

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Friday, June 21, 2024 9:15 AM
To: Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Hello!

We will have two people attending the meeting in person as well.

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: Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC

From: Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Sent: Thursday, June 20, 2024 5:13 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

megan.lamphere@dhhs.nc.gov
libby.kinsey@dhhs.nc.gov

Thanks,

Shalisa Reynolds Jones, MSW
Regulatory Analyst
[Division of Health Service Regulation, Adult Care Licensure Section](#)
[NC Department of Health and Human Services](#)

Office/Mobile: [704-589-6214](tel:704-589-6214)

NCDHHS provides essential services to improve the health, safety and well-being of all North Carolinians. Learn more about [NCDHHS initiatives and priorities](#).

600,000 more people can get health coverage starting Dec. 1. Learn more at [Medicaid.ncdhhs.gov](https://www.Medicaid.ncdhhs.gov).

[Twitter](#) | [Facebook](#) | [Instagram](#) | [YouTube](#) | [LinkedIn](#)

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Thursday, June 20, 2024 5:10 PM
To: Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>; Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Please reply all with the email addresses for those two individuals and we will send them evites.

Thank you.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC

From: Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Sent: Thursday, June 20, 2024 2:13 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>; Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Good afternoon,

I am not sure if Taylor will attend in person, however if evites can be sent to Megan Lamphere, Libby Kinsey, and myself that would be most helpful. We typically attend virtually.

Shalisa Reynolds Jones, MSW

Regulatory Analyst

[Division of Health Service Regulation, Adult Care Licensure Section](#)
[NC Department of Health and Human Services](#)

Office/Mobile: [704-589-6214](tel:704-589-6214)

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600,000 more people can get health coverage starting Dec. 1. Learn more at [Medicaid.ncdhhs.gov](https://www.Medicaid.ncdhhs.gov).

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From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Thursday, June 20, 2024 1:59 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Good afternoon,

Does your agency want evites for the June 26th meeting sent to any employees of your agency? Will you have any representatives attending the meeting in-person?

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Thursday, June 6, 2024 8:20 AM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Good morning,

Thank you for the quick response. Please submit all revised rules via email to oah.rules@oah.nc.gov no later than 5pm on June 14, 2024. The electronic copy must be saved as the official rule name (XX NCAC XXXX). Please include me on the email.

Have a great day!

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC
Attachments: 10A NCAC 13F .0609.docx; 10A NCAC 13F .0102.docx

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Wednesday, June 5, 2024 4:08 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Hello!

Thank you for your comments. Attached are the corrected documents. Please let me know if you need anything else!

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

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

10A NCAC 13F .0102 LIST OF DEFINITIONS

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

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

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

34 *History Note: Authority G.S. 131D-2.16; ~~143B-153;~~ 143B-165;*
35 *Eff. September 1, 2024.*

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

SECTION .0600 - STAFFING

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

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

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

~~(1) The administrator is in the home or within 500 feet of the home with a means of two way telecommunication with the home at all times;~~

~~(2) An administrator in charge is in the home or within 500 feet of the home with a means of two way telecommunication with the home at all times; or~~

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

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

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

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

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

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Wednesday, June 5, 2024 3:52 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Ms. Corpening,

Thank you for your prompt reply. I'm satisfied with your responses but I have a few additional requests. Please see below.

10A NCAC 13F .0102

1. Based on your response to the question about (6), please include G.S. 143B-165 in the History Note.
2. Based on your response to the last question about G.S. 143B-153, that statute deals with the Social Services Commission. It appears you need to substitute 143B-153 with 143B-165.

10A NCAC 13F .0609

1. In (c)(1) line 16, I meant to ask that a comma be added after "shift", not deleted. My mistake.

Please reply to this email no later than June 11, 2024 at 5pm.

Thank you.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC
Attachments: 6_2024_Medical Care Commission-Request for Changes-ACLS Edits.docx; 10A NCAC 13F .0102.docx; 10A NCAC 13F .0601.docx; 10A NCAC 13F .0602.docx; 10A NCAC 13F .0604.docx; 10A NCAC 13F .0605.docx; 10A NCAC 13F .0609.docx

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Wednesday, June 5, 2024 12:31 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Hello!

Please see our responses as well as updated rule text and 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

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0102

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

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

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

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

Would like to keep "mental health", we want to be consistent and clear, the staff working in adult care facilities are unlicensed and need clarity when interpreting rule language. We want to be clear about the total health of the individual as many of our other rules address both physical and mental health.

In (3), line 9, are the words "change of" and "in the symptoms" necessary? Are these words superfluous? Yes, these words are necessary as there can be a change in symptoms, new symptoms, or worsening of symptoms. These words were included to provide clarity. Due to the staff working in adult care facilities being unlicensed, they need clarity when interpreting the rule language.

In (6), what is your agency's authority to circumvent the educational requirements for the listed positions? The alternative exam is not in statute; however, the Medical Care Commission has the authority for rule making regarding personnel requirements as indicated in G.S. 143B-165 (13).

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

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

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

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

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

Travis Wiggs
Commission Counsel

Date submitted to agency: May 22, 2024

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

*In (26) line 23, consider adding “have” before “access.” **Done**.*

*In the History Note, why is 143B-153 listed as Authority for this Rule? **This General Statute is listed to address the Medical Care Commission authority for rulemaking as it relates to personnel requirements.***

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: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0402

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

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

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

*In (2) line 11, what is your agency's authority to administer "the alternative examination established by the Department?" **The alternative exam is not in statute; however, the Medical Care Commission has the authority for rulemaking regarding personnel requirements as indicated in G.S. 143B-165 (13). The changes proposed in this rule remove the requirements of the alternative examination, all staff will now be required to have a high school diploma or GED.***

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: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0601

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

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

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

*In (g) line 22, add a comma after "more". **Done.***

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: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0602

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

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

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

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

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: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0604

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

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

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

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

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

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

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: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0605

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

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

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

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

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: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0609

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

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

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

*In (b) line 10, add a comma after "residents." **Done.***

*In (b)(1) line 12, delete the comma after "supervisor." **Done.***

*In (c)(1) line 16, delete the comma after "shift." **I don't see a comma after shift in (c)(1)***

*In (c)(3) line 19, add a comma after "shifts." **Done.***

*In (c)(3) line 20, add a comma after "performed" and delete "however." **Done.***

*In (d) line 22, add a comma after "shift." **Done.***

*In (e) line 24, add a comma after "shift." **Done.***

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: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0102

DEADLINE FOR RECEIPT: Friday, June 7, 2024

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

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

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

In (3), line 10, doesn't "baseline health" also include "mental health?" If so, please delete "or mental health" as it's unnecessary. Would like to keep "mental health", we want to be consistent and clear, the staff working in adult care facilities are unlicensed and need clarity when interpreting rule language. We want to be clear about the total health of the individual as many of our other rules address both physical and mental health.

In (3), line 10, are the words "change of" and "in the symptoms" necessary? Are these words superfluous? Yes, these words are necessary as there can be a change in symptoms, new symptoms, or worsening of symptoms. These words were included to provide clarity. Due to the staff working in adult care facilities being unlicensed, they need clarity when interpreting the rule language.

In (6), what is your agency's authority to circumvent the educational requirements for the listed positions? The alternative exam is not in statute; however, the Medical Care Commission has the authority for rule making regarding personnel requirements as indicated in G.S. 143B-165 (13).

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

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

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

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

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

Travis Wiggs
Commission Counsel

Date submitted to agency: May 22, 2024

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

*In (28) line 26, consider adding “have” before “access.” **Done.***

*In the History Note, why is 143B-153 listed as Authority for this Rule? **This General Statute is listed to address the Medical Care Commission authority for rulemaking as it relates to personnel requirements.***

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

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

10A NCAC 13F .0102 LIST OF DEFINITIONS

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

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

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

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

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

SECTION .0600 - STAFFING

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

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

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

(1) ~~The administrator is in the home or within 500 feet of the home with a means of two way telecommunication with the home at all times;~~

(2) ~~An administrator in charge is in the home or within 500 feet of the home with a means of two way telecommunication with the home at all times; or~~

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

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

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

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

24
 25 *History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 131D-25; 143B-165;*
 26 *Eff. January 1, 1977;*
 27 *Readopted Eff. October 31, 1977;*
 28 *Amended Eff. July 1, 1990; April 1, 1987; April 1, 1984;*
 29 *Temporary Amendment Eff. January 1, 2000; December 1, 1999;*
 30 *Amended Eff. July 1, 2000;*
 31 *Temporary Amendment Eff. July 1, 2003;*
 32 *Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;*
 33 *Readopted Eff. September 1, 2024.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (c) The administrator shall be on-call, at all times when not on-duty.
8

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

10 *Eff. January 1, 1977;*

11 *Readopted Eff. October 31, 1977;*

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

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

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

15 *Readopted Eff. September 1, 2024.*

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

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

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

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

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

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

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

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

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

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

~~(1) — be 21 years or older;~~

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

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

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

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

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

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

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

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

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

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

10A NCAC 13F .0609 PERSONAL CARE AIDE SUPERVISORS

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

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

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

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

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

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

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

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

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

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

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

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

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

Eff. September 1, 2024.

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC
Attachments: 6_2024_Medical Care Commission-Request for Changes.docx

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Wednesday, May 22, 2024 4:19 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the North Carolina Medical Care Commission for the June 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, June 26, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised Rules and forms to me via email, no later than 5 p.m. on June 7, 2024.

Thank you.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Tuesday, May 21, 2024 1:33 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Thank you! I will be in touch.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC
Attachments: Crossway_MD SOS Registration 2023 (2).pdf; NCMA CORC Partnership Agreement.pdf; NCMA NC Request 01302024.pdf; Rule Public Comments-ACLS Response 13F .0404.docx

From: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Sent: Tuesday, May 21, 2024 12:25 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Proposed Rules in 13F & 13G Sent to RRC

Hello!

We received comments from December 1st to January 30th! The 16th must be a typo on the website. Our Interested Parties [letter](#) sent out on December 1st had to correct dates for the comment period. We received one comment for these rules on January 30th, this was the only comment we received. The agency decided not to change the rules based upon the comment but I have attached the comment and response to this email.

I will submit a request to fix the date typo on our website and I submitted a website update this morning for these rules to include the agency's response and adoption date.

Please let me know if you have any more 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

Public Comments Summary
Licensing of Adult Care Homes of Seven or More Beds Rules
Licensing of Family Care Homes Rules
Phase 5.5 Readoptions 10A NCAC 13F/G
Comment Period 12/1/23 – 01/30/24

Introduction:

There was one written comment received during the public comment period on the Phase 5.5 readoption of Rules 10A NCAC 13F/G. No individuals made statements during the public hearing conducted on January 24, 2024. This comment was submitted by representatives from the National Center for Montessori and Aging.

1) Listing of Comments Received and Agency’s Consideration of Comments for Readoption Rule 13F .0404 – Qualifications of Activity Director:

Commenter	Comment Summary
1) National Center for Montessori and Aging (Written Comment)	<p>The National Center for Montessori Aging (NCMA) would like to be added to the list of part (2) of 10A NCAC 13F .0404, specifically as:</p> <p>“ (e) be certified as a Life Enrichment Director by the National Center for Montessori and Aging”</p> <p>The basis of the request is from a formal partnership with the Coalition of Resident Councils that delivers the proper training that is accepted by NCDHHS as meeting the qualifications of an Activity Director in Adult Care Homes in NC.</p>

Agency Response to Comments Above:

The agency has reviewed the comment received. The agency will not be making any changes to the proposed rule language. The request to include an additional certification will not be included in the rule. All programs that meet the requirements outline in 13F .0404 Item (2) as a “comparable activity course as determined by the Department based on instructional hours and content” will have satisfied the requirements of an activity director, therefore the requested exemption would not need to be included in the rule.



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SUSAN C. LEE
SECRETARY OF STATE

OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF REGISTRATION

CHARITABLE ORGANIZATION

WHEREAS The Maryland Solicitations Act (Business Regulation Article, Title 6 of the Annotated Code of Maryland) requires certain parties to register in this state;

WHEREAS has submitted an application and the proper forms for registration; and

WHEREAS said application has been reviewed and found to be complete and acceptable for registration under Title 6 of the Business Regulation Article of the laws of Maryland,

NOW THEREFORE BE IT ORDERED that:

Crossway Community, Inc.

3015 Upton Drive

Kensington, Maryland 20895

is hereby registered with the Secretary of State of Maryland as a Charitable Organization.



IN TESTIMONY WHEREOF I have hereunto set my hand and caused to be affixed the Seal of the Secretary of State at Annapolis, Maryland on May 25, 2023

A handwritten signature in blue ink, reading "Susan C. Lee".

Susan C. Lee

Secretary of State

Registration Number: 3945



National Center for Montessori and Aging

January 30, 2024

NC Department of Health and Human Services
Division of Health Service Regulation
Office of the Director
2701 Mail Service Center, Raleigh, NC 27699-2701

Subject: Inclusion of the National Center for Montessori and Aging (NCMA) in "10A NCAC 13F .0404 Qualifications of Activity Director."

Dear NC DHHS,

The National Center for Montessori and Aging (NCMA) respectfully asks that our organization be added to the list of part (2) of 10A NCAC 13F .0404.

Specifically, we request that the following language, or similar be added as point (e): *"be certified as a Life Enrichment Director by the National Center for Montessori and Aging."*

The basis for our request is our formal partnership with the Coalition of Resident Councils (The CORC) that delivers an 85-hour education, training and practicum that is accepted by NCDHHS as meeting the qualifications of an Activity Director in Adult Care Homes in North Carolina.

Accordingly, individuals who receive certification from NCMA as a Life Enrichment Director do so based upon completing the existing requirements for the knowledge and skills to work and function as an Activity Director in Adult Care Homes in your state.

The NCMA was founded in 2017 as a program of Crossway Community, a 501.c.3 nonprofit founded in 1990 to provide local, regional, and national resources to enhance quality of life and the physical, mental, and psychosocial well-being of older adults,

Please let me know if you have any questions.

Sincerely,

Peter J. Illig
Executive Director

Attachments:

1. NCMA and CORC Partnership Agreement
2. Crossway Community/NCMA legal standing



National Center for Montessori and Aging



PARTNERSHIP AGREEMENT

Between the National Center for Montessori and Aging and the Coalition of Resident Councils

May 2023

Whereas, the National Center for Montessori and Aging (NCMA) was created in 2017 as a program of Crossway Community, a Maryland 501.c.3 that was founded in 1990 to provide local, regional and national resources to enhance human potential and quality of life across the lifespan, and in particular to enhance the physical, mental and psychosocial well-being of older adults;

Whereas, the Coalition of Resident Councils (CORC) was created in 2008 to increase public awareness of Resident Councils within nursing homes and assisted living communities on the National level, and, among other things, educate and establish Resident Council organizational standards;

Whereas, the CORC has been offering an approximately 85-hour education, training, and practicum course for the knowledge and skills to meet the NC DHHS requirements to qualify as an Activity Director in Adult Care Homes;

Therefore, the NCMA and the CORC seek to enter into this Partnership Agreement for the purpose of the NCMA to offer a national Life Enrichment Certification for individuals who successfully complete the CORC education, training, and practicum course.

Heretofore, the NCMA and CORC commit to collaborate on promoting and disseminating education, training and practicum courses for the certification of the competency of individuals responsible for the activity and life enrichment departments and programs of long-term care organizations.

For NCMA: Peter J. Illig, Executive Director

For CORC: Kathy Wright Moore

Signature:

Date: 1/30/2024

Signature:

Kathy Wright Moore

Date: 1/30/2024

Burgos, Alexander N

Subject: FW: Proposed Rules in 13F & 13G Sent to RRC
Attachments: Crossway_MD SOS Registration 2023 (2).pdf; NCMA CORC Partnership Agreement.pdf; NCMA NC Request 01302024.pdf; Rule Public Comments-ACLS Response 13F .0404.docx

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Tuesday, May 21, 2024 12:15 PM
To: Corpening, Taylor <taylor.corpening@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Proposed Rules in 13F & 13G Sent to RRC

Ms. Corpening,

Good morning. Today I received proposed Rules submitted by your agency for consideration by the RRC. I have a question about the Public Comment Period. The Link to Agency Notice provided by your agency shows that the Public Comment Period for these Rules was from December 16, 2023, through January 30, 2024. G.S. 150B-21.2(f) requires an agency to “accept public comments on the text of a proposed rule” “for at least 60 days after the text is published or until the date of any public hearing held on the proposed rule, whichever is longer.”

Did your agency receive any public comments on any of these proposed Rules after the hearing on January 24, 2024?

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@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.

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