

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13J .0901

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

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

Line 23, define or delete "totally"

Lines 32 thru 34, consider adding a comma after "following discharge" and moving the clause "except pulmonary...or ventilator services" to after the comma and adding a period after "services"

Page 2, line 5, define or delete "directly"

Page 2, line 12, consider the following changes: delete the comma after "activities"; delete the clause "or all of the above,"; add a comma after "family"; and delete the comma after "both"

Page 2, line 31, define or delete "noticeably"

Page 3, line 9, add a comma after "nurse"

Page 3, line 9, delete the "or" after "nurse"

Page 3, line 9, add a comma after "aides"

Page 3, line 11, add a comma after "services"

Page 3, line 19, delete the term "services" from the definition, as it is not part of the referenced defined term

Page 3, line 27, why spell out "Activities of Daily Living" when it is a defined term and uses the acronym of "ADL" and that acronym is used on page 2, line 32. Please review and try to use consistent terms throughout the rules.

Page 3, line 32, the citation within G.S. 90-270.24 is to (3), not (2). Please correct or consider not using specific paragraph citations within the cross-referenced statutory definitions.

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Tuesday, November 28, 2017

Page 3, line 33, delete the term “services” from the definition, as it is not part of the referenced defined term

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Tuesday, November 28, 2017

10A NCAC 13J .0901 is readopted with changes as published in 31:24 NCR 2442-2448 as follows:

10A NCAC 13J .0901 DEFINITIONS

Terms used in this Subchapter have the meanings as defined in G.S. 131E-136 and as follows:

- (1) "Activities of Daily Living" (ADL) means mobility, eating, bathing, dressing, ~~toileting, and continence, and toileting.~~
- (2) "Agency" means a home care agency.
- (3) "Agency director" means the person having administrative responsibility for the operation of the agency.
- ~~(4) "Allied health personnel" means licensed practical nurses, physical therapy assistants, occupational therapy assistants or other health professionals as defined in occupational licensure laws that are subject to supervision by a health professional.~~
- ~~(5) "Appropriate professional means a licensed health care professional or a person with a baccalaureate degree in social work or an individual who meets the job specifications established for a social worker by the Office of State Personnel.~~
- ~~(6)~~ (4) "Client" means a home care client, as defined in G.S. 131E-136 (2b).
- ~~(7)~~ (5) "Clinical respiratory services" means the provision of respiratory equipment and services that involve the assessment of a client's pulmonary status, monitoring of a client's response to ~~therapy~~ therapy, and reporting to the client's physician. Procedures include: oximetry, blood gases, delivery of medication via aerosolization, management of ventilatory support equipment, pulmonary function ~~testing~~ testing, and infant monitoring.
- ~~(8)~~ (6) "Department" means the North Carolina Department of Health and Human Services.
- ~~(9)~~ (7) "Extensive Assistance" means a client is [totally] dependent or requires ~~weight bearing support~~ hands on assistance more than half the time while performing part of an activity, ~~such as guiding or maneuvering of limbs,~~ and meets one of the following criteria:
 - (a) ~~Requires~~ requires extensive assistance in more than two activities of daily living (ADLs), as defined in Item (1) of this Rule; ~~or~~
 - (b) ~~Needs~~ needs an in-home aide to perform at least one task at the nurse aide II level; or
 - (c) ~~Requires~~ requires extensive assistance in more than one ADL and has a medical or cognitive impairment as defined in [Item (19)] ~~[item (20)]~~ of this Rule.
- ~~(10)~~ (8) "Follow-up care" means services provided to a licensed hospital's discharged ~~clients~~ client in their ~~homes~~ home by a hospital's employees. No services except pulmonary care, pulmonary ~~rehabilitation~~ rehabilitation, or ventilator services shall exceed three visits in any two month period and shall not extend beyond a 12 month period following discharge.
- ~~(11)~~ (9) "Governing body" means the person or group of persons having legal authority for the operation of the agency.

- (12) (10) "Hands-on care" means any home care service ~~which~~ that involves touching the patient in order to implement the patient's plan of care.
- (11) "Health care practitioner" means as defined in G.S. 90-640(a).
- (13) (12) "Infusion nursing services" means those services related to the administration of pharmaceutical agents directly into a body organ or cavity. Routes of administration include ~~but are not limited to~~ sub-cutaneous intravenous, intraspinal, ~~epidural~~ epidural, or intrathecal infusion. Administration shall be by or under the supervision of a registered nurse in accordance with their legal scope of practice.
- (14) ~~"In-home aide" means an individual who provides hands-on care to home care clients.~~
- (15) (13) "In-home aide services" are hands-on ~~paraprofessional~~ services ~~which~~ that assist individuals, their ~~family~~ family, or both with home management tasks, personal care tasks, or supervision of the client's activities, or all of the above, to enable the individual, their family or both, to remain and function ~~effectively at home as long as possible.~~ home.
- (16) (14) "In-home ~~care provider~~ caregiver" means any individual who provides home care services as enumerated in G.S. 131E-136.
- (15) "Instrumental Activities of Daily Living" (IADL) means meal preparation, housekeeping, medication reminders, shopping, errands, transportation, money management, phone use, reading, and writing.
- (16) "Licensed Clinical Social Worker" means as defined in G.S. 90B-3(6a).
- (17) "Licensed practical nurse" means ~~a person licensed as such, pursuant to as defined in G.S. 90-171.30.~~ G.S. 90-171.30 or G.S. 90-171.32.
- (18) "Limited Assistance" means care to a client who requires hands-on care involving guided maneuvering of limbs with eating, toileting, bathing, dressing, personal hygiene, self-monitoring of ~~medications~~ medications, or other tasks assigned that require weight bearing assistance half the time or less during the activity and does not meet the definition of extensive ~~assistance in Item (9) [Item (8)] of this Rule.~~ assistance.
- (19) "Medical or cognitive impairment" means a diagnosis and client assessment that documents at least one of the following:
- (a) ~~Pain~~ pain that is present more than half the time that interferes with an individual's activity or ~~movement.~~ movement;
 - (b) ~~Dyspneic~~ dyspneic or noticeably short of breath with minimal exertion during the performance of ADLs and requires continuous use of ~~oxygen.~~ oxygen; or
 - (c) ~~Individual~~ individual is not alert and oriented or is unable to shift attention and recall directions more than half the time.
- (20) ~~"Medical social services" means those professional services provided to individuals in their homes by a medical social worker, or by a medical social worker assistant under the supervision of a~~

- 1 ~~medical social worker, when provided by an agency in conjunction with other nursing or therapy~~
2 ~~services provided by the same agency.~~
- 3 (21) ~~"Medical social worker" means a person with a master's degree from a school of social work~~
4 ~~approved by the Council on Social Work Education who is eligible for certification by the North~~
5 ~~Carolina Social Work Certification Licensure Board as a Certified Master Social Worker.~~
- 6 (22) ~~"Medical social worker assistant" means a person who has a baccalaureate degree in social work,~~
7 ~~psychology, sociology, or other field related to social work, and has had at least one year of social~~
8 ~~work experience.~~
- 9 (23) (20) "Nursing registry" means a person or organization that maintains a list of nurses or in-home aides
10 or both that is made available to persons seeking nursing care or in-home aide ~~services~~ service, but
11 does not collect a placement fee from the worker or client, coordinate the delivery of services or
12 supervise or control the provision of services.
- 13 (24) (21) "Nursing services" means professional services provided by a registered nurse or a licensed practical
14 nurse under the supervision of a registered nurse.
- 15 (25) (22) "Occupational therapist" means ~~a person licensed as such, pursuant to~~ as defined in G.S. 90-270.70.
16 G.S. 90-270.67(2) or G.S. 90-270.72.
- 17 (26) (23) "Occupational therapist assistant" means ~~a person licensed as such, pursuant to~~ as defined in G.S.
18 90-270.70, G.S. 90-270.67(3) or G.S. 90-270.72.
- 19 (27) (24) "Occupational therapy services" means ~~professional services provided by a licensed occupational~~
20 ~~therapist or a licensed occupational therapist assistant under the supervision of a licensed~~
21 ~~occupational therapist.~~ as defined in G.S. 90-270.67(4).
- 22 (28) ~~"Paraprofessional" means an in-home care provider who does not hold a professional license or~~
23 ~~professional certification and through the nature of their duties assists a professional.~~
- 24 (29) (25) "On-call services" means unscheduled home care services made available to clients on a 24-hour
25 basis.
- 26 (30) (26) "Personal care" ~~includes tasks that range from~~ means assistance to an individual with ~~basic personal~~
27 ~~hygiene, grooming, feeding and ambulation to~~ Activities of Daily Living and ~~medical monitoring~~
28 ~~and other health care related tasks.~~ monitoring.
- 29 (31) (27) "Physical therapist" means ~~a person licensed as such, pursuant to~~ as defined in G.S. 90-270.29, G.S.
30 90-270.24(2), G.S. 90-270-30, or G.S. 90-270-31(b).
- 31 (32) (28) "Physical therapist assistant" means ~~a person licensed as such pursuant to~~ as defined in G.S. 90-
32 270.29, G.S. 90-270.24(2) or G.S. 90-270-31(b).
- 33 (33) (29) "Physical therapy services" means ~~professional services provided by a licensed physical therapist~~
34 ~~or a licensed physical therapist assistant under the supervision of a licensed physical therapist.~~ as
35 defined in G.S. 90-270.24(4).
- 36 (34) (30) "Physician" means ~~a person licensed as such, pursuant to~~ as defined in G.S. 90-15, G.S.90-9.1 or
37 G.S. 90-9.2.

~~(35)~~ (31) "Plan of care" means the written description of the authorized home care services and tasks to be provided to a client.

(32) "Practice of respiratory care" means as defined in G.S.90-648(10).

~~(36)~~ (33) "Premises" means the location or licensed site ~~from which~~ that the agency provides home care services or maintains client service records or advertises itself as a home care agency.

~~(37)~~ (34) "Qualified" means suitable for employment as a consequence of having met the standards of education, experience, ~~licensure~~ licensure, or certification established in the applicable job description created and adopted by the agency.

~~(38)~~ (35) "Registered nurse" means ~~a person licensed as such, pursuant to~~ as defined in G.S. 90-171.30.
G.S.90-171.30 or G.S. 90.171.32.

~~(39)~~ "Respiratory therapist" means ~~a person who is credentialed by the National Board for Respiratory Care.~~

~~(40)~~ (36) "Respiratory care practitioner" means ~~those persons licensed in the state of North Carolina who provide clinical respiratory services in a client's home.~~ as defined in G.S. 90-648 (12).

~~(41)~~ (37) "Scope of services" means those specific services provided by a licensed agency as listed on their home care license.

~~(42)~~ (38) "Survey" means an inspection by the Division of Health Service Regulation in order to assess the compliance of agencies with the home care licensure rules.

~~(43)~~ (39) "Social worker" means ~~a person who meets the qualifications of the North Carolina Office of State Personnel for social workers.~~ as defined in G.S 90B-3(8).

~~(44)~~ (40) "Speech and language pathologist" means ~~a person licensed as such, pursuant to G.S. 90-294.~~ as defined in G.S. 90-293(5).

~~(45)~~ ~~Speech therapy means professional services provided by a licensed speech and language pathologist.~~

~~(46)~~ (41) "Skilled Services" means all home care services enumerated in G.S. 131E-136(3) with the exception of in-home aide services.

(42) "The practice of speech and language pathology" means as defined in G.S. 90-293(7).

History Note: Authority G.S. 131E-136; 131E-140;
Eff. July 1, 1992;
RRC Objection due to lack of statutory authority Eff. November 16, 1995;
Amended Eff. January 1, 2010; February 1, 1996-1996;
Readopted Eff. January 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13J .1004

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

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

Lines 4, delete the commas after "shall" and "annually"

Line 13, should "services" be plural as it is not plural on line 14? Please review

Lines 22 thru 23, is the concept of "under arrangement" a known term or concept to the regulated public? If not, please clarify

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

1 10A NCAC 13J .1004 is readopted with changes as published in 31:24 NCR 2442-2448 as follows:

2
3 **10A NCAC 13J .1004 EVALUATION**

4 (a) The agency's governing body or its designee shall, ~~at least~~ annually, conduct a comprehensive evaluation of the
5 agency's total operation.

6 (b) The evaluation shall ~~assure~~ review the ~~appropriateness and~~ quality of the agency's services with findings used to
7 verify policy implementation, to identify problems, and to establish problem resolution and policy revision as
8 necessary.

9 (c) The evaluation shall consist of ~~an overall policy~~ a policy and administration review, including the scope of services
10 offered, arrangements for services with other agencies or individuals, admission and discharge policies, supervision
11 and plan of care, emergency care, service records, personnel ~~qualifications~~ qualifications, and program evaluation.
12 Data to be assessed shall include ~~at a minimum~~ the following:

- 13 (1) number of clients receiving each services;
- 14 (2) number of visits or hours for each service;
- 15 (3) client outcomes;
- 16 (4) adequacy of staff to meet client needs;
- 17 (5) numbers and reasons for nonacceptance of clients; and
- 18 (6) reasons for discharge.

19 (d) ~~An evaluation of the agency's client records shall be carried out at least quarterly by appropriate professionals~~
20 ~~representing the scope of the agency's program. The agency's governing body or its designee shall evaluate the~~
21 ~~agency's client records [quarterly.] every ninety days.~~ The evaluation shall include a review of sample active and
22 closed client records to ensure that agency policies are followed in providing services, both direct and under
23 arrangement, and to assure ~~that the quality of service is satisfactory and appropriate.~~ service meets the client's needs.
24 The review shall consist of a representative sample of all home care services provided by the agency.

25 (e) Documentation of the evaluation shall include the names and qualifications of the persons carrying out the
26 evaluation, the criteria and methods used to accomplish it, and any action taken by the agency as a result of its findings.

27
28 *History Note: Authority G.S. 131E-140;*

29 *Eff. July 1, 1992;*

30 *RRC Objection due to lack of statutory authority Eff. November 16, 1995;*

31 *Amended Eff. February 1, 1996-1996;*

32 *Readopted Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13J .1007

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

Lines 7 and 20, the phrase used in the Rule is "as defined in" but when looking at the statutes, they are not defining terms but setting forth requirements. Consider replacing "defined" with "set forth"

Lines 23 thru 24, what is the purpose of this Paragraph considering it is a restatement of G.S. 131E-144.6(b)? If the language is necessary, consider simply stating the following:

An agency shall comply with G.S. 131E-144.6(b).

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

10A NCAC 13J .1007 is readopted as published in 31:24 NCR 2442-2448 as follows:

10A NCAC 13J .1007 CLIENT RIGHTS AND RESPONSIBILITIES

(a) An agency ~~must~~ shall provide each client with a written notice of the client's rights and responsibilities in advance of furnishing care to the client or during the initial evaluation visit before the initiation of services. The agency shall maintain documentation showing that all clients have been informed of their rights and ~~responsibilities~~ responsibilities as defined in G.S. 131E-144.3.

~~(b) Clients' rights shall include at a minimum clients' rights to:~~

(1) ~~be informed and participate in their plan of care;~~

(2) ~~voice grievances about their care and not be subjected to discrimination or reprisal for doing so;~~

(3) ~~confidentiality of their records;~~

(4) ~~be informed of their liability for payment for services;~~

(5) ~~be informed of the process for acceptance and continuance of service and eligibility determination;~~

(6) ~~accept or refuse services;~~

(7) ~~be informed of the agency's on-call service;~~

(8) ~~be informed of supervisory accessibility and availability; and~~

(9) ~~be advised of the agency's procedures for discharge.~~

~~(c) (b)~~ An agency shall provide all clients with a telephone number for information, questions, ~~or complaints about~~ services provided by the agency. The agency shall also provide the Division of Health Service Regulation ~~complaints~~ hotline number or the Department of Health and Human Services Careline number. ~~notice to clients as defined in G.S. 131E-144.4.~~ The Division of Health Service Regulation shall investigate all allegations of non-compliance with ~~the~~ rules. ~~rules of this Subchapter.~~

~~(d) (c)~~ An agency shall investigate, within 72-hours, complaints made to the agency by a client or the client's family, and ~~must~~ shall document both the existence of the complaint and the resolution of the complaint.

History Note: Authority G.S. 131E-140; 131E-144.3;

Eff. July 1, 1992;

Amended Eff. February 1, ~~1996~~ 1996;

Readopted Eff. January 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13J .1107

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

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

Line 6, is the proper term "designee"? The statute uses the term "legal representative" and Rule .1402 use the phrase "client's responsible party" Please review and clarify

Line 23, should the term "physician" be "health care practitioner"? Please review and clarify if necessary

Page 2, line 1, please verify the cross-referenced section of rules, as a review of the current rules does not reflect any rules pertaining to grants. Please review and clarify

Page 2, line 1, add a comma after "06X" and add "which" before "are"

Page 2, line 2, consider adding "at no cost" after "accessed"

Page 2, line 2, delete "electronically"

Page 2, line 3, consider deleting "at no cost" if the language has been added on line 2

Page 2, line 5, should "aides" be "caregiver" as that is a defined term in Rule .0901? Please review and clarify if necessary

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Tuesday, November 28, 2017

1 10A NCAC 13J .1107 is readopted with changes as published in 31:24 NCR 2442-2448 as follows:

2
3 **10A NCAC 13J .1107 IN-HOME AIDE SERVICES**

4 (a) If an agency provides in-home aide services, the services shall be provided in accordance with the client's plan of
5 care. The plan of care shall be signed and dated by the [registered nurse] health care practitioner and the client or
6 designee. [A] The client shall have access to a copy of the [signed and dated] in-home aide plan of care [shall be left]
7 in the home. Agencies participating in the Home and Community Care Block Grant or Social Services Block Grant
8 through the Division of Aging and Adult Services shall comply, for those clients, with the in home aide service level
9 rules contained in 10A NCAC 06A and 10A NCAC 06X which are hereby incorporated by reference with all
10 subsequent amendments. All other agencies providing in home aide services shall comply with the provisions in
11 Paragraphs (b) and (c) of this Rule.

12 (b) The plan of care shall contain the level of assistance required by the client for each ADL. If the client's plan of
13 care requires the in-home aide to provide extensive assistance assistance, as defined in Rule .0901(9) of this
14 Subchapter the in-home aide shall be listed on the Nurse Aide Registry pursuant to G.S. 131E-255. However, if the
15 client's plan of care requires the in-home aide to provide only limited assistance as defined in Rule .0901(18) of this
16 Subchapter assistance, the in-home aide is not required to be listed on the Nurse Aide Registry.

17 (c) In-home aides shall follow instructions for client care written by the ~~health care practitioner required for the~~
18 ~~services provided.~~ [registered nurse.] health care practitioner. In-home aide duties may include the following:

- 19 (1) help with prescribed exercises ~~which that~~ the client and in-home aides have been taught by a health
20 ~~care practitioner licensed pursuant to G.S. 90; practitioner;~~
- 21 (2) provide or assist with ~~personal care (i.e., bathing, care of mouth, skin and hair);~~ ADLs;
- 22 (3) ~~assist with ambulation;~~
- 23 (4) (3) assist client with self-administration of medications ~~which that~~ are ordered by a physician or other
24 person authorized by state law to prescribe;
- 25 (5) (4) perform ~~incidental household services which~~ IADLs that are essential to the client's care at home;
26 and
- 27 (6) (5) record and report changes in the client's condition, family ~~situation~~ situation, or needs to ~~an~~
28 ~~appropriate health care practitioner.~~ the [registered nurse.] health care practitioner.

29 (d) For agencies providing in-home aide services, the initial assessment shall be conducted in the client's home by the
30 [registered nurse.] health care practitioner. The initial assessment shall include the client's functional status in the areas
31 of social, mental, physical health, environmental, economic, ADLs, and IADLs.

32 (e) The initial assessment shall be conducted prior to the development of the plan of care and signed and dated by the
33 [registered nurse.] health care practitioner.

34 (f) Agencies providing in-home aide services shall provide availability of the [registered nurse] health care
35 practitioner for supervision and consultation.

36 (g) Agencies participating in the Home and Community Care Block Grant or Social Services Block Grant through
37 the Division of Aging and Adult Services shall comply with the in-home aide service level rules contained in 10A

1 NCAC 06A and 10A NCAC 06X are hereby incorporated by reference with all subsequent amendments and editions.
 2 Copies of these rules may be accessed electronically at <http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 10A>
 3 - Health and Human Services\Chapter 06 - AGING - PROGRAMS OPERATIONS at no cost. ~~[All other agencies~~
 4 ~~providing in home aide services shall comply with the provisions in Paragraphs (a) through (f) of this Rule.]~~

5 (h) In order to assure supervision of services provided by in-home aides, geographic service areas for these services
 6 shall be limited to the area that includes the county where the agency is located, counties that are contiguous with the
 7 county where the agency is located, or within 90 minutes driving time from the site where the agency is located,
 8 whichever is greater. Agencies providing services to any client prior to January 1, 2006 who resides in a geographic
 9 service area that prior to January 1, 2006 is beyond the counties that are contiguous with the county where the agency
 10 is located or greater than 90 minutes driving time from the site where the agency is located, may continue to provide
 11 services to the client in these areas until the client is discharged from the agency.

12
 13 *History Note: Authority G.S. 131E-140;*

14 *Eff. July 1, 1992;*

15 *Amended Eff. January 1, 2010; October 1, 2007; October 1, 2006; February 1, ~~1996-1996~~;*

16 *Readopted Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13J .1110

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

Line 12, delete the comma after "laws"

Line 12, add "and" between "competency," and "the"

Line 32, is the information a list, which should be "general condition, progress, and response" or does the current formatting reflect the intent of the agency? Please note that in Rule .1202, line 32, the phrase is only "condition and response." Please review and clarify if necessary

Line 33, what is meant by "specified type"? Could that phrase be clarified?

Page 2, line 17, where is this information being maintained, in the employee's record or the agency's record? Please review and clarify

Page 2, line 19, what is meant by "specified type"? Could that phrase be clarified?

Page 2, lines 22 thru 23, how is this information regarding "during the hours in-home care services are provided" known? Is this similar to an "on-call" requirement? Please clarify

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Tuesday, November 28, 2017

10A NCAC 13J .1110 is readopted with changes as published in 31:24 NCR 2442-2448 as follows:

**10A NCAC 13J .1110 SUPERVISION AND COMPETENCY OF ~~INHOME~~ IN-HOME AIDES OR
OTHER ~~IN - HOME CARE PROVIDERS~~ CAREGIVERS**

(a) ~~In home aides or other allied health personnel~~ In-home [care providers] caregivers subject to occupational licensing laws shall meet requirements consistent with the rules established by the occupational licensing board ~~to which~~ that they are subject. Each agency shall document that its ~~in-home aides and other~~ in-home ~~care providers~~ caregivers are competent to perform client care tasks or activities ~~to which~~ that they are assigned. Meeting competency includes a demonstration of tasks to the health care practitioner. Such individuals In-home [care providers] caregivers shall perform delegated activities under the supervision of persons authorized by state law to provide such supervision.

(b) Those ~~in-home aides and other~~ in-home ~~care providers~~ caregivers who are not subject to occupational licensing laws, shall only be assigned client care activities ~~for which~~ that they have demonstrated competency, the documentation of ~~which competency~~ is maintained by the agency. Meeting competency includes a correct demonstration of tasks to an appropriate professional. the health care practitioner. Each agency shall document that its ~~in-home aides and other~~ in-home ~~care providers~~ caregivers demonstrate competence for all assigned client care tasks or activities. ~~Such individuals~~ In-home [care providers] caregivers shall be supervised by the ~~appropriate professional~~ health care practitioner who may further delegate specific supervisory activities to a ~~paraprofessional in-home~~ [care providers] caregivers as designated by agency policy, provided that the following criteria are met:

- (1) there is ~~continuous~~ availability of the appropriate professional health care practitioner for supervision and consultation; and
- (2) accountability for supervisory activities delegated is maintained by the ~~appropriate professional.~~ health care practitioner.

~~(c) Staff who are not licensed by the North Carolina Respiratory Care Board shall only be assigned duties for which they have demonstrated competency and shall not engage in providing Respiratory Care as that term is defined in the Respiratory Care Practice Act, G.S. 90-648(11). Agencies that are providing clinical respiratory care services must provide supervision by a licensed respiratory care practitioner or a registered nurse with sufficient education and clinical experience in the scope of the services offered.~~

~~(d)~~ (c) The ~~appropriate supervisor~~ health care practitioner shall supervise an in-home ~~care provider~~ caregiver as specified in Paragraph (a) or (b) of this Rule caregiver by making a supervisory visit to each client's place of residence ~~at least every three months,~~ [quarterly] every ninety days with or without the in-home ~~care provider's~~ caregiver's presence, and ~~at least~~ annually, while the in-home ~~care provider~~ caregiver is providing care to each client. The supervisory visit shall include review of the client's general condition, and progress and response to the services provided by the specified type of in-home [care provider.] caregiver.

~~(e) A quarterly supervisory visit to the home of each client, by the appropriate professional supervisor for each type of in-home care provider as specified in Paragraphs (a) and (b) of this Rule, shall meet the minimum requirement for supervision of any and all of the specified type of in-home care providers who have provided service to the client~~

~~within the quarter. The supervisory visit shall include review of the client's general condition, progress and response to the services provided by the specified type of in-home care provider.~~

~~(f) (d)~~ Documentation of supervisory visits shall be maintained in the agency's records and shall ~~contain~~ contain date of visit, findings of visit, and signature of person performing the visit.

~~(1) ——— date of visit;~~

~~(2) ——— findings of visit; and~~

~~(3) ——— signature of person performing the visit.~~

~~In order to assure effective supervision of services provided by in-home aides, geographic service areas for these services shall be limited to the area which includes the county where the agency is located, counties that are contiguous with the county where the agency is located or within 90 minutes driving time from the site where the agency is located, whichever is greater. Agencies providing services to any client prior to January 1, 2006 who resides in a geographic service areas which prior to January 1, 2006 which are is beyond the counties that are contiguous with the county where the agency is located or greater than 90 minutes driving time from the site where the agency is located, may continue to provide services to the client these areas until the client is discharged from the agency.~~

~~(g) (e)~~ When follow-up corrective action is needed for any ~~or all of a specified type of in-home care provider~~ caregiver based on findings of the supervisory visit, documentation of such corrective action by the ~~appropriate supervisor~~ health care practitioner shall be maintained in the employee(s) or other agency record.

~~(h) (f)~~ ~~An appropriate professional~~ A health care practitioner conducting a supervisory visit for any ~~and all of a specified type of in-home care provider~~ caregiver may simultaneously conduct the ~~quarterly~~ case review every ninety days as required in Rule .1202 of this Subchapter.

~~(i) (g)~~ The ~~appropriate professional~~ health care practitioner shall be ~~continuously~~ available for supervision, supervision ~~on-site where services are provided when necessary,~~ during the hours that in-home care services are provided.

History Note: Authority G.S. 131E-140;

Eff. July 1, 1992;

Amended Eff. July 1, 1993;

RRC Objection due to lack of statutory authority and ambiguity Eff. November 16, 1995;

Amended Eff. February 1, 1996;

Temporary Amendment Eff. April 1, 2006;

Amended Eff. November 1, 2006-2006;

Readopted Eff. January 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13J .1202

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

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

Line 6, is the term "thinned" a known term or concept to the regulated public? If not, please clarify

Lines 32, if the language in Rule .1110, line 32 is changed, please maintain consistent terms if possible

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

10A NCAC 13J .1202 is readopted with changes as published in 31:24 NCR 2442-2448 as follows:

10A NCAC 13J .1202 CASE REVIEW AND PLAN OF CARE

(a) The plan of care shall be established in collaboration with the client and incorporated in the service record. The plan of care ~~must~~ shall be reviewed ~~at least every three months~~ [quarterly] every ninety days by the ~~appropriate agency professional~~ health care practitioner and revised as needed based on the client's needs. If the client record is thinned, the original and updated authorization or orders for care ~~as appropriate~~ shall be maintained in the client's ~~current~~ record. All records shall be ~~readily~~ available to Department staff for review if requested. [If physician orders are needed for the services,] ~~a home care health professional~~ [The] the health care practitioner shall notify the physician of any changes in the client's condition ~~which~~ that indicates the need for altering the plan of care or for terminating services. Based upon the findings of the client assessment, the plan of care shall include ~~at a minimum~~ the following:

- (1) type of service(s) and care to be delivered;
- (2) frequency and duration of service;
- (3) activity restrictions;
- (4) safety measures; and
- (5) service objectives and goals.

(b) Where applicable, the plan of care shall ~~include, but is not limited to:~~ include:

- (1) equipment required;
- (2) functional limitations;
- (3) rehabilitation potential;
- (4) diet and nutritional needs;
- (5) medications and treatments;
- (6) specific therapies;
- (7) pertinent diagnoses; and
- (8) prognosis.

~~(c) So long as ongoing hands on care is being provided to a client, a registered nurse, social worker or other appropriate professional shall visit the client in the client's residence at least quarterly to assess the client's general condition, progress and response to services provided. Documentation of these visits shall be maintained in the client's service record.~~

~~(d)~~ (c) If the ~~same professional~~ health care practitioner is assigned responsibility for two or more of the following, these functions may be conducted during the same home visit:

- (1) ~~quarterly~~ assessment of client's condition and ~~response;~~ response every ninety days;
- (2) provision of regularly scheduled professional services; or
- (3) supervision of ~~in-home aide or other allied health personnel.~~ in-home ~~[care provider.]~~ caregiver.

*History Note: Authority G.S. 131E-140;
Eff. July 1, 1992;*

- 1 *Amended Eff. May 1, 1993;*
- 2 *RRC Objection due to lack of statutory authority Eff. November 16, 1995;*
- 3 *Amended Eff. February 1, ~~1996~~ 1996;*
- 4 *Readopted Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13J .1402

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

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

Line 22, the phrase used in this Rule is "client's responsible party" The statute uses the term "legal representative" and Rule .1107, line 6 uses the term "designee" If any change is made, please maintain consistent terms if possible

Lines 23 thru 24, consider simplifying this item by stating "with entries ~~dated~~ with date and time of service, and signed" If acceptable, then delete " service. Records shall include dates and times of," leaving "service."

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Tuesday, November 28, 2017

1 10A NCAC 13J .1402 is readopted as published in 31:24 NCR 2442-2448 as follows:

2
3 **10A NCAC 13J .1402 CONTENT OF RECORD**

4 (a) If the agency is providing services to a ~~client which do not require a physician's order,~~ client, the service record
5 shall contain the following ~~information at a minimum:~~ information:

6 (1) Admission data:

- 7 (A) identification data such as name, address, telephone number, date of birth, sex, and marital
8 ~~status, social security number; all information essential to the identification of the client;~~
9 ~~and a copy of the signed client's right's form or documentation of its delivery; status;~~
10 (B) ~~names of next of kin or legal guardian; a copy of the signed client's rights form or~~
11 ~~documentation of its delivery;~~
12 (C) names of next of kin, legal guardian, or other family members;
13 (D) source of referral; and
14 (E) assessment of home environment.

15 (2) Service data:

- 16 (A) initial assessments by ~~appropriate professional~~ the health care practitioner of the client's
17 functional status in the areas of social, mental, physical health, environmental, economic,
18 ~~activities of daily living ADLs, and instrumental activities of daily living; IADLs;~~
19 (B) identification of problems, the establishment of goals and proposed ~~intervention~~
20 intervention, and indication of the client's understanding of and approval for services to be
21 provided. If the client is diagnosed as not competent to understand the treatment plan,
22 competent, the approval of the client's responsible party shall be recorded;
23 (C) a record of all services ~~provided, provided directly and by contract,~~ with entries dated and
24 signed by the individual providing the service. Records shall include dates and times of
25 ~~services provision; service;~~
26 (D) discharge summary ~~which that~~ includes an overall summary of services provided by the
27 agency and the date and reason for discharge. When a specific service to a client is
28 terminated and other services continue, there shall be documentation of the date and reason
29 for terminating the specific service; and
30 (E) evidence of coordination of services when the client is receiving more than one ~~home in-~~
31 home care service.

32 (b) If the agency is providing services to a client ~~which that~~ that require a physician's order, the service record shall include
33 ~~at a minimum~~ all of the items described in Paragraph (a) of this Rule and the following items:

34 (1) Admission data:

- 35 (A) admission and discharge dates from hospital or other institution when applicable; and
36 (B) names of physician(s) responsible for the client's care.

37 (2) Service data:

- 1 (A) client's diagnoses;
- 2 (B) physician's orders for pharmaceuticals and medical treatments; and
- 3 (C) ~~If~~ if the agency is providing services to a hospital or nursing facility patient, the agency's
- 4 record shall include ~~at a minimum the following items:~~ referral information, dates and
- 5 times of services, and documentation of services provided.
- 6 (i) ~~referral information;~~
- 7 (ii) ~~dates and times of services; and~~
- 8 (iii) ~~documentation of services provided.~~
- 9

10 *History Note: Authority G.S. 131E-140;*

11 *Eff. July 1, 1992;*

12 *Amended Eff. February 1, ~~1996-1996~~;*

13 *Readopted Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13J .1502

DEADLINE FOR RECEIPT: Friday, December 8, 2017

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

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

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

Line 9, please verify the cross-referenced section of rules, as a review of the current rules does not reflect any rules pertaining to grants. Please review and clarify

Lines 9 thru 10, the incorporation language is not necessary in this Rule as it has already been incorporated in Rule .1107.

Line 12, what does it mean by adding the clause "subject to the provisions of the rules of this Subchapter"? The prior language was referencing an exemption, but this language is not an exemption, but a restatement of line 11. Please review and clarify

Line 13, could the sentence end after "plan of care"? Is the clause "written by...supervisor" necessary to this Rule? Please review and clarify

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

1 10A NCAC 13J .1502 is readopted as published in 31:24 NCR 2442-2448 as follows:

2
3 **10A NCAC 13J .1502 SCOPE OF SERVICES**

4 (a) If an agency provides In-home companion, sitter, or respite services, the services shall be provided in accordance
5 with the client's plan of care. Agencies participating in the Home and Community Care Block Grant or Social Services
6 Block Grant through the Division of Aging and Adult Services shall ~~comply, for these clients, comply~~ with the
7 ~~companion or sitter service level~~ rules contained in 10A NCAC 06A and ~~10A NCAC 06X~~ 10A NCAC 06X, which
8 are hereby incorporated by reference ~~with all~~ including subsequent amendments and editions. Copies of 10A NCAC
9 06A and 06X are available at [http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 10A - Health and Human](http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 10A - Health and Human Services\Chapter 06 - AGING - PROGRAMS OPERATIONS)
10 [Services\Chapter 06 - AGING - PROGRAMS OPERATIONS](http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 10A - Health and Human Services\Chapter 06 - AGING - PROGRAMS OPERATIONS) at no cost. All other agencies providing ~~companion and~~
11 ~~sitter in-home companion, sitter, or respite~~ services shall comply with the provisions of the rules in this ~~Section~~
12 ~~Section~~, unless ~~exempt from these rules~~. subject to the provisions of the rules of this Subchapter.

13 (b) ~~In-home Companion, companion,~~ companion, sitter, or respite services personnel shall follow the ~~service~~ plan of care written
14 by ~~personnel required by agency policy for the services provided.~~ the in-home companion, sitter, or respite services
15 supervisor.

16
17 *History Note: Authority G.S. 131E-140;*

18 *Eff. January 1, 2010; 2010;*

19 *Readopted Eff. January 1, 2018.*