nc.gov/state-employee-resources/classification-compensation/job-classification>).~~ The
11 college or university degree shall be from a college or university listed at the time of the degree in the Higher Education
12 Directory. This information can be obtained by calling Higher Education Publications, Inc. ~~at 1-888-349-7715.~~ or by
13 viewing site at: <http://www.hepinc.com>.

14
15 The executive director shall:

- 16 (A) direct the maternity home's program of care and services in accordance with policies
17 established by the governing board and within license standards;
18 (B) recruit, employ, supervise and discharge staff;
19 (C) assure a training program for staff;
20 (D) prepare the annual budget, supervise expenditures, and operate within the budget
21 established;
22 (E) establish and maintain good working relationships with other human service agencies and
23 represent the agency in the community; and
24 (F) delegate authority to a staff member meeting the qualifications described in this
25 Subparagraph during his or her absence.

26 (2) Professional Services Staff. The maternity home shall have available professional services
27 personnel to assure appropriate services are provided for each resident in accordance with her case
28 plan or out-of-home family services agreement.

29 (3) Social Work Supervisor or case manager supervisors. Social work supervisors shall be employed
30 by the maternity home to supervise, evaluate and monitor the work and progress of the social work
31 staff. The social work supervisor or case manager supervisor shall meet the requirements of a Social
32 Work Supervisor II as defined by the North Carolina Office of ~~State Personnel.~~ Human Resources.
33 A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-~~
34 ~~669 3388~~ ~~or~~ ~~by~~ ~~reviewing~~ ~~the~~ ~~following~~ ~~web~~ ~~site~~
35 ~~(http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100_04099/PDF_Files/04016.pdf;~~
36 ~~found at ([http://www.oshr.nc.gov/state-employee-resources/classification-compensation/job-](http://www.oshr.nc.gov/state-employee-resources/classification-compensation/job-classification)~~
37 ~~classification).~~ The college or university degree shall be from a college or university listed at the

time of the degree in the Higher Education Directory. Social work supervisors shall receive 24 hours of continuing education annually.

- (4) Social Worker case manager. Social workers or case managers shall be employed by the maternity home to provide intake services and social work services to the residents and their families in accordance with the case plan or out-of-home family services agreement. The social worker shall meet the requirements of a Social Worker II as defined by the North Carolina Office of ~~State Personnel~~ Human Resources. A copy of these requirements can be ~~obtained by contacting the Division of Social Services at 828-669-3388 or by reviewing the following web site~~ (http://www.osp.state.nc.us/CLASS_SPECS/Spec_Folder_03100-04099/PDF_Files/04012.pdf) found at (<http://www.oshr.nc.gov/state-employee-resources/classification-compensation/job-classification>). The college or university degree shall be from a college or university listed at the time of the degree in the Higher Education Directory. Social workers shall receive 24 hours of continuing education annually.
- (5) Direct Care Staff. All direct care staff shall have a high-school diploma or GED. Direct care staff shall receive 24 hours of continuing education annually.
- (6) Direct Care Supervisory Staff. All direct care supervisory staff shall have a high-school diploma or GED. Direct care supervisory staff shall receive 24 hours of continuing education annually.
- (7) Staff members of the maternity home may maintain dual employment or serve as volunteers with adoption agencies or crisis pregnancy centers as long as the maternity home does not provide services to the clients of the adoption agency or crisis pregnancy center. Staff members of the maternity home may serve on the board of directors of adoption agencies or crisis pregnancy centers as long as the adoption agency or crisis pregnancy center does not provide services to the clients of the maternity home.

(b) Staffing Requirements. There shall be at least one social worker or case manager assigned for every 15 residents. Supervision or case manager supervisor staffing ratio to ~~of~~ social workers or case managers shall be assigned as follows:

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

1
2 (c) Direct Care Staff. Direct care staff shall be employed for direct care of maternity home residents (residents include
3 mothers and infants as well as any children or dependents of staff members who live or are cared for in the home).
4 There shall be at least one direct care staff member assigned for every eight residents during waking hours and one
5 direct care staff member for every twelve residents during sleeping hours. Additional direct care staff or other
6 personnel shall be available to assist with emergency situations or special needs of the residents.

7 (d) Direct Care Supervisory Staff. There shall be at least one direct care supervisor for every 15 direct care staff
8 members.

9 (e) Volunteers and Interns. If the maternity home uses volunteers or interns to work directly with residents, the
10 requirements of 10A NCAC 70F .0207 apply.

11 (f) Additional Personnel Requirements. In addition to those requirements specified in 10A NCAC 70F .0207, the
12 following rules are applicable to maternity home programs:

- 13 (1) Health Examinations. All direct care staff, food service staff and anyone serving in the capacity of
14 direct care staff and food service staff shall have a medical examination completed by a physician,
15 physician's assistant, or nurse practitioner, hereafter referred to as "licensed medical provider,"
16 within at least 12 months before beginning employment and biennially thereafter. The agency shall
17 maintain documentation that all direct care staff and food service staff or anyone serving in the
18 capacity of direct care staff and food service staff have had a TB skin test or chest x-ray prior to
19 employment unless contraindicated by a licensed medical provider. A medical history form shall
20 be completed by all direct care staff and food service staff. Examinations must include tests
21 necessary to determine that the staff member is able to carry out assigned duties and does not have
22 any communicable disease or condition which poses risk of transmission in the facility. A report of
23 each examination shall be made a part of the employee's personnel file. A medical examination
24 report shall be completed on any adopted children or relative children of direct care staff residing in
25 the maternity home within 12 months prior to the license date. The birth children of direct care staff
26 who reside in the maternity home shall be tested for TB only if one or more of the parents tests
27 positive for TB. There shall be documentation that adopted children or other relative children
28 residing in the maternity home have had a TB skin test or chest x-ray prior to initial licensure unless
29 contraindicated by a licensed medical provider. A medical examination and TB test, if required,
30 shall be completed on any children or relative children of direct care staff who subsequently begin
31 residing in the maternity home. Examinations shall include tests necessary to determine that the
32 children or relative children of staff members who reside in the maternity home do not have any
33 communicable diseases or conditions which pose risk of transmission in the facility. A medical
34 history form shall be completed on any children or relative children of direct care staff who reside
35 in the living unit. Medical examination reports and medical history forms of children of the residents
36 residing the maternity home shall be maintained in the personnel file of their parent or relative.

(2) Staff Development. The maternity home staff shall have a written staff development plan which provides staff training in the following areas:

- (A) medical, physical, and psychological aspects of pregnancy;
- (B) prenatal and postnatal care;
- (C) developmental needs of adolescents and young adults;
- (D) developmental needs of infants and children;
- (E) parenting preparation classes;
- (F) stages of growth in infants;
- (G) day-to-day care of infants;
- (H) disciplinary techniques for infants, children and adolescents;
- (I) education planning;
- (J) job seeking skills;
- (K) locating housing;
- (L) money management;
- (M) food management;
- (N) child care;
- (O) health education;
- (P) stress management;
- (Q) life skills;
- (R) decision making;
- (S) substance abuse;
- (T) pregnancy prevention;
- (U) counseling skills;
- (V) emergency medical care; ~~and~~
- (W) nutrition and food preparation;
- (X) reasonable and prudent parent standard; and
- (Y) trauma informed care.

(3) A residential maternity home shall ensure that a staff member trained in cardiopulmonary resuscitation (CPR) and first aid, such as those provided by the American Red Cross, the American Heart Association or equivalent organizations, is always available to the clients in care. ~~and that direct care service personnel shall receive training in first aid and CPR within the first 30 days of employment. Training in CPR shall be appropriate for the ages of clients in care. First aid and CPR training shall be updated as required by the American Red Cross, the American Heart Association or equivalent organizations.~~
Residential maternity home staff shall successfully complete certification in first-aid, cardiopulmonary resuscitation (CPR) and universal precautions provided by either the American Heart Association or the American Red Cross or other organizations approved by the Division of

1 Social Services **within the first 30 days of employment.** Other organizations shall be approved if
2 the Division of Social Services determines that courses offered are substantially equivalent to those
3 offered by the American Heart Association or the American Red Cross. First-aid, CPR and universal
4 precautions training shall be renewed as required by the American Heart Association, the American
5 Red Cross or equivalent organizations. Successfully completed is defined as demonstrating
6 competency, as evaluated by the instructor who has been approved by the American Heart
7 Association or the American Red Cross or other organizations approved by the Division of Social
8 Services to provide first-aid, CPR and universal precautions training. Training in CPR shall be
9 appropriate for the ages of children in care. Documentation of successful completion of first-aid,
10 CPR and universal precautions shall be maintained by the supervising agency. Web-based trainings
11 are not acceptable methods of successfully completing certification in first-aid, CPR and universal
12 precautions.

13
14 *History Note: Authority G.S; 131D-10.5; 131D-10.10; 7B-505.1; 143B-153;*
15 *Eff. February 1, 1986;*
16 *Amended Eff. June 1, 1990;*
17 *RRC Objection Eff. April 15, 1993 Due to Lack of Statutory Authority;*
18 *Amended Eff. August 1, 2011; August 1, 2010; November 1, 2009; October 1, 2008; July 2, 1993;*
19 *Readopted Eff. August 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Social Services Commission

RULE CITATION: 10A NCAC 70K .0202

DEADLINE FOR RECEIPT: Wednesday, July 12, 2017

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:

In (a), line 4, does your regulated public know what you mean by "purpose and objectives"?

On lines 5-6, making inquiries about what? The information on lines 4-5?

In (b)(1), line 9, is the assessment of both the need for the home and for the services the individual will need? If so, that needs to be clearer. Perhaps state "Admission services shall include an assessment of: the individuals need for maternity home care; services for the applicant's individual needs; and a determination whether the maternity home's program of care and services can meet the applicant's needs."

In (b)(2), line 13, consider stating "under 18 years old,"

In (b)(3), what does this mean? Established how? Where?

In (b)(4), line 16, are you requiring any of the contents of this application? If so, that needs to be in Rule.

Line 17, what are the "written agreements"? Do they only pertain to the information on lines 17-18?

In (b)(5), lines 21 -22, what do you mean by "directly or indirectly assume"?

In (b)(6), what kind of counseling are you referring to? Does your regulated public know?

In (b)(7), line 25, insert a comma after "friends"

Lines 26-27, express grievance about what?

Does your regulated public know what (b)(8) means?

In (b)(9), line 31, insert a comma after "employment"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: June 27, 2017

Line 32, end the sentence after “education.” Then state “For residents planning to keep their babies, service shall include preparation for ...”

In (c), line 35, who shall determine this necessity?

On line 36, receive from whom? And what will happen if they do not? Should it be “shall request”?

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

10A NCAC 70K .0202 is amended as published in 31:18 NCR 1808 as follows:

10A NCAC 70K .0202 SERVICES

(a) A maternity home shall have a written statement of purpose and objectives, services offered, eligibility requirements, application procedures, and procedures for implementing all services. This information shall be available to persons or agencies making inquiries.

(b) Social Services. The maternity home shall provide admission, residential, and discharge services to applicants, residents in care, and their families or legal custodians, as follows:

- (1) Admission services shall include an assessment of the need for maternity home care, for specific services for the applicant's individual needs, and shall include information to determine if the maternity home's program of care and services can meet these needs.
- (2) When an applicant who lives out of state is being considered for admission and the applicant is under the age of eighteen years, the provisions of the North Carolina interstate placement laws (G.S. 7B-3800 et. seq.) shall be met.
- (3) Staff responsibility shall be established for decisions on admissions.
- (4) Applicants or legal custodians shall complete a written application before or upon admission. Written agreements shall be made concerning release of information, medical care, and fees for care and services.
- (5) An applicant accepted for care shall be referred to and have a working agreement with a licensed child-placing agency or county department of social services of the applicant's choice for planning and decision making in relation to her baby. No maternity home staff member shall directly or indirectly assume responsibility for placement of children for adoption.
- (6) Residential services throughout the period of care shall include counseling for each resident and her family.
- (7) Each resident shall have the opportunity to talk privately with staff, family members, friends and social workers from child-placing agencies or county departments of social services and to express grievance.
- (8) Each resident shall have assistance as requested in making the best use of her time in the maternity home, adjusting to the living situation, accessing all services needed, resolving personal and family problems, and planning for discharge.
- (9) Discharge services for residents shall include planning for living arrangements, employment or education, and for those residents planning to keep their babies, preparation for parenthood and support services for single parents.

(c) Psychological and Psychiatric Services. Arrangements shall be made for a resident to have the services of a psychologist or a psychiatrist, if necessary, as well as for consultation for the staff providing care and services to the resident. Maternity homes shall receive documentation regarding who has the authority to consent to psychological and psychiatric services received by the resident. Persons or entities with authority to consent may include the

1 resident's parent, legal guardian or custodian, or county department of social services with legal custody of the resident
2 in accordance with G.S. 7B-505.1.

3
4 *History Note: Authority G.S. ~~131D-1~~; 131D-10.10; 7B-505.1; 143B-153;*
5 *Eff. February 1, 1986;*
6 *Amended Eff. October 1, 2008;*
7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 5,*
8 *2016;*
9 *Amended Eff. August 1, 2017.*