

Burgos, Alexander N

Subject: FW: 10 NCAC 13G
Attachments: 10A NCAC 13G .1102.docx; 10A NCAC 13G .1103.docx

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Friday, January 26, 2024 1:48 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10 NCAC 13G

Hello,

Attached are the updated 13G .1102 and .1103 rules. Thank you for your consideration!

Best,
Taylor Corpening
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](#)

Work Cell: 919-896-9371
Office: 919-855-4619
Fax: 919-733-2757
taylor.corpening@dhhs.nc.gov

809 Ruggles Drive, Edgerton Building
2701 Mail Service Center
Raleigh, NC 27699-2701

Burgos, Alexander N

Subject: FW: 10A NCAC 13G .0704
Attachments: 10A NCAC 13G .0704.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, January 26, 2024 2:36 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Subject: FW: 10A NCAC 13G .0704

It is my intention to recommend approval of the attached rule.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Friday, January 26, 2024 2:30 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10A NCAC 13G .0704

Here you go!

Best,
Taylor Corpening
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](http://www.ncdhhs.gov)

Work Cell: 919-896-9371
Office: 919-855-4619
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taylor.corpening@dhhs.nc.gov

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2701 Mail Service Center
Raleigh, NC 27699-2701

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, January 26, 2024 2:14 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 10A NCAC 13G .0704

Hi Taylor,

If you will remove the "note" from page 2, Lines 1-3 of the above captioned rule it should be good to go. (Just as you did in 10A NCAC 13F .0704)

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized State official. Unauthorized disclosure of juvenile, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

Burgos, Alexander N

Subject: FW: 10 NCAC 13F
Attachments: 10A NCAC 13F .1103.docx; 10A NCAC 13F .1104.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, January 26, 2024 2:38 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Subject: FW: 10 NCAC 13F

It is my intention to recommend approval of the attached rules as revised.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Friday, January 26, 2024 2:32 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10 NCAC 13F

Hello,

Attached are updated versions of rule 13F .1103 and .1104. Have a great weekend!

Best,
Taylor Corpening
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](http://www.ncdhhs.gov)

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Burgos, Alexander N

Subject: FW: 10 NCAC 13F
Attachments: 10A NCAC 13F .0703.docx; 10A NCAC 13F .1106.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, January 26, 2024 2:41 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Subject: FW: 10 NCAC 13F

It is my intention to recommend approval of the attached rules as revised.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

1 10A NCAC 13G .1102 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13G .1102 ~~LEGAL AUTHORIZED REPRESENTATIVE OR PAYEE~~**

4 (a) In situations where the facility determines a resident of a family care home is unable to manage ~~his funds, their~~
5 monetary funds the administrator shall contact a family member, responsible person, or the county department of
6 social services regarding the need for a ~~legal representative or payee,~~ authorized representative. For the purposes of
7 this [Rule,] Section, an “authorized representative” shall mean a person who is legally authorized or designated in
8 writing by the resident to act on his or her behalf in the management of their funds. ~~The administrator and other staff~~
9 ~~of the home [facility] shall not serve as a resident's legal [authorized] representative, payee, or executor of a will,~~
10 ~~except as indicated in Paragraph (b) of this Rule.~~

11 (b) The administrator and other staff of the facility shall not serve as a resident's authorized representative, payee, or
12 executor of a will, except in ~~in~~ the case of funds administered by the Social Security Administration, the Veteran's
13 Administration or other federal government agencies, the agencies. ~~The~~ administrator of the ~~home~~ facility may serve
14 as a payee when so authorized as a legally constituted authority by the respective federal agencies.

15 (c) The administrator shall give the resident's ~~legal~~ authorized representative ~~or payee~~ receipts for any monies received
16 on behalf of the resident.

17
18 *History Note: Authority G.S. 35A-1203; 108A-37; 131D-2.16; 143B-165;*

19 *Eff. January 1, 1977;*

20 *Readopted Eff. October 31, 1977;*

21 *Amended Eff. July 1, 2005; April 1, ~~1984.~~ 1984;*

22 *Readopted Eff. ~~[January 1, 2024.]~~ June 1, 2024.*

1 10A NCAC 13G .1103 is proposed for reoption with substantive changes as follows:

2
3 **10A NCAC 13G .1103 ACCOUNTING FOR RESIDENT'S PERSONAL FUNDS**

4 (a) To document a resident's receipt of the State-County Special Assistance personal needs allowance after payment
5 of the cost of care, a statement shall be signed by the resident or marked by the ~~resident with two witnesses' signatures.~~
6 resident. If the statement is marked by the resident, there shall be one witness signature. For residents who have been
7 adjudicated incompetent, the signature of the resident's authorized representative shall be required. Witnesses cannot
8 include the staff handling the residents' personal funds transactions. The statement shall be maintained in the ~~home.~~
9 facility.

10 (b) Upon the written authorization of the resident or his legal representative or payee, [their authorized representative,]
11 an administrator or the administrator's designee may handle the personal money for a resident, provided an accurate
12 accounting of monies received and disbursed and the balance on hand is available upon request of the resident or his
13 legal representative or payee. [their authorized representative during the facility's established business days and
14 hours.] No employee of a facility shall handle the personal funds for a resident, except for the facility administrator
15 or the administrator's designee after having received prior written authorization from the resident or the resident's
16 authorized representative. The facility administrator or their designee shall maintain an accurate account balance and
17 accounting of all funds received, disbursements, and the balance on hand which shall be available upon request to the
18 resident or their authorized representative during the facility's regular business office hours.

19 (c) A record of each transaction involving the use of the resident's personal funds according to Paragraph (b) of this
20 Rule shall be signed by the resident, legal representative or payee [the resident or the resident's authorized
21 representative,] or marked by the resident, if not adjudicated incompetent, with two witnesses' signatures [resident,]
22 at least monthly verifying the accuracy of the disbursement of personal funds. [If marked by the resident, there shall
23 be one witness signature. For residents who have been adjudicated incompetent, the facility shall provide the resident's
24 authorized representative with a copy of the monthly resident's funds statement and shall obtain verification of receipt.
25 The record records shall be maintained in the home. facility.] The facility shall provide each resident or the resident's
26 authorized representative a written monthly accounting of the resident's funds handled by the administrator or the
27 administrator's designee. The facility shall maintain at the facility a record signed by the resident or their authorized
28 representative indicating whether the resident or their authorized representative agrees that the monthly accounting is
29 accurate. The records shall be maintained by the facility for at least one year.

30 (d) A resident's personal funds shall not be commingled with facility funds. The facility shall not commingle the
31 personal funds of residents in an interest-bearing account.

32 (e) All or any portion of a resident's personal funds shall be available to the resident or ~~his legal~~ their authorized
33 representative or payee upon request during ~~regular office hours,~~ the facility's established business days and hours
34 except as provided in Rule .1105 of this Subchapter.

35 (f) The resident's personal needs allowance shall be credited to the resident's account within ~~24 hours of the check~~
36 being deposited following endorsement. ~~one business day of the funds being available in the facility's resident personal~~
37 funds account.

1

2 *History Note: Authority G.S. 131D-2.16; 143B-165;*

3 *Eff. April 1, 1984;*

4 *Amended Eff. July 1, 2005; April 1, ~~1987~~ 1987;*

5 *Readopted Eff. ~~January 1, 2024~~ June 1, 2024.*

Burgos, Alexander N

Subject: FW: 10 NCAC 13F
Attachments: 12.2023 - Medical Care Commission 13F and 13G Request for Changes.docx; 10A NCAC 13F .0703.docx; 10A NCAC 13F .0704.docx; 10A NCAC 13F .1103.docx; 10A NCAC 13F .1104.docx; 10A NCAC 13F .1106.docx

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Thursday, January 25, 2024 11:18 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10 NCAC 13F

Hello,

Attached are the responses to the Request for Changes as well as the revised rules for Subchapter F. I will respond with the responses for Subchapter G in the correct email chain.

Please let me know if you have any questions.

Thanks,

Taylor Corpening
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](#)

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**Request for Changes Pursuant to
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency’s statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency “consider” an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency’s consideration which the agency may find preferable and clarifying.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day~~;~~ and”
 - Right: “~~day,~~ day; and”
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13F .0703

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

Page 2, Line 2: While it is implied that form FL-2 consists of Paragraph (e)(1)-(7), it is not clear. Does FL-2 consist solely of the items required in Paragraph (e)(1)-(7)? If so, Page 2, Line 2 should read, "The FL-2 and the medical examination shall consist of..." The contents of the medical examination as required in Paragraph (e)(1)-(7) is what is solely documented on the FL-2 form.

Page 2, Line 33: G.S. 13D-9 does not exist. Changed to G.S. 131D-9.

Page 2, Lines 32-33: If G.S. 131D-9 requires immunization, why is Paragraph (i) necessary? Including the requirements and reference to the general statute in this Rule provides clarity and is useful to providers.

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

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

William W. Peaslee
Commission Counsel
Date submitted to agency: November 28, 2023

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10 NCAC 13F .0704

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

Page 1, Line 11: Change "include" to "consist of". Done.

Page 1, Lines 33-35: Explain why this "note" is necessary? The language is permissive in nature without any restriction prohibiting the activity. Why wouldn't facilities be able to accept payments from a third party? There seems to be some history here, what would we like to prohibit? Note removed from rule.

Page 2, Line 17: Change "include" to "consist of". Done

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

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

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10 NCAC 13F .1103

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

Page 1, Line 4: Who determines when the resident is “unable to manage” their finances? Changed to include if “the facility determines” a resident is unable to manage their monetary funds...

Page 1, Line 5: What happens if the resident has stated, either in writing or verbally, that the resident’s family is not to be notified? What if the resident has designated a non-family member as the point of contact or has an attorney-in-fact designated? Changed to include “responsible person”.

Page 1, Lines 7-8: As written, an incompetent resident could sign the written authorization. Was that the Commission’s intention? No, the intent was to clarify the term authorized representative to include individuals who are legally authorized such as a Power or Attorney or legal guardian or whomever the resident designates in order to comply with G.S. 131D-21(13).

Page 1, Lines 8-9: This line seems like it should be part of Paragraph (b). Line removed and added to Paragraph (b)

Page 1, Line 13: The administrator is required to give the payee of any monies receipts? Please explain. Any money that the facility received for the resident, a receipt shall be given to the facility. For instance, if the authorized representative pays the facility \$1,000 for room and board. The facility has to provide the authorized representative a receipt.

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

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

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10 NCAC 13F .1104

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

Page 1, Lines 7, 10, 13: Define "authorized representative". Language changed in 13F .1102 to "for the purposes of this Section [authorized representative] means" so that the term does not need to be defined in each Rule.

Page 1, Lines 10-14: The language is permissive in nature and there does not appear to be an restriction which would prohibit the activity. Changed for clarity, see below.

Consider, "No employee of a facility shall handle a resident's monies, except for the facility administrator or the administrator's designee after having received prior written authorization from the resident or the resident's lawful representative. The facility shall maintain an accurate account balance and accounting of all receipts and disbursements, which shall be available upon request to the resident or their lawful representative during the facility's regular business office hours. Changed to "No employee of a facility shall handle the personal money for a resident, except for the facility administrator or the administrator's designee after having received prior written authorization from the resident or the resident's authorized representative. The facility administrator or their designee shall maintain an accurate account balance and accounting of all funds received, disbursements, and the balance on hand which

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

shall be available upon request to the resident or their authorized representative during the facility's regular business office hours."

*Page 1, Lines 15-21: Here the Commission uses the term "personal funds" but Paragraph (b) states "personal monies". Unless the Commission is addressing different things, be consistent with the terms. **Changed personal monies throughout this rule to "personal funds" for consistency.***

*Page 1, Lines 15-21: As written, the resident must verify the accuracy of the "disbursement of personal funds" but the authorized representative is only verifying receipt of the record. Is that what the Commission intended? **No, the when residents have been adjudicated incompetent the facility provides the representative with a copy of the funds statement and the facility is responsible for obtaining verification that the statement was received. For instance, if the funds statement was sent via email, an email from the representative back to the facility indicating "received" would acknowledge their receipt.***

*Page 1, Lines 15-21: The passive voice is used. Consider, "The facility shall provide each resident or the resident's lawful representative a written monthly accounting of the resident's monies handled by the administrator or the administrator's designee. The facility shall maintain at the facility a record signed by the resident or their lawful representative indicating whether the resident or their lawful representative agree that the monthly accounting is accurate. **Done.***

*Page 1, Lines 15-21: How long must the records be maintained? **Changed to a minimum of one year.***

*Page 1, Lines 22-23: As written, the facility can commingle a resident's funds with other residents' funds so long as it is a non-interest bearing account. Is that correct? The facility can hold a resident's funds in an interest bearing account so long as no other resident's funds are in that account. Is that correct? Who gets the interest? **No, resident's funds cannot be commingled with the facility funds and are not to be comingled in an interest-bearing account.***

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

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10 NCAC 13F .1106

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

Generally, to the rule: It appears that the Commission is attempting to regulate contractual obligations between the facilities and residents. It does not appear that the

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

Commission has authority over residents, or at least not a viable enforcement mechanism. The Commission We have changed the requirement to be directed to the facility. There is no enforcement against any former residents. Any enforcement will be against the facility.

Page 1, Line 4-6: This is grammatically incorrect. Consider changing. Re-written for clarity.

Page 1, Lines 11-13: Explain the Commission's authority over former residents or to determine or adjudicate the contractual obligations of a former resident. Also, explain how this will be enforced. What will the Commission or department do in the event of non-payment? We have changed the requirement to be directed to the facility. There is no enforcement against any former residents. Any enforcement will be against the facility.

Page 1, Lines 11-12: It is unclear whether moving out pursuant to .0702(i) is an example of a resident moving out without giving notice, or whether the paragraph applies in this exclusive circumstance. It can be read two ways. Changed "if" to "when" for clarity as this is an exclusive circumstance.

Page 1, Lines 13-15: "Entitled" from whom? Removed "entitled" and rewrote sentence for clarity.

Page 1, Lines 13-15: Explain the Commission's authority over former residents or to determine or adjudicate the contractual obligations of a former resident. We have changed the requirement to be directed to the facility. There is no enforcement against any former residents. Any enforcement will be against the facility.

Page 1, Lines 18-20: Explain the Commission's authority over former residents or to determine or adjudicate the contractual obligations of a former resident. We have changed the requirement to be directed to the facility. There is no enforcement against any former residents. Any enforcement will be against the facility.

Page 1, Line 18: If it meets the intention of the Commission, remove the comma after "notice". If it does not meet the Commission's intention, explain why. Comma removed after notice.

Page 1, Line 22-23: Rule .0702(i) does not require notice. It is unclear what the Commission intends by the inclusion of the reference. We are referencing the exception to the discharge notice. Rule .0705 (i) references exceptions regarding a discharge notice "Exceptions to the required notice are cases in which a delay in discharge or transfer would jeopardize the health or safety of the resident or others in the facility." Rule .0705 has been amended to be readopted effective 4/1/24.

Page 1, Lines 26-37, and Page 2, Lines 1-12: Paragraph (e) is poorly written and is confusing. It should be re-written. Lines 1-14 of Paragraph (e) re-written for clarity.

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

Line 26: Who determines the intent? Clarified to include the resident or his or her responsible person

Page 1, Lines 27 and 31: The Commission is using permissive language when there does not appear to be a restriction. Put another way, in the absence of a restriction, the parties to an agreement can agree as they will. Permissive language removed, to clarify the restriction and state the current requirements.

Page 1, Lines 33-35: I think the Commission is attempting to prohibit facilities from enforcing any notice requirements unless those requirements are explained the resident or their lawful representative, provided in writing and signed by the resident or their lawful representative. However, it is unclear. Changed the sentence structure for clarity.

Page 2, Line 4: Change “may” to “shall”. This would be clearer and more concise if put in the active voice. Done.

Page 2, Lines 13-15: A refund shall be given by whom? This would be clearer and more concise if put in the active voice. “The adult day care facility shall provide a refund of.... Changed to “The facility shall provide the refund to the authorized representative with 14 days after the resident leaves the facility or within 30 days after the resident’s death.””

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

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

William W. Peaslee
Commission Counsel
Date submitted to agency: November 28, 2023

1 10A NCAC 13F .0703 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13F .0703 TUBERCULOSIS TEST, MEDICAL EXAMINATION AND IMMUNIZATIONS**

4 (a) Upon admission to an adult care home each resident shall be tested for tuberculosis disease in compliance with
5 the control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205 including
6 subsequent amendments and editions. ~~Copies of the rule are available at no charge by contacting the Department of
7 Health and Human Services, Tuberculosis Control Program, 1902 Mail Service Center, Raleigh, North Carolina
8 27699-1902.~~

9 (b) Each resident shall have a medical examination completed by a licensed physician or physician extender prior to
10 admission to the facility and annually thereafter. For the purposes of this Rule, "physician extender" means a licensed
11 physician assistant or licensed nurse practitioner. The medical examination completed prior to admission shall be used
12 by the facility to determine if the facility can meet the needs of the resident.

13 (c) ~~The results of the complete examination required in Paragraph (b) of this Rule are to be entered on the FL 2, North
14 Carolina Medicaid Program Long Term Care Services, or MR 2, North Carolina Medicaid Program Mental
15 Retardation Services, which shall comply with the following:~~

16 (1) ~~— The examining date recorded on the FL 2 or MR 2 shall be no more than 90 days prior to the person's
17 admission to the home.~~

18 (2) ~~— The FL 2 or MR 2 shall be in the facility before admission or accompany the resident upon
19 admission and be reviewed by the facility before admission except for emergency admissions.~~

20 (3) ~~— In the case of an emergency admission, the medical examination and completion of the FL 2 or MR
21 2 as required by this rule shall be within 72 hours of admission as long as current medication and
22 treatment orders are available upon admission or there has been an emergency medical evaluation,
23 including any orders for medications and treatments, upon admission.~~

24 (4) ~~— If the information on the FL 2 or MR 2 is not clear or is insufficient, the facility shall contact the
25 physician for clarification in order to determine if the services of the facility can meet the
26 individual's needs.~~

27 (5) ~~— The completed FL 2 or MR 2 shall be filed in the resident's record in the home.~~

28 (6) ~~— If a resident has been hospitalized, the facility shall have a completed FL 2 or MR 2 or a transfer
29 form or discharge summary with signed prescribing practitioner orders upon the resident's return to
30 the facility from the hospital.~~

31 The medical examination shall be completed no more than 90 days prior to the resident's admission to the facility,
32 except in the case of emergency admission.

33 (d) In the case of an unplanned, emergency admission, the medical examination of the resident shall be conducted
34 within 72 hours after admission. Prior to an emergency admission, the facility shall obtain current medication and
35 treatment orders from a licensed physician or physician extender.

36 (e) The result of the medical examination required in Paragraph (b) of this Rule shall be documented on the North
37 Carolina Medicaid Adult Care Home FL-2 form which is available at no cost on the Department's Medicaid website

1 at <https://medicaid.ncdhhs.gov/media/6549/open>. The Adult Care Home FL-2 shall be signed and dated by the
 2 physician or physician extender completing the medical examination. The medical examination shall include the
 3 following:

- 4 (1) resident's identification information, including the resident's name, date of birth, sex, admission
 5 date, county and Medicaid number, current facility and address, physician's name and address, a
 6 relative's name and address, current level of care, and recommended level of care;
- 7 (2) resident's admitting diagnoses, including primary and secondary diagnoses and dates of onset;
- 8 (3) resident's current medical information, including orientation, behaviors, personal care assistance
 9 needs, frequency of physician visits, ambulatory status, functional limitations, information related
 10 to activities and social needs, neurological status, bowel and bladder functioning status, manner of
 11 communication of needs, skin condition, respiratory status, and nutritional status including orders
 12 for therapeutic diets;
- 13 (4) special care factors, including physician orders for blood pressure, diabetic urine testing, physical
 14 therapy, range of motion exercises, a bowel and bladder program, a restorative feeding program,
 15 speech therapy, and restraints;
- 16 (5) resident's medications, including the name, strength, dosage, frequency and route of administration
 17 of each medication;
- 18 (6) results of x-rays or laboratory tests determined by the physician or physician extender to be
 19 necessary information related to the resident's care needs; and
- 20 (7) additional information as determined by the physician or physician extender to be necessary for the
 21 care of the resident.

22 (f) If the information on the Adult Care Home FL-2 is not clear or is insufficient, or information provided to the
 23 facility related to the resident's condition or medications after the completion of the medical examination conflicts
 24 with the information provided on the Adult Care Home FL-2, the facility shall contact the physician or physician
 25 extender for clarification in order to determine if the facility can meet the individual's needs.

26 (g) The results of the medical examination shall be maintained in the resident's record in accordance with Rule .1201
 27 of this Subchapter. Discharge medication orders shall be clarified in accordance with Rule .1002(a) of this Subchapter.

28 (h) Upon a resident's return to the facility from a hospitalization, the facility shall obtain and review the hospital
 29 discharge summary or discharge instructions, including any discharge medication orders. If the facility identifies
 30 discrepancies between the discharge orders and current orders at the facility, the facility shall clarify the discrepancies
 31 with the resident's physician or physician extender.

32 ~~(d)(i)~~ (i) Each resident shall be immunized against pneumococcal disease and annually against influenza virus according
 33 to G.S. **13D-9, 131D-9**, except as otherwise indicated in this law.

34 ~~(e)~~ The facility shall make arrangements for any resident, who has been an inpatient of a psychiatric facility within 12
 35 months before entering the home and who does not have a current plan for psychiatric care, to be examined by a local
 36 physician or a physician in a mental health center within 30 days after admission and to have a plan for psychiatric
 37 follow up care when indicated.

1 (j) The facility shall make arrangements for a resident to be evaluated by a licensed mental health professional,
2 licensed physician or licensed physician extender for follow-up psychiatric care within 30 days of admission or re-
3 admission to the facility when the resident:

4 (1) has been an inpatient of a psychiatric facility within 12 months prior to admission to the facility and
5 does not have a current plan for follow-up psychiatric care; or

6 (2) has been hospitalized due to threatening or violent behavior, suicidal ideation or self-harm, or other
7 psychiatric symptoms that required hospitalization within 12 months prior to admission to the
8 facility and does not have a current plan for follow-up psychiatric care.

9
10 *History Note: Authority G.S. 131D-2.16; 143B-165;*
11 *Temporary Adoption Eff. September 1, 2003;*
12 *Eff. June 1, 2004. 2004;*
13 *Readopted Eff. ~~January 1, 2024.~~ June 1, 2024.*

1 10A NCAC 13F .0704 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13F .0704 RESIDENT CONTRACT, INFORMATION ON HOME FACILITY, AND**
4 **RESIDENT REGISTER**

5 (a) An adult care home administrator or ~~administrator in charge~~ or their management designee shall furnish and
6 review with the resident or ~~responsible person~~ the resident's authorized representative as defined in Rule .1103 of this
7 Subchapter information on the ~~home facility~~ upon admission and when changes are made to that information. The
8 facility shall involve the resident in the review of the resident contract and information on the facility unless the
9 resident is cognitively unable to participate in the discussion. A statement indicating that this information has been
10 received upon admission or amendment as required by this Rule shall be signed and dated by each person to whom it
11 is given and retained in the resident's record in the ~~home facility~~. The information shall **include** **consist of** the
12 following:

- 13 (1) the resident contract to which the following applies:
- 14 (A) the contract shall specify ~~rates~~ charges for resident services and accommodations,
15 including the cost of different levels of service, ~~if applicable,~~ description of levels of care
16 and services, and any other charges or fees;
- 17 (B) the contract shall disclose any health needs or conditions that the facility has determined it
18 cannot ~~meet pursuant to G.S. 131D-2(a1)(4); meet;~~
- 19 (C) the contract shall be signed and dated by the administrator or ~~administrator in charge~~
20 management designee and the resident or ~~responsible person,~~ the resident's authorized
21 representative, a copy given to the resident or ~~responsible person~~ the resident's authorized
22 representative and a copy kept in the resident's record;
- 23 (D) the resident or ~~responsible person~~ the resident's authorized representative shall be ~~notified~~
24 as soon as any change is known, but not less than 30 days before the change for rate changes
25 initiated by the facility, of any changes in the contract given a written 30-day notice prior
26 to any change in charges for resident services and accommodations, including the cost of
27 different levels of service, description of level of care and services, and any other charges
28 or fees, and be provided an amended contract or an amendment to the contract for review
29 and ~~signature;~~ confirmation of receipt;
- 30 (E) gratuities in addition to the established rates shall not be accepted; and
- 31 (F) the maximum monthly adult care home rate that may be charged to Special Assistance
32 recipients ~~is~~ as established by the North Carolina Social Services Commission and the
33 North Carolina General Assembly.

34 **Note:** Facilities may accept payments for room and board from a third party, such as family member, charity or faith
35 community, if the payment is made voluntarily to supplement the cost of room and board for the added benefit of a
36 private room or a private or semi-private room in a special care unit.

1 (2) a written copy of all house rules, including facility policies on smoking, alcohol consumption,
 2 visitation, refunds and the requirements for discharge of residents consistent with the rules of this
 3 Subchapter, and amendments disclosing any changes in the house ~~rules;~~ rules. The house rules shall
 4 be in compliance with G.S. 131D-21;

5 (3) a copy of the Declaration of Residents' Rights as found in G.S. 131D-21;

6 (4) a copy of the ~~home's~~ facility's grievance procedures ~~which that~~ that shall indicate how the resident is to
 7 present complaints and make suggestions as to the ~~home's~~ facility's policies and services on behalf
 8 of himself or herself or others; and

9 (5) a statement as to whether the ~~home~~ facility has signed Form DSS-1464, Statement of Assurance of
 10 Compliance with Title VI of the Civil Rights Act of 1964 for Other Agencies, Institutions,
 11 Organizations or Facilities, and which shall also indicate that, if the ~~home~~ facility does not choose
 12 to comply or is ~~found to be in non-compliance,~~ non-compliant, the residents of the ~~home~~ facility
 13 would not be able to receive State-County Special Assistance for Adults and the ~~home~~ facility would
 14 not receive supportive services from the county department of social services.

15 (b) The administrator or ~~administrator in charge~~ their management designee and the resident or the resident's
 16 ~~responsible person representative~~ shall complete and sign the Resident Register initial assessment within 72 hours of
 17 the resident's admission to the facility ~~and revise the information on the form as needed.~~ in accordance with G.S.
 18 131D-2.15. The facility shall involve the resident in the completion of the Resident Register unless the resident is
 19 cognitively unable to participate. The Resident Register shall [include] consist of the following:

20 (1) resident's identification information including the resident's name, date of birth, sex, admission
 21 date, medical insurance, family and emergency contacts, advanced directives, and physician's name
 22 and address;

23 (2) resident's current care needs including activities of daily living and services, use of assistive aids,
 24 orientation status;

25 (3) resident's preferences including personal habits, food preferences and allergies, community
 26 involvement, and activity interests;

27 (4) resident's consent and request for assistance including the release of information, personal funds
 28 management, personal lockable space, discharge information, and assistance with personal mail;

29 (5) name of the individual identified by the resident who is to receive a copy of the notice of discharge
 30 per G.S. 131D-4.8; and

31 (6) resident's consent including a signature confirming the review and receipt of information contained
 32 in the form.

33 The Resident Register is available on the internet website, <https://info.ncdhhs.gov/dhsr/acls/pdf/resregister.pdf> ~~or~~ at
 34 no charge from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center,
 35 Raleigh, NC 27699-2708. ~~charge.~~ The facility may use a resident information form other than the Resident Register
 36 as long as it contains ~~at least~~ the same information as the Resident Register. Information on the Resident Register shall
 37 be kept updated and maintained in the resident's record.

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*History Note: Authority 131D-2.15; 131D-2.16; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Eff. July 1, 2005.
Amended Eff. April 1, ~~2022~~. 2022;
Readopted Eff. [January 1, 2024.] June 1, 2024.*

1 10A NCAC 13F .1103 is proposed for amendment as follows:

2

3 **10A NCAC 13F .1103 ~~LEGAL~~ AUTHORIZED REPRESENTATIVE OR PAYEE**

4 (a) In situations where the facility determines a resident of an adult care home is unable to manage his their monetary
 5 funds, the administrator shall contact a family member the resident's responsible person or the county department of
 6 social services regarding the need for ~~a legal representative or payee.~~ an authorized representative. For the purposes
 7 of this Rule, an "authorized representative" shall mean a person who is legally authorized or designated in writing by
 8 the resident to act on his or her behalf in the management of their funds. ~~The administrator and other staff of the home~~
 9 ~~facility shall not serve as a resident's legal [authorized] representative, payee, or executor of a will, except as indicated~~
 10 ~~in Paragraph (b) of this Rule.~~

11 (b) The administrator and other staff of the home facility shall not serve as a resident's authorized representative,
 12 payee, or executor of a will except in ~~in~~ the case of funds administered by the Social Security Administration, the
 13 Veteran's Administration or other federal government ~~agencies, the~~ agencies. ~~The~~ administrator of the ~~home~~ facility
 14 may serve as a payee when so authorized as a legally constituted authority by the respective federal agencies.

15 (c) The administrator shall give the resident's ~~legal~~ authorized representative or payee receipts for any monies received
 16 on behalf of the resident.

17

18 *History Note: Authority G.S. 35A-1203; 108A-37; 131D-2.16; 143B-165;*

19 *Eff. July 1, 2005;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
 21 *2018. 2018:*

22 *Amended Eff. [January 1, 2024.] June 1, 2024.*

1 10A NCAC 13F .1104 is proposed for amendment as follows:

2
3 **10A NCAC 13F .1104 ACCOUNTING FOR RESIDENT'S PERSONAL FUNDS**

4 (a) To document a resident's receipt of the State-County Special Assistance personal needs allowance after payment
5 of the cost of care, a statement shall be signed by the resident or marked by the ~~resident with two witnesses' signatures.~~
6 resident. If the statement is marked by the resident, there shall be one witness signature. For residents who have been
7 adjudicated incompetent, the signature of the resident's authorized representative shall be required. Witnesses cannot
8 include the staff handling the residents' personal funds transactions. The statement shall be maintained in the ~~home.~~
9 facility.

10 (b) Upon the written authorization of the resident or his legal representative or payee, [their authorized representative,]
11 an administrator or the administrator's designee may handle the personal money for a resident, provided an accurate
12 accounting of monies received and disbursed and the balance on hand is available upon request of the resident or his
13 legal representative or payee. [their authorized representative during the facility's established business days and
14 hours.] No employee of a facility shall handle the personal money for a resident, except for the facility administrator
15 or the administrator's designee after having received prior written authorization from the resident or the resident's
16 authorized representative. The facility administrator or their designee shall maintain an accurate account balance and
17 accounting of all funds received, disbursements, and the balance on hand which shall be available upon request to the
18 resident or their authorized representative during the facility's regular business office hours.

19 (c) A record of each transaction involving the use of the resident's personal funds according to Paragraph (b) of this
20 Rule shall be signed by the resident, legal representative or payee [the resident or the resident's authorized
21 representative,] or marked by the resident, if not adjudicated incompetent, with two witnesses' signatures [resident,]
22 at least monthly verifying the accuracy of the disbursement of personal funds. [If marked by the resident, there shall
23 be one witness signature. For residents who have been adjudicated incompetent, the facility shall provide the resident's
24 authorized representative with a copy of the monthly resident's funds statement and shall obtain verification of receipt.
25 The record records shall be maintained in the home. facility.] The facility shall provide each resident or the resident's
26 authorized representative a written monthly accounting of the resident's funds handled by the administrator or the
27 administrator's designee. The facility shall maintain at the facility a record signed by the resident or their authorized
28 representative indicating whether the resident or their authorized representative agrees that the monthly accounting is
29 accurate. The records shall be maintained by the facility for at least one year.

30 (d) A resident's personal funds shall not be commingled with facility funds. The facility shall not commingle the
31 personal funds of residents in an interest-bearing account.

32 (e) All or any portion of a resident's personal funds shall be available to the resident or ~~his legal representative or~~
33 ~~payee~~ their authorized representative upon request during ~~regular office hours,~~ the facility's established business days
34 and hours except as provided in Rule .1105 of this ~~Subchapter.~~ Section.

35 (f) The resident's personal needs allowance shall be credited to the ~~resident's~~ resident's account within ~~24 hours of the~~
36 ~~check being deposited following endorsement.~~ one business day of the funds being available in the facility's resident
37 personal funds account.

1
2 *History Note: Authority G.S. 131D-2.16; 143B-165;*
3 *Eff. July 1, 2005;*
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
5 *~~2018.~~ 2018;*
6 *Amended Eff. [January 1, 2024.] June 1, 2024.*

1 10A NCAC 13F .1106 is proposed for readoption without substantive changes as follows:

3 **10A NCAC 13F .1106 SETTLEMENT OF COST OF CARE**

4 (a) If a resident of an adult care home, after being has been notified by the facility of its intent to discharge the resident
 5 in accordance with Rule .0702 of this Subchapter, moves out of the facility before the period of time specified in the
 6 notice has elapsed, the facility shall refund the resident an amount equal to the cost of care for the remainder of the
 7 month minus the amount charged for any nights spent in the facility during the notice period. The refund shall be made
 8 within 14 days after the resident leaves the facility. For the purposes of this Rule, "cost of care" means any monies
 9 paid by the resident or the resident's legal representative in advance for room and board and services provided by the
 10 facility as agreed upon in the resident's contract.

11 (b) If-When a resident moves out of the facility without giving notice, as may be required by the facility according to
 12 Rule ~~.0702(h)~~ .0702(i) of this Subchapter, or before the facility's required notice period has elapsed, the resident owes
 13 the facility an the facility shall charge the resident no more than the amount equal to the cost of care for the required
 14 notice period. If a resident receiving State-County Special Assistance moves before the facility's required notice
 15 period has elapsed, the former facility is entitled to may charge to the resident for the required payment for the notice
 16 period before the new facility receives any payment. period. The facility shall refund the resident the remainder of
 17 any advance payment following settlement of the cost of care. The refund shall be made within 14 days from the date
 18 of notice or, if no notice is given, within 14 days after the resident leaves the facility.

19 (c) When there is an exception to the notice, notice as provided in Rule ~~.0702(h)~~ .0702(i) of this Subchapter, to protect
 20 the health or safety of the resident or others in the facility, or when there is a sudden, unexpected closure of the facility
 21 that requires the resident to relocate. the resident is only required to pay the facility shall only charge the resident for
 22 any nights spent in the facility. A refund shall be made to the resident by the facility within 14 days from the date of
 23 notice.

24 (d) When a resident gives notice of leaving the facility, as may be required by the facility according to Rule ~~.0702(h)~~
 25 .0702(i) of this Subchapter, and leaves at the end of the notice period, the facility shall refund the resident the
 26 remainder of any advance payment within 14 days from the date of notice. If notice is not required by the facility, the
 27 refund shall be made within 14 days after the resident leaves the facility.

28 (e) When a resident leaves the facility and the resident or his or her responsible person has notified the facility of with
 29 the intent of returning to it, the following apply:

30 (1) The facility may reserve the resident's If the resident or their responsible party reserves their bed for
 31 a set number of days with days, the facility shall have a written agreement of the facility and the
 32 resident or his [or her] responsible person and thereby require for the payment for the days the bed
 33 is held. held in accordance with Rule .0704(1)(A) of this Subchapter.

34 (2) If, after leaving the facility, the resident decides not to return to it, the resident or someone acting
 35 on his or her behalf may be required by the facility shall require no more than to provide up to a 14-
 36 day written notice that he or she is not returning.

1 (3) ~~If the facility requires a 14-day written notice, the requirement~~ Requirement of a notice, if it is to be
 2 ~~applied by the facility,~~ shall be a part of the written agreement and explained by the facility to the
 3 resident and his or her family or responsible person before signing.

4 (4) ~~On notice by the~~ When a resident or someone acting on his or her behalf ~~notifies the facility~~ that he
 5 ~~or she~~ will not be returning to the facility, the facility shall refund the remainder of any advance
 6 payment to the resident or his or her responsible ~~person,~~ person. The refund shall include the ~~minus~~
 7 ~~an~~ amount equal to the cost of care for the period covered by the agreement. The refund shall be
 8 made within 14 days after notification that the resident will not be returning to the facility.

9 (5) ~~The facility~~ In no situation involving a recipient of State County Special Assistance may a facility
 10 ~~shall not~~ require payment ~~from a resident that receives State County Special Assistance~~ for more
 11 than 30 days ~~since State County Special Assistance is not authorized~~ unless the resident is actually
 12 residing in the facility or it is anticipated that he or she will return to the facility within 30 days.

13 (6) Exceptions to the ~~two weeks'~~ 14-day notice, if required by the facility, are cases where returning to
 14 the facility would jeopardize the health or safety of the resident or others in the facility as certified
 15 by the resident's physician or approved by the county department of social services, and in the case
 16 of the resident's death. In these cases, the facility shall provide a refund the rest of any advance
 17 payment calculated beginning with the day the facility is notified. The facility shall provide the
 18 refund to the authorized representative with 14 days after the resident leaves the facility or within
 19 30 days after the resident's death.

20 (f) If a resident dies, the administrator of his or her estate or the Clerk of Superior Court, when no administrator for
 21 his or her estate has been appointed, shall be given a refund equal to the cost of care for the month minus any nights
 22 spent in the facility during the month. This is to be done within 30 days after the resident's death.

23
 24 *History Note:* Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
 25 Eff. July 1, ~~2005.~~ 2005;
 26 Readopted Eff. [January 1, 2024.] June 1, 2024.

Burgos, Alexander N

Subject: FW: 10 NCAC 13G
Attachments: 12.2023 - Medical Care Commission 13G Request for Changes Pt 2.docx; 10A NCAC 13G .0702.docx; 10A NCAC 13G .0703.docx; 10A NCAC 13G .0704.docx; 10A NCAC 13G .1102.docx; 10A NCAC 13G .1103.docx; 10A NCAC 13G .1106.docx

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Thursday, January 25, 2024 11:21 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10 NCAC 13G

Hello,

Attached are the responses to the Requests for Changes as well as the revised rules for Subchapter G.

Please let me know if you need anything else.

Thanks,
Taylor Corpening
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](#)

Work Cell: 919-896-9371
Office: 919-855-4619
Fax: 919-733-2757
taylor.corpening@dhhs.nc.gov

809 Ruggles Drive, Edgerton Building
2701 Mail Service Center
Raleigh, NC 27699-2701

**Request for Changes Pursuant to
N.C. Gen. Stat. § 150B-21.10**

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: "~~a~~Association"
 - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
 - Wrong: "day~~,~~ and"
 - Right: "~~day,~~ day, and"
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0702

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

Page 2, Line 2: While it is implied that form FL-2 consists of Paragraph (e)(1)-(7), it is not clear. Does FL-2 consist solely of the items required in Paragraph (e)(1)-(7)? If so, Page 2, Line 2 should read, "The FL-2 and the medical examination shall consist of..." The contents of the medical examination as required in Paragraph (e)(1)-(7) is what is solely documented on the FL-2 form.

Page 2, Lines 34-35: If G.S. 131D-9 requires immunization, why is Paragraph (i) necessary? Including the requirements and reference to the general statute in this Rule provides clarity and is useful to providers.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

William W. Peaslee
Commission Counsel
Date submitted to agency: November 28, 2023

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10 NCAC 13G .0703

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

This page intentionally left blank.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10 NCAC 13G .1102

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

Page 1, Line 4: Who determines when the resident is "unable to manage" their finances? Changed to include "If the facility determines" a resident is unable to manage their monetary funds...

Page 1, Line 5: What happens if the resident has stated, either in writing or verbally, that the resident's family is not to be notified? What if the resident has designated a non-family member as the point of contact or has an attorney-in-fact designated? Changed to include "responsible person".

Page 1, Lines 7-8: As written, an incompetent resident could sign the written authorization. Was that the Commission's intention? No, the intent was to clarify the term authorized representative to include individuals who are legally authorized such as a Power or Attorney or legal guardian or whomever the resident designates in order to comply with G.S. 131D-21(13).

Page 1, Lines 8-9: This line seems like it should be part of Paragraph (b). Line removed and added to Paragraph (b)

Page 1, Line 13: The administrator is required to give the payee of any monies receipts? Please explain. Any money that the facility received for the resident, a receipt shall be given to the facility. For instance, if the authorized representative pays the facility \$1,000 for room and board. The facility has to provide the authorized representative a receipt.

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

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

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10 NCAC 13G .1103

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

Page 1, Lines 7, 10, 13: Define "authorized representative". Language changed in 13G .1102 to "for the purposes of this Section [authorized representative] means" so that the term does not need to be defined in each Rule.

Page 1, Lines 10-14: The language is permissive in nature and there does not appear to be an restriction which would prohibit the activity. Changed for clarity, see below.

Consider, "No employee of a facility shall handle a resident's monies, except for the facility administrator or the administrator's designee after having received prior written authorization from the resident or the resident's lawful representative. The facility shall maintain an accurate account balance and accounting of all receipts and disbursements, which shall be available upon request to the resident or their lawful representative during the facility's regular business office hours.

Changed to "No employee of a facility shall handle the personal money for a resident, except for the facility administrator or the administrator's designee after having received prior written authorization from the resident or the resident's authorized representative. The facility administrator or their designee shall maintain an accurate account balance and accounting of all funds received, disbursements, and the balance

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

on hand which shall be available upon request to the resident or their authorized representative during the facility's regular business office hours."

Page 1, Lines 15-21: Here the Commission uses the term "personal funds" but Paragraph (b) states "personal monies". Unless the Commission is addressing different things, be consistent with the terms. *Changed personal monies throughout this rule to "personal funds" for consistency.*

Page 1, Lines 15-21: As written, the resident must verify the accuracy of the "disbursement of personal funds" but the authorized representative is only verifying receipt of the record. Is that what the Commission intended? *No, the when residents have been adjudicated incompetent the facility provides the representative with a copy of the funds statement and the facility is responsible for obtaining verification that the statement was received. For instance, if the funds statement was sent via email, an email from the representative back to the facility indicating "received" would acknowledge their receipt.*

Page 1, Lines 15-21: The passive voice is used. Consider, "The facility shall provide each resident or the resident's lawful representative a written monthly accounting of the resident's monies handled by the administrator or the administrator's designee. The facility shall maintain at the facility a record signed by the resident or their lawful representative indicating whether the resident or their lawful representative agree that the monthly accounting is accurate. *Done.*

Page 1, Lines 15-21: How long must the records be maintained? *Changed to a minimum of one year.*

Page 1, Lines 22-23: As written, the facility can commingle a resident's funds with other residents' funds so long as it is a non-interest bearing account. Is that correct? The facility can hold a resident's funds in an interest bearing account so long as no other resident's funds are in that account. Is that correct? Who gets the interest? *No, resident's funds cannot be commingled with the facility funds and are not to be comingled in an interest-bearing account.*

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

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10 NCAC 13F .1106

DEADLINE FOR RECEIPT: December 8, 2023

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

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

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

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

Generally, to the rule: It appears that the Commission is attempting to regulate contractual obligations between the facilities and residents. It does not appear that the Commission has authority over residents, or at least not a viable enforcement mechanism. The Commission *We have changed the requirement to be directed to the facility. There is no enforcement against any former residents. Any enforcement will be against the facility.*

Page 1, Line 4-6: This is grammatically incorrect. Consider changing. *Re-written for clarity.*

Page 1, Lines 11-13: Explain the Commission's authority over former residents or to determine or adjudicate the contractual obligations of a former resident. Also, explain how this will be enforced. What will the Commission or department do in the event of non-payment? *We have changed the requirement to be directed to the facility. There is no enforcement against any former residents. Any enforcement will be against the facility.*

Page 1, Lines 11-12: It is unclear whether moving out pursuant to .0705(i) is an example of a resident moving out without giving notice, or whether the paragraph applies in this exclusive circumstance. It can be read two ways. *Changed "if" to "when" for clarity as this is an exclusive circumstance.*

Page 1, Lines 13-15: "Entitled" from whom? *Removed "entitled" and rewrote sentence for clarity.*

Page 1, Lines 13-15: Explain the Commission's authority over former residents or to determine or adjudicate the contractual obligations of a former resident. *We have changed the requirement to be directed to the facility. There is no enforcement against any former residents. Any enforcement will be against the facility.*

Page 1, Lines 19-21: Explain the Commission's authority over former residents or to determine or adjudicate the contractual obligations of a former resident. *We have changed the requirement to be directed to the facility. There is no enforcement against any former residents. Any enforcement will be against the facility.*

Page 1, Line 23-24: Rule .0705(i) does not require notice. It is unclear what the Commission intends by the inclusion of the reference. *We are referencing the exception to the discharge notice. Rule .0705 (i) references exceptions regarding a discharge notice "Exceptions to the required notice are cases in which a delay in discharge or transfer would jeopardize the health or safety of the resident or others in the facility."*

Page 1, Lines 27-36, and Page 2, Lines 1-14: Paragraph (e) is poorly written and is confusing. It should be re-written. *Lines 1-14 of Paragraph (e) re-written for clarity.*

Page 1, Line 27: Who determines the intent? *Clarified to include the resident or his or her responsible person*

*Page 1, Lines 28 and 30: The Commission is using permissive language when there does not appear to be a restriction. Put another way, in the absence of a restriction, the parties to an agreement can agree as they will. **Permissive language removed, to clarify the restriction and state the current requirements.***

*Page 1, Lines 34-36: I think the Commission is attempting to prohibit facilities from enforcing any notice requirements unless those requirements are explained the resident or their lawful representative, provided in writing and signed by the resident or their lawful representative. However, it is unclear. **Changed the sentence structure for clarity.***

*Page 2, Line 4: Change “may” to “shall”. This would be clearer and more concise if put in the active voice. **Done.***

*Page 2, Lines 13-15: A refund shall be given by whom? This would be clearer and more concise if put in the active voice. “The adult day care facility shall provide a refund of...to....when...” **Changed to “The facility shall provide the refund to the authorized representative with 14 days after the resident leaves the facility or within 30 days after the resident’s death.”***

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

William W. Peaslee
Commission Counsel

Date submitted to agency: November 28, 2023

1 10A NCAC 13G .0702 is proposed for reoption with substantive changes as follows:

2
3 **10A NCAC 13G .0702 TUBERCULOSIS TEST AND MEDICAL ~~EXAMINATION~~ EXAMINATION, AND**
4 **IMMUNIZATIONS**

5 (a) Upon admission to a family care home each resident shall be tested for tuberculosis disease in compliance with
6 the control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205 including
7 subsequent amendments and editions. ~~Copies of the rule are available at no charge by contacting the Department of~~
8 ~~Health and Human Services, Tuberculosis Control Program, 1902 Mail Service Center, Raleigh, North Carolina~~
9 ~~27699-1902.~~

10 (b) Each resident shall have a medical examination completed by a licensed physician or physician extender prior to
11 admission to the home and annually thereafter. For the purposes of this Rule, “physician extender” means a licensed
12 physician assistant or licensed nurse practitioner. The medical examination completed prior to admission shall be used
13 by the facility to determine if the facility can meet the needs of the resident.

14 (c) ~~The results of the complete examination are to be entered on the FL 2, North Carolina Medicaid Program Long~~
15 ~~Term Care Services, or MR 2, North Carolina Medicaid Program Mental Retardation Services, which shall comply~~
16 ~~with the following:~~

17 (1) ~~— The examining date recorded on the FL 2 or MR 2 shall be no more than 90 days prior to the person's~~
18 ~~admission to the home.~~

19 (2) ~~— The FL 2 or MR 2 shall be in the facility before admission or accompany the resident upon~~
20 ~~admission and be reviewed by the administrator or supervisor in charge before admission except~~
21 ~~for emergency admissions.~~

22 (3) ~~— In the case of an emergency admission, the medical examination and completion of the FL 2 or MR~~
23 ~~2 shall be within 72 hours of admission as long as current medication and treatment orders are~~
24 ~~available upon admission or there has been an emergency medical evaluation, including any orders~~
25 ~~for medications and treatments, upon admission.~~

26 (4) ~~— If the information on the FL 2 or MR 2 is not clear or is insufficient, the administrator or~~
27 ~~supervisor in charge shall contact the physician for clarification in order to determine if the services~~
28 ~~of the facility can meet the individual's needs.~~

29 (5) ~~— The completed FL 2 or MR 2 shall be filed in the resident's record in the home.~~

30 (6) ~~— If a resident has been hospitalized, the facility shall have a completed FL 2 or MR 2 or a transfer~~
31 ~~form or discharge summary with signed prescribing practitioner orders upon the resident's return to~~
32 ~~the facility from the hospital.~~

33 The medical examination shall be completed no more than 90 days prior to the resident's admission to the facility,
34 except in the case of emergency admission.

35 (d) In the case of an unplanned, emergency admission, the medical examination of the resident shall be conducted
36 within 72 hours after admission. Prior to an emergency admission, the facility shall obtain current medication and
37 treatment orders from a licensed physician or physician extender.

1 (e) The result of the medical examination required in Paragraph (b) of this Rule shall be documented on the North
2 Carolina Medicaid Adult Care Home FL-2 form which is available at no cost on the Department's Medicaid website
3 at <https://medicaid.ncdhhs.gov/media/6549/open>. The Adult Care Home FL-2 shall be signed and dated by the
4 physician or physician extender completing the medical examination. The medical examination shall include the
5 following:

6 (1) resident's identification information, including the resident's name, date of birth, sex, admission
7 date, county and Medicaid number, current facility and address, physician's name and address, a
8 relative's name and address, current level of care, and recommended level of care;

9 (2) resident's admitting diagnoses, including primary and secondary diagnoses and dates of onset;

10 (3) resident's current medical information, including orientation, behaviors, personal care assistance
11 needs, frequency of physician visits, ambulatory status, functional limitations, information related
12 to activities and social needs, neurological status, bowel and bladder functioning status, manner of
13 communication of needs, skin condition, respiratory status, and nutritional status including orders
14 for therapeutic diets;

15 (4) special care factors, including physician orders for blood pressure, diabetic urine testing, physical
16 therapy, range of motion exercises, a bowel and bladder program, a restorative feeding program,
17 speech therapy, and restraints;

18 (5) resident's medications, including the name, strength, dosage, frequency and route of administration
19 of each medication;

20 (6) results of x-rays or laboratory tests determined by the physician or physician extender to be
21 necessary information related to the resident's care needs; and

22 (7) additional information as determined by the physician or physician extender to be necessary for the
23 care of the resident.

24 (f) If the information on the Adult Care Home FL-2 is not clear or is insufficient, or information provided to the
25 facility related to the resident's condition or medications after the completion of the medical examination conflicts
26 with the information provided on the Adult Care Home FL-2, the facility shall contact the physician or physician
27 extender for clarification in order to determine if the facility can meet the individual's needs.

28 (g) The results of the medical examination shall be maintained in the resident's record in accordance with Rule .1201
29 of this Subchapter. Discharge medication orders shall be clarified in accordance with Rule .1002(a) of this Subchapter.

30 (h) Upon a resident's return to the facility from a hospitalization, the facility shall obtain and review the hospital
31 discharge summary or discharge instructions, including any discharge medication orders. If the facility identifies
32 discrepancies between the discharge orders and current orders at the facility, the facility shall clarify the discrepancies
33 with the resident's physician or physician extender.

34 ~~(d)~~(i) Each resident shall be immunized against pneumococcal disease and annually against influenza virus according
35 to G.S. 131D-9, except as otherwise indicated in this law.

36 ~~(e)~~ The home shall make arrangements for any resident, who has been an inpatient of a psychiatric facility within 12
37 months before entering the home and who does not have a current plan for psychiatric care, to be examined by a local

1 ~~physician or a physician in a mental health center within 30 days after admission and to have a plan for psychiatric~~
2 ~~follow-up care when indicated.~~

3 (j) The facility shall make arrangements for a resident to be evaluated by a licensed mental health professional, licensed
4 physician or licensed physician extender for follow-up psychiatric care within 30 days of admission or re-admission
5 to the facility when the resident:

6 (1) has been an inpatient of a psychiatric facility within 12 months prior to admission to the facility and
7 does not have a current plan for follow-up psychiatric care; or

8 (2) has been hospitalized due to threatening or violent behavior, suicidal ideation or self-harm, or other
9 psychiatric symptoms that required hospitalization within 12 months prior to admission to the
10 facility and does not have a current plan for follow-up psychiatric care.

11
12 *History Note: Authority G.S. 131D-2.16; 143B-165;*
13 *Eff. January 1, 1977;*
14 *Readopted Eff. October 31, 1977;*
15 *Amended Eff. December 1, 1993; July 1, 1990; April 1, 1987; April 1, 1984;*
16 *Temporary Amendment Eff. September 1, 2003;*
17 *Amended Eff. June 1, ~~2004~~ 2004;*
18 *Readopted Eff. ~~January 1, 2024~~ June 1, 2024.*

1 10A NCAC 13G .0703 is proposed for repeal through readoption as follows:

2

3 **10A NCAC 13G .0703 RESIDENT REGISTER**

4

5 *History Note: Authority G.S. 131D-2.16; 143B-165;*

6 *Eff. January 1, 1977;*

7 *Readopted Eff. October 31, 1977;*

8 *Amended Eff. July 1, 1990; April 1, 1987; April 1, 1984;*

9 *Temporary Amendment Eff. July 1, 2004;*

10 *Amended Eff. April 1, 2022; July 1, ~~2005~~ 2005;*

11 *Repealed Eff. January 1, 2024. [January 1, 2024.] June 1, 2024.*

1 10A NCAC 13G .0704 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13G .0704 ~~RESIDENT CONTRACT AND INFORMATION ON HOME CONTRACT,~~**
4 **INFORMATION ON FACILITY, AND RESIDENT REGISTER**

5 (a) The administrator or supervisor-in-charge shall furnish and review with the resident or his responsible person the
6 resident's authorized representative as defined in Rule .1103 of this Subchapter information on the family care home
7 facility upon admission and when changes are made to that information. The facility shall involve the resident in the
8 review of the resident contract and information on the facility unless the resident is cognitively unable to participate
9 in the discussion. A statement indicating that this information has been received upon admission or amendment as
10 required by this Rule shall be signed and dated by each person to whom it is given. This statement shall be retained in
11 the resident's record in the ~~home.~~ facility. The information shall ~~include:~~ [include] consist of the following:

- 12 (1) ~~a copy of the home's resident contract specifying rates for resident services and accommodations,~~
13 ~~including the cost of different levels of service, if applicable, any other charges or fees, and any~~
14 ~~health needs or conditions the home has determined it cannot meet pursuant to G.S. 131D-2(a1)(4).~~
15 ~~In addition, the following applies: the resident contract to which the following applies:~~

16 (A) the contract shall specify charges for resident services and accommodations, including the
17 cost of different levels of service, description of levels of care and services, and any other
18 charges or fees;

19 (B) the contract shall disclose any health needs or conditions that the facility has determined it
20 cannot meet;

21 ~~(c)(C) The~~ the contract shall be signed and dated by the administrator or supervisor-in-charge and
22 the resident or ~~his responsible person~~ the resident's authorized representative and a copy
23 given to the resident or ~~his responsible person;~~ the resident's authorized representative and
24 a copy kept in the resident's record;

25 ~~(b)(D) The~~ the resident or ~~his responsible person~~ the resident's authorized representative shall be
26 ~~notified as soon as any change is known, but not less than 30 days for rate changes initiated~~
27 ~~by the home, of any rate changes or other changes in the contract affecting the resident~~
28 ~~services and accommodations given a written 30-day notice prior to any change in charges~~
29 for resident services and accommodations, including the cost of different levels of service,
30 description of level of care and services, and any other charges or fees, and be provided an
31 amended copy of the contract for review and signature; confirmation of receipt;

32 ~~(e)~~ A copy of each signed contract shall be kept in the resident's record in the home;

33 ~~(d)(E) Gratuities~~ gratuities in addition to the established rates shall not be accepted; and

34 ~~(e)(F) The maximum monthly rate that may be charged to Special Assistance recipients is as~~
35 ~~established by the North Carolina Social Services Commission and the North Carolina~~
36 ~~General Assembly;~~

Note: Facilities may accept payments for room and board from a third party, such as family member, charity or faith community, if the payment is made voluntarily to supplement the cost of room and board for the added benefit of a private room.

- (2) a written copy of any house rules, including ~~the conditions for the discharge and transfer of residents, the refund policies, and the home's facility's~~ policies on smoking, alcohol consumption and ~~visitation~~ consumption, visitation, refunds, and the requirements for discharge of residents consistent with the rules in this Subchapter and amendments disclosing any changes in the house ~~rules;~~ rules. The house rules shall be in compliance with G.S. 131D-21;
- (3) a copy of the Declaration of Residents' Rights as found in G.S. 131D-21;
- (4) a copy of the ~~home's facility's~~ grievance procedures ~~which that~~ shall indicate how the resident is to present complaints and make suggestions as to the ~~home's facility's~~ policies and services on behalf of self or others; and
- (5) a statement as to whether the ~~home facility~~ has signed Form DSS-1464, Statement of Assurance of Compliance with Title VI of the Civil Rights Act of 1964 for Other Agencies, Institutions, Organizations or Facilities, and which shall also indicate that if the ~~home facility~~ does not choose to comply or is ~~found to be in non-compliance~~ non-compliant the residents of the ~~home facility~~ would not be able to receive State-County Special Assistance for Adults and the ~~home facility~~ would not receive supportive services from the county department of social services.

(b) A family care home's administrator or supervisor-in-charge and the resident or the resident's responsible person shall complete and sign the Resident Register initial assessment within 72 hours of the resident's admission to the facility in accordance with G.S. 131D-2.15. The facility shall involve the resident in the completion of the Resident Register unless the resident is cognitively unable to participate. The Resident Register shall [include] consist of the following:

- (1) resident's identification information including the resident's name, date of birth, sex, admission date, medical insurance, family and emergency contacts, advanced directives, and physician's name and address;
- (2) resident's current care needs including activities of daily living and services, use of assistive aids, orientation status;
- (3) resident's preferences including personal habits, food preferences and allergies, community involvement, and activity interests;
- (4) resident's consent and request for assistance including the release of information, personal funds management, personal lockable space, discharge information, and assistance with personal mail;
- (5) name of the individual identified by the resident who is to receive a copy of the notice of discharge per G.S. 131D-4.8; and
- (6) resident's consent including a signature confirming the review and receipt of information contained in the form.

1 The Resident Register is available on the internet website, <https://info.ncdhhs.gov/dhsr/acls/pdf/resregister.pdf>, at no
2 charge. The facility may use a resident information form other than the Resident Register as long as it contains same
3 information as the Resident Register. Information on the Resident Register shall be kept updated and maintained in
4 the resident's record.

5
6 *History Note: Authority G.S. 131D-2.16; 143B-165;*
7 *Eff. April 1, 1984;*
8 *Amended Eff; July 1, 1990; April 1, 1987;*
9 *Temporary Amendment Eff. July 1, 2004;*
10 *Amended Eff. July 1, ~~2005~~ 2005;*
11 *Readopted Eff. [January 1, 2024.] June 1, 2024.*

1 10A NCAC 13G .1102 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13G .1102 ~~LEGAL AUTHORIZED REPRESENTATIVE OR PAYEE~~**

4 (a) In situations where the facility determines a resident of a family care home is unable to manage ~~his funds, their~~
5 monetary funds the administrator shall contact a family member, responsible person, or the county department of
6 social services regarding the need for a ~~legal representative or payee,~~ authorized representative. For the purposes of
7 this Rule, an "authorized representative" shall mean a person who is legally authorized or designated in writing by the
8 resident to act on his or her behalf in the management of their funds. ~~The administrator and other staff of the home~~
9 ~~[facility] shall not serve as a resident's legal [authorized] representative, payee, or executor of a will, except as~~
10 indicated in Paragraph (b) of this Rule.

11 (b) The administrator and other staff of the facility shall not serve as a resident's authorized representative, payee, or
12 executor of a will, except in ~~the~~ the case of funds administered by the Social Security Administration, the Veteran's
13 Administration or other federal government agencies, the agencies. ~~The~~ administrator of the ~~home~~ facility may serve
14 as a payee when so authorized as a legally constituted authority by the respective federal agencies.

15 (c) The administrator shall give the resident's ~~legal~~ authorized representative ~~or payee~~ receipts for any monies received
16 on behalf of the resident.

17
18 *History Note: Authority G.S. 35A-1203; 108A-37; 131D-2.16; 143B-165;*

19 *Eff. January 1, 1977;*

20 *Readopted Eff. October 31, 1977;*

21 *Amended Eff. July 1, 2005; April 1, ~~1984.~~ 1984;*

22 *Readopted Eff. ~~[January 1, 2024.]~~ June 1, 2024.*

1 10A NCAC 13G .1103 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13G .1103 ACCOUNTING FOR RESIDENT'S PERSONAL FUNDS**

4 (a) To document a resident's receipt of the State-County Special Assistance personal needs allowance after payment
5 of the cost of care, a statement shall be signed by the resident or marked by the ~~resident with two witnesses' signatures.~~
6 resident. If the statement is marked by the resident, there shall be one witness signature. For residents who have been
7 adjudicated incompetent, the signature of the resident's authorized representative shall be required. Witnesses cannot
8 include the staff handling the residents' personal funds transactions. The statement shall be maintained in the ~~home.~~
9 facility.

10 (b) Upon the written authorization of the resident or his legal representative or payee, [their authorized representative,]
11 an administrator or the administrator's designee may handle the personal money for a resident, provided an accurate
12 accounting of monies received and disbursed and the balance on hand is available upon request of the resident or his
13 legal representative or payee. [their authorized representative during the facility's established business days and
14 hours.] No employee of a facility shall handle the personal money for a resident, except for the facility administrator
15 or the administrator's designee after having received prior written authorization from the resident or the resident's
16 authorized representative. The facility administrator or their designee shall maintain an accurate account balance and
17 accounting of all funds received, disbursements, and the balance on hand which shall be available upon request to the
18 resident or their authorized representative during the facility's regular business office hours.

19 (c) A record of each transaction involving the use of the resident's personal funds according to Paragraph (b) of this
20 Rule shall be signed by the resident, legal representative or payee [the resident or the resident's authorized
21 representative,] or marked by the resident, if not adjudicated incompetent, with two witnesses' signatures [resident,]
22 at least monthly verifying the accuracy of the disbursement of personal funds. [If marked by the resident, there shall
23 be one witness signature. For residents who have been adjudicated incompetent, the facility shall provide the resident's
24 authorized representative with a copy of the monthly resident's funds statement and shall obtain verification of receipt.
25 The record records shall be maintained in the home. facility.] The facility shall provide each resident or the resident's
26 authorized representative a written monthly accounting of the resident's funds handled by the administrator or the
27 administrator's designee. The facility shall maintain at the facility a record signed by the resident or their authorized
28 representative indicating whether the resident or their authorized representative agrees that the monthly accounting is
29 accurate. The records shall be maintained by the facility for at least one year.

30 (d) A resident's personal funds shall not be commingled with facility funds. The facility shall not commingle the
31 personal funds of residents in an interest-bearing account.

32 (e) All or any portion of a resident's personal funds shall be available to the resident or ~~his legal~~ their authorized
33 representative or payee upon request during ~~regular office hours,~~ the facility's established business days and hours
34 except as provided in Rule .1105 of this Subchapter.

35 (f) The resident's personal needs allowance shall be credited to the resident's account within ~~24 hours of the check~~
36 being deposited following endorsement. one business day of the funds being available in the facility's resident personal
37 funds account.

1

2 *History Note: Authority G.S. 131D-2.16; 143B-165;*

3 *Eff. April 1, 1984;*

4 *Amended Eff. July 1, 2005; April 1, ~~1987~~ 1987;*

5 *Readopted Eff. ~~January 1, 2024~~ June 1, 2024.*

1 10A NCAC 13G .1106 is proposed for readoption without substantive changes as follows:

2
3 **10A NCAC 13G .1106 SETTLEMENT OF COST OF CARE**

4 (a) If a resident of a family care home, after being has been notified by the home facility of its intent to discharge the
5 resident in accordance with Rule .0705 of this Subchapter, moves out of the home before the period of time specified
6 in the notice has elapsed, the home facility shall refund the resident an amount equal to the cost of care for the
7 remainder of the month minus the amount charged for any nights spent in the home facility during the notice period.
8 The refund shall be made within 14 days after the resident leaves the home facility. For the purposes of this Rule,
9 “cost of care” means any monies paid by the resident or the resident’s legal representative in advance for room and
10 board and services provided by facility as agreed upon in the resident’s contract.

11 (b) If-When a resident moves out of the home facility without giving notice, as may be required by the home facility
12 according to Rule ~~.0705(h)~~ .0705(i) of this Subchapter, or before the home’s facility’s required notice period has
13 elapsed, the resident owes the home the facility shall charge the resident no more than the an amount equal to the cost
14 of care for the required notice period. If a resident receiving State-County Special Assistance moves without giving
15 notice or before the notice period has elapsed, the former home facility is entitled to may charge the resident for the
16 required payment for the notice period before the new home [facility] receives any payment. period. The home facility
17 shall refund the resident the remainder of any advance payment following settlement of the cost of care. The refund
18 shall be made within 14 days from the date of notice or, if no notice is given, within 14 days of the resident leaving
19 the home facility.

20 (c) When there is an exception to the notice as provided in Rule ~~.0705(h)~~ .0705(i) of this Subchapter to protect the
21 health or safety of the resident or others in the home, facility, or when there is a sudden, unexpected closure of the
22 facility that requires the resident to relocate, the resident is only required to pay the facility shall only charge the
23 resident for any nights spent in the home facility. A refund shall be made to the resident by the home facility within
24 14 days from the date of notice.

25 (d) When a resident gives notice of leaving the home, facility, as may be required by the home facility according to
26 Rule ~~.0705(h)~~ .0705(i) of this Subchapter, and leaves at the end of the notice period, the home facility shall refund the
27 resident the remainder of any advance payment within 14 days from the date of notice. If notice is not required by the
28 home, facility, the refund shall be made within 14 days after the resident leaves the home facility.

29 (e) When a resident leaves the home facility and the resident or his or her responsible person has notified the facility
30 of with the intent of returning to it, the following apply:

- 31 (1) The home [facility] may reserve the resident's If the resident or their responsible party reserves their
32 bed for a set number of days with days, the facility shall have written agreement of the home
33 [facility] and the resident or his [or her] responsible person and thereby require for the payment for
34 the days the bed is held. held in accordance with Rule .0704(1)(A) of this Subchapter.
- 35 (2) If, after leaving the home, facility, the resident decides not to return to it, the resident or someone
36 acting on his or her behalf may be required by the home facility shall require no more than to provide
37 up to a 14-day written notice that he or she is not returning.

- 1 (3) ~~If the facility requires a 14-day written notice, the requirement~~ Requirement of a notice, if it is to be
 2 ~~applied by the home, [facility,]~~ shall be a part of the written agreement and explained by the ~~home~~
 3 ~~facility~~ to the resident and his or her family or responsible person before signing.
- 4 (4) ~~On notice by the~~ When a resident or someone acting on his or her behalf ~~notifies the facility~~ that he
 5 ~~or she~~ will not be returning to the ~~home, facility,~~ the ~~home facility~~ shall refund the remainder of any
 6 advance payment to the resident or his or her responsible ~~person,~~ person. The refund shall include
 7 ~~the minus an~~ amount equal to the cost of care for the period covered by the agreement. The refund
 8 shall be made within 14 days after notification that the resident will not be returning to the ~~home,~~
 9 ~~facility.~~
- 10 (5) ~~The facility~~ In no situation involving a recipient of State County Special Assistance ~~may shall not~~
 11 ~~a home [facility]~~ require payment ~~from a resident that receives State County Special Assistance~~ for
 12 more than 30 days ~~since State County Special Assistance is not authorized~~ unless the resident is
 13 actually residing in the ~~home facility~~ or it is anticipated that he or she will return to the ~~home facility~~
 14 within 30 days.
- 15 (6) Exceptions to the ~~two weeks'~~ 14-day notice, if required by the ~~home, facility,~~ are cases where
 16 returning to the ~~home facility~~ would jeopardize the health or safety of the resident or others in the
 17 ~~home facility~~ as certified by the resident's physician or approved by the county department of social
 18 services, and in the case of the resident's death. In these cases, the ~~home facility~~ shall provide a
 19 refund of any advance payment calculated beginning with the day the ~~home facility~~ is notified. The
 20 facility shall provide the refund to the authorized representative with 14 days after the resident leaves
 21 the facility or within 30 days after the resident's death.
- 22 (f) If a resident dies, the administrator of his or her estate or the Clerk of Superior Court, when no administrator for
 23 his or her estate has been appointed, shall be given a refund equal to the cost of care for the month minus any nights
 24 spent in the ~~home facility~~ during the month. This is to be done within 30 days after the resident's death.

25
 26 *History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*
 27 *Eff. January 1, 1977;*
 28 *Readopted Eff. October 31, 1977;*
 29 *Amended Eff. July 1, 1990; June 1, 1987; April 1, 1984;*
 30 *Temporary Amendment Eff. January 1, 2001;*
 31 *Temporary Amendment Expired October 13, 2001;*
 32 *Amended Eff. July 1, 2005- 2005;*
 33 *Readopted Eff. [January 1, 2024.] June 1, 2024.*

Burgos, Alexander N

Subject: FW: MCC Extension Letter

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, January 15, 2024 11:44 AM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: MCC Extension Letter

Good morning Taylor,

I don't believe I have replied to this email and I apologize for the tardy response. If you could reply to the request for changes by February 1, that would be great.

As always if you have any questions or concerns please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

From: Corpening, Taylor
Sent: Friday, December 15, 2023 9:47 AM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: RE: MCC Extension Letter

Good morning,

Thank you for your email. Will you please clarify the deadline of this extension? The letter mentions 70 days, but I remember (and I could have this wrong) you saying that the extent of the review period would be the January RRC meeting.

Thanks!

Taylor Corpening
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](#)

Work Cell: 919-896-9371
Office: 919-855-4619
Fax: 919-733-2757
taylor.corpening@dhhs.nc.gov

809 Ruggles Drive, Edgerton Building
2701 Mail Service Center
Raleigh, NC 27699-2701

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Thursday, December 14, 2023 3:58 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: MCC Extension Letter

Good afternoon,

Attached please find the notice of extension pursuant to G.S. 150B-21.13.

As always, if you have any questions please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
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(984) 236-1939
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Burgos, Alexander N

Subject: FW: 10 NCAC 13G

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, December 8, 2023 1:12 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10 NCAC 13G

Thank you for your email. I will inform the Commission of your request. Of course the decision is the Commission's to make.

Please be advised that the MCC's revisions will be due no later than January 3, 2024 if the request is granted.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: 10 NCAC 13G

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Friday, December 8, 2023 10:49 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10 NCAC 13G

Good morning!

We are humbly asking to extend the period of review for these rules to align with the January RRC meeting.

Please let me know if you have any questions.

Best,
Taylor Corpening
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](#)

Work Cell: 919-896-9371
Office: 919-855-4619
Fax: 919-733-2757
taylor.corpening@dhhs.nc.gov

809 Ruggles Drive, Edgerton Building
2701 Mail Service Center
Raleigh, NC 27699-2701

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, November 29, 2023 9:23 AM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10 NCAC 13G

Yes, December 8.

Have a good day

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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From: Peaslee, William W
Sent: Tuesday, November 28, 2023 5:43 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10 NCAC 13G

Good afternoon,

Attached please find the Request for Changes for the Subchapter G rules.

If you have any questions please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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Bill.Peaslee@oah.nc.gov

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From: Peaslee, William W
Sent: Tuesday, November 28, 2023 2:32 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 10 NCAC 13F

Good afternoon Taylor,

Attached please find the Request for Changes for the rules in Subchapter F. Subchapter G will be separate.

As always, if you have any questions or concerns please do not hesitate to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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1711 New Hope Church Road
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Bill.Peaslee@oah.nc.gov

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