

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0404

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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 (1) and (2), lines 6 and 10, respectively, please consider changing “on or after” to “after September 30, 2022”, as your effective date is October 1, 2022. Therefore, these requirements cannot apply to anyone hired **on** September 30, 2022.*

In (2)(b), line 22, what is a “social or recreation program”?

In (2)(b), line 23, what is a “patient activities program”?

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

10A NCAC 13F .0404 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13F .0404 QUALIFICATIONS OF ACTIVITY DIRECTOR

~~There shall be a designated adult~~ Adult care home homes shall have an activity director who meets the following qualifications:

- (1) The activity director (~~employed~~ hired on or after ~~August 1, 1991~~ September 30, 2022) shall meet a minimum educational requirement by being ~~at least~~ a high school graduate or certified under the GED Program ~~or by passing an alternative examination established by the Department of Health & Human Services Program.~~
- (2) The activity director hired on or after ~~July 1, 2005~~ September 30, 2022 shall ~~have completed or~~ complete, within nine months of employment or assignment to this position, the basic activity course for assisted living activity directors offered by community colleges or a comparable activity course as determined by the Department based on instructional hours and content. ~~A person with a degree in recreation administration or therapeutic recreation or who is state or nationally certified as a Therapeutic Recreation Specialist or certified by the National Certification Council for Activity Professionals meets this requirement as does a person who completed the activity coordinator course of 48 hours or more through a community college before July 1, 2005. An activity director shall be exempt from the required basic activity course if one or more of the following applies:~~
 - (a) be a licensed recreational therapist or be eligible for certification as a therapeutic recreation specialist as defined by the North Carolina Recreational Therapy Licensure Act in accordance with G.S. 90C;
 - (b) have two years of experience working in a social or recreation program within the last five years, one year of which was full-time in a patient activities program in a health care setting;
 - (c) be a licensed occupational therapist or licensed occupational therapy assistant in accordance with G.S. 90, Article 18D; or
 - (d) be certified as an Activity Director by the National Certification Council for Activity Professionals.

*History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1987; April 1, 1984;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, 2004;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, ~~2005~~; 2005;*

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Readopted Eff. October 1, 2022.

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0407

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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

In (a)(1), line 5, should this read "...reflects the position's duties..."?

In (a)(3), line 12, add a hyphen between "131D" and "21.1".

In (a)(5), line 15, what is a "substantiated" finding? 131E-256 talks about "findings", but I didn't see the term "substantiated" there. Please clarify.

In (a)(6), lines 17-18, are you saying that staff shall be vaccinated against influenza, except as provided in 131D-9? It's a little unclear what you mean by "except as document otherwise according to exceptions in this law".

In (a)(7) and (a)(8), when you say staff shall "have" a background check and "have" controlled substance screening results, what do you mean?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13F .0407 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13F .0407 OTHER STAFF QUALIFICATIONS

(a) Each staff person at an adult care home shall:

- (1) have a job description that reflects ~~actual~~ the positions, duties and responsibilities and is signed by the administrator and the employee;
- (2) be able to ~~apply~~ implement all of the adult care home's accident, fire ~~safety~~ safety, and emergency procedures for the protection of the residents;
- (3) be informed of the confidential nature of resident information and shall protect and preserve ~~such~~ the information from unauthorized use and ~~disclosure~~; disclosure, in accordance with
Note: G.S. 131D-2(b)(4), 131D-21(6), G.S. 131D-21(6) and 131D-21.1 govern the disclosure of
such information; 131D-21.1;
- (4) not hinder or interfere with the exercise of the rights guaranteed under the Declaration of Residents' Rights in G.S. 131D-21;
- (5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry according to G.S. 131E-256;
- (6) have documented annual immunization against influenza virus according to G.S. 131D-9, except as documented otherwise according to exceptions in this law;
- (7) have a criminal background check in accordance with G.S. ~~114-19.10~~ and 131D-40;
- (8) have results of the examination and screening for the presence of controlled substances in accordance with G.S. 131D-45;
- ~~(8)(9)~~ maintain a valid current driver's license if responsible for transportation of residents; and
- ~~(9)(10)~~ be willing to work cooperate with bona fide state and local inspectors ~~and the monitoring and licensing agencies toward meeting and maintaining~~ when determining and maintaining compliance with the rules of this Subchapter.

(b) ~~Any~~ At all times, there shall be at least one staff member left person in the facility left in charge of ~~the~~ resident care of residents who shall be 18 years or older.

(c) If licensed practical nurses are employed by the facility and practicing in their licensed capacity as governed by ~~their practice act and occupational licensing laws,~~ the North Carolina Board of Nursing, there shall be ~~continuous~~ availability of a registered nurse consistent available in accordance with the rules set forth in Rules 21 NCAC 36 ~~.0224(i) .0224~~ and 21 NCAC 36 ~~.0225, .0225,~~ which are hereby incorporated by reference including subsequent amendments.

~~Note: The practice of licensed practical nurses is governed by their occupational licensing laws.~~

History Note: Authority G.S. 131D-2.16; ~~131D-4.5;~~ 131D 4.5(4); 143B-165;

Eff. January 1, 1977;

Readopted Eff. October 31, 1977;

1 *Amended Eff. April 1, 1984;*
2 *Temporary Amendment Eff. September 1, 2003; July 1, 2003.*
3 *Amended Eff. June 1, ~~2004~~, 2004;*
4 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0501

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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 9, please make "Directly" lowercase.

In (a), line 13, the URL provided does not work. Please correct.

*In (a), the Rule requires a program that is "established **or** approved by the Department," which suggests to me that a facility can use the program provided by DHHS at the link in the Rule, or come up with its own, as long as the curriculum includes the 6 specified topics in the list under (a). However, this is not explicit in the Rule. Please edit to clarify.*

In (a), line 9, how are these programs approved by the Department? How is approval requested and upon what grounds will it be granted? Please edit to clarify.

In (b), line 22, did you mean to make the requirement effective on October 1, 2022? If so, I would revise to "after September 30, 2022" because as written this would not apply to staff hired until October 2.

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

10A NCAC 13F .0501 is readopted as published in 36:18 NCR 1487-1495 as follows:

SECTION .0500 - STAFF ORIENTATION, TRAINING, COMPETENCY AND CONTINUING EDUCATION

10A NCAC 13F .0501 PERSONAL CARE TRAINING AND COMPETENCY

(a) ~~An adult care home~~ The facility shall assure that staff who provide or directly supervise staff who provide personal care to residents ~~successfully~~ complete an 80-hour personal care training and competency evaluation program established ~~or approved~~ by the Department. ~~For the purpose of this Rule, Directly supervise~~ “Directly supervise” means being on duty in the facility to oversee or direct the performance of staff duties. ~~Copies A copy~~ A copy of the 80-hour training and competency evaluation program ~~are~~ is available ~~at the cost of printing and mailing by contacting the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708.~~ online at <https://info.ncdhhs.gov/dhsr/acls/training/PCA-trainingmanual.html>, at no cost. The 80-hour personal care training and competency evaluation program curriculum shall include:

- (1) observation and documentation skills;
- (2) basic nursing skills, including special health-related tasks;
- (3) activities of daily living and personal care skills;
- (4) cognitive, behavioral, and social care;
- (5) basic restorative services; and
- (6) residents’ rights as established by G.S. 131D-21.

(b) The facility shall assure that training specified in Paragraph (a) of this Rule is ~~successfully~~ completed within six months after hiring for staff hired after ~~September 1, 2003.~~ October 1, 2022. Documentation of the successful completion of the 80-hour training and competency evaluation program shall be maintained in the facility and available for ~~review.~~ review by the Division of Health Service Regulation and the county department of social services.

(c) The facility shall assure that staff who perform or directly supervise staff who perform personal care receive training and supervision on the performance of individual job assignments prior to meeting the training and competency requirements of this Rule. Documentation of training shall be maintained in the facility and available for review by the Division of Health Service Regulation and the county department of social services.

~~(e)~~(d) The Department shall exempt staff from the 80-hour training and competency evaluation program who are:

- (1) licensed health professionals;
- (2) listed on the Nurse Aide Registry; or
- (3) documented as having ~~successfully~~ completed ~~a 40 45 or 75 80 hour training program or competency evaluation program approved by the Department since January 1, 1996 according to Rule .0502 of this Section.~~ one of the following previously approved training programs:
 - (A) a 40-hour or 75-hour training and competency evaluation program prior to July 1, 2000; or
 - (B) a 45-hour or 80-hour training and competency evaluation program for training exemption from July 1, 2000 through August 31, 2003.

1 ~~(d) The facility shall assure that staff who perform or directly supervise staff who perform personal care receive on-~~
2 ~~the job training and supervision as necessary for the performance of individual job assignments prior to meeting the~~
3 ~~training and competency requirements of this Rule. Documentation of the on the job training shall be maintained in~~
4 ~~the facility and available for review.~~

5
6 *History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165;*

7 *Temporary Adoption Eff. January 1, 1996;*

8 *Eff. May 1, 1997;*

9 *Temporary Amendment Eff. December 1, 1999;*

10 *Amended Eff. July 1, 2000;*

11 *Temporary Amendment Eff. September 1, 2003;*

12 *Amended Eff. June 1, ~~2004-2004~~;*

13 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0503

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may 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 5, you refer to a “clinical skills evaluation” but elsewhere throughout the Rule, you refer to a “clinical skills validation.” While in your responses to the pre-review, you indicate that the validation is included in the evaluation, that suggests to me that there are additional portions of the “evaluation” that aren’t captured here. If “evaluation” and “validation” refer to the same thing, then please change (a) to reflect that. Otherwise, please clarify what else besides the validation is required as part of the evaluation.

In (c), line 21, what does it mean to “successfully complete” the examination? I know (b) says that the individual “shall score at least 90%” but there’s no explicit tie between scoring a 90 and “successfully” completing the exam. Please revise (b) and/or (c) to make this clearer.

*In (d), line 27, the Rule states—as amended—that the clinical skills portion “shall be conducted by a registered nurse or a licensed pharmacist **consistent with their occupational licensing laws** and who has a current unencumbered license in North Carolina.” It is unclear to me whether this means the nurse or pharmacist is to conduct the test consistent with their occupational licensing laws, or whether the nurse/pharmacist must be registered or licensed consistent with their respective occupational licensing laws. Please revise for clarity.*

In (d), the meaning of the sentence beginning with “This validation shall be completed...” remains unclear. While I understand, based on your answer in the pre-review, that validations are to be performed on the duties the staff member performs, this is not evident from the language, largely because the sentence is written in the passive tense. Please revise for clarity.

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13F .0503 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13F .0503 MEDICATION ADMINISTRATION COMPETENCY

(a) The competency evaluation for medication administration required in Rule .0403 of this Subchapter shall consist of a written examination and a clinical skills evaluation to determine competency in the following areas:

- (1) medical abbreviations and terminology;
- (2) transcription of medication orders;
- (3) obtaining and documenting vital signs;
- (4) procedures and tasks involved with the preparation and administration of oral (including liquid, sublingual and inhaler), topical (including transdermal), ophthalmic, otic, and nasal medications;
- (5) infection control procedures;
- (6) documentation of medication administration;
- (7) monitoring for reactions to medications and procedures to follow when there appears to be a change in the resident's condition or health status based on those reactions;
- (8) medication storage and disposition;
- (9) ~~regulations~~ rules pertaining to medication administration in adult care facilities; and
- (10) the facility's medication administration policy and procedures.

(b) An individual shall score at least 90% on the written examination which shall be a standardized examination established by the Department.

(c) A certificate of successful completion of the written examination shall be issued to each participant ~~successfully completing the examination. who successfully completes the examination as required in Paragraph (b) of this rule.~~ A copy of the certificate shall be maintained and available for review in the facility. The certificate is transferable from one facility to another as proof of successful completion of the written examination. ~~A medication study guide for the written examination is available at no charge by contacting the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699 2708.~~

(d) The clinical skills validation portion of the competency evaluation shall be conducted by a registered nurse or a ~~registered~~ licensed pharmacist consistent with their occupational licensing laws and who has a current unencumbered license in North Carolina. This validation shall be completed for those medication administration tasks to be performed in the facility. Competency validation by a registered nurse is required for unlicensed staff who perform any of the personal care tasks related to medication administration listed in Subparagraphs (a)(4), (a)(7), (a)(11), (a)(14), and (a)(15) as specified in Rule .0903 of this Subchapter.

(e) The Medication Administration Skills Validation Form shall be used to document successful completion of the clinical skills validation portion of the competency evaluation for those medication administration tasks to be performed in the facility employing the medication aide. The form requires the following:

- (1) name of the staff and adult care home;
- (2) satisfactory completion date of demonstrated competency of task or skill with the instructor's initials or signature;

1 (3) if staff needs more training on skills or tasks, it should be noted with the instructor's signature; and

2 (4) staff and instructor signatures and date after completion of tasks.

3 Copies of this form and instructions for its use may be obtained at no cost ~~by contacting the Adult Care Licensure~~
 4 ~~Section, Division of Health Service Regulation, 2708 Mail Service Center, Raleigh, NC 27699-2708.~~ on the Adult
 5 Care Licensure website, <https://info.ncdhhs.gov/dhsr/acls/pdf/medchklst.pdf>. The completed form shall be maintained
 6 and available for review in the facility and is not transferable from one facility to another.

7
 8 *History Note:* *Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*
 9 *Temporary Adoption Eff. January 1, 2000; December 1, 1999;*
 10 *Eff. July 1, 2000;*
 11 *Temporary Amendment Eff. July 1, 2003;*
 12 *Amended Eff. June 1, ~~2004~~, 2004;*
 13 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0504

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may 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, does the agency have any rule or standard that governs the process of competency validation? I'm thinking along the lines of what you have in R. 0503.

Also generally to this Rule, I think the language is unnecessarily convoluted. Beyond what I've written here, please make all efforts to simplify and clarify the language of this Rule, because as written, I would have to recommend objection for lack of clarity.

In (a), line 7, what do you mean by the phrase "...are competency validated by return demonstration..."?

In (a), line 7, what is "return demonstration"?

Also in (a), lines 8-10, the sentence, as amended reads "The facility shall assure the competency validation occurs prior to staff performing the task and ongoing competency is assured through facility staff oversight and supervision." This sentence is ungrammatical and as such is unclear. Suggest revising by splitting into two sentences.

Also in (a), lines 8-10, how must the facility ensure validation occurred and is ongoing? Paragraph (b) states who can validate, but nothing in the rule states what the facility must do for validation or maintaining validation.

In subparagraphs (b)(1)-(4), are the registered nurses, pharmacists, and therapists only those registered or licensed in North Carolina?

Subparagraphs (b)(1)-(4) are a list, meaning (1)-(3) should be ended with a semi-colon, and there should be an "and" or "or" following (3).

Brian Liebman
Commission Counsel
Date submitted to agency: August 31, 2022

Paragraph (c) is almost impossible to understand. Please revise to separate out the various ideas that are referenced here, and clearly state what you're requiring.

In (c), line 28, what is a "temporary basis" Please define.

In (c), line 29, what is "unnecessary relocation of the resident"? Please define.

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13F .0504 is amended as published in 36:18 NCR 1487-1495 as follows:

**10A NCAC 13F .0504 COMPETENCY VALIDATION FOR LICENSED HEALTH PROFESSIONAL
SUPPORT TASKS**

(a) ~~An adult care home~~ The facility shall assure that ~~non-licensed personnel and licensed personnel~~ non-licensed staff and licensed staff not practicing in their licensed capacity ~~as governed by their practice act and~~ in accordance with occupational licensing laws are competency validated by return demonstration for any personal care task specified in Subparagraph (a)(1) through (28) of Rule .0903 of this ~~Subchapter~~ Subchapter. The facility shall assure the competency validation occurs prior to staff performing the task and ~~that their~~ ongoing competency is assured through facility staff oversight and supervision.

(b) Competency validation shall be performed by the following licensed health professionals:

- (1) A registered nurse shall validate the competency of staff who perform any of the personal care tasks specified in Subparagraphs (a)(1) through (28) of Rule .0903 of this Subchapter.
- (2) In lieu of a registered nurse, a licensed respiratory care practitioner ~~licensed under G.S. 90, Article 38,~~ may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(6), (a)(11), (a)(16), (a)(18), ~~(a)(19)~~ (a)(19), and (a)(21) of Rule .0903 of this Subchapter.
- (3) In lieu of a registered nurse, a ~~registered~~ licensed pharmacist may validate the competency of staff who perform the personal care ~~task tasks~~ specified in Subparagraph (a)(8) and (a)(11) of Rule .0903 of this Subchapter. An immunizing pharmacist may validate the competency of staff who perform the personal care task specified in Subparagraph (a)(15) of Rule .0903 of this Subchapter.
- (4) In lieu of a registered nurse, an occupational therapist or physical therapist may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(17) and (a)(22) through (27) of Rule .0903 of this Subchapter.

(c) Competency validation of staff, according to Paragraph (a) of this Rule, for the licensed health professional support tasks specified in Paragraph (a) of Rule .0903 of this Subchapter and the performance of these tasks is limited exclusively to these tasks except in those cases in which a physician acting under the authority of G.S. 131D-2.2(a) certifies that non-licensed personnel can be competency validated to perform other tasks on a temporary basis to meet the resident's needs and prevent unnecessary ~~relocation.~~ relocation of the resident.

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

Temporary Adoption Eff. September 1, 2003;

Eff. July 1, 2004;

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

Amended Eff. October 1, 2022; July 1, 2021.

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0508

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

On line 6, the Rule requires that persons be trained on resident assessment, without explicitly stating how that training requirement is to be satisfied. Is the training somehow contained in the Manual incorporated by reference?

On line 8, please revise to say "...Homes is herein incorporated...."

On line 9, is the "instruction manual" the same as the "Resident Assessment Self-Instructional Manual for Adult Care Homes"? Please clarify.

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

1 10A NCAC 13F .0508 is amended as published in 36:18 NCR 1487-1495 as follows [Note: The update shown of the
2 website address in italics was amended pursuant to G.S. 150B-21.5(a)(4) effective April 1, 2022]:

3
4 **10A NCAC 13F .0508 ASSESSMENT TRAINING**

5 The person or persons designated by the administrator to perform resident assessments as required by Rule .0801 of
6 this Subchapter shall ~~successfully~~ complete training on resident assessment established by the Department before
7 performing the required assessments. Registered nurses are exempt from the assessment training. The Resident
8 Assessment Self-Instructional Manual for Adult Care Homes herein incorporated by reference including subsequent
9 amendments and editions. The instruction manual on resident assessment is available on the ~~internet~~ Adult Care
10 Licensure website, ~~*http://facility-services.state.nc.us/gepage.htm*~~, or it is available at the cost of printing and mailing
11 ~~from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh,~~
12 ~~NC 27699-2708.~~ *https://info.ncdhhs.gov/dhsr/acls/pdf/assessmentmanual.pdf*, at no cost.

13
14 *History Note: Authority G.S. 131D-2.15; 131D-2.16; 131D-4.5; 143B-165;*

15 *Temporary Adoption Eff. September 1, 2003;*

16 *Eff. June 1, 2004;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
18 *~~2018-2018;~~*

19 *Amended Eff. October 1, 2022; April 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .0905

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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

In (c)(2), lines 14-15, how is it determined that the calendar is “easily readable to residents within the community”?

In (c), line 9, what do you mean by “as required in Rule .0404”?

In (d), line 27, is it necessary to say “a minimum of 14 hours?” All rules set minimum requirements. If necessary, why?

In (g), p. 2, line 6, is “typically” necessary? If so, why?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13F .0905 is amended as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13F .0905 **ACTIVITIES PROGRAM**

(a) Each adult care home shall develop a program of activities designed to promote the residents' active involvement with each other, their families, and the community.

(b) The program shall be designed to promote active involvement by all residents but is not to require any individual to participate in any activity against his or her will. If there is a question about a resident's ability to participate in an activity, the resident's physician shall be consulted to obtain a statement regarding the resident's capabilities.

(c) The activity director, as required in Rule .0404 of this Subchapter, shall:

- (1) use information on the residents' interests and capabilities as documented upon admission and updated as needed to arrange for or provide planned individual and group activities for the residents, taking into account the varied interests, ~~capabilities~~ capabilities, and possible cultural differences of the residents;
- (2) prepare a monthly calendar of planned group activities which shall be ~~easily~~ readable with large print, to residents within the community, posted in a ~~prominent~~ location accessible to residents by the first day of each month, and updated when there are any changes;
- (3) involve community resources, such as recreational, volunteer, ~~religious, aging and developmentally disabled associated agencies,~~ and religious organizations, to enhance the activities available to residents;
- (4) evaluate and document the overall effectiveness of the activities program at least every six months with input from the residents to determine what have been the most valued activities and to elicit suggestions of ways to enhance the program;
- (5) encourage residents to participate in activities; and
- (6) assure there are ~~adequate supplies,~~ supplies necessary for planned activities, ~~supervision~~ supervision, and assistance to enable each resident to participate. Aides and other facility staff may be used to assist with activities.

(d) There shall be a minimum of 14 hours of a variety of planned group activities per week that include activities that promote socialization, physical interaction, group accomplishment, creative expression, increased ~~knowledge~~ knowledge, and learning of new skills. ~~Homes that care exclusively for residents with HIV disease are exempt from this requirement as long as the facility can demonstrate planning for each resident's involvement in a variety of activities. Examples of group activities are group singing, dancing, games, exercise classes, seasonal parties, discussion groups, drama, resident council meetings, book reviews, music appreciation, review of current events and spelling bees.~~

(e) Residents shall have the opportunity to participate in activities involving one to one interaction and activity by oneself that promote enjoyment, a sense of accomplishment, increased knowledge, learning of new skills, and creative expression. ~~Examples of these activities are crafts, painting, reading, creative writing, buddy walks, card playing, and nature walks.~~

(f) Each resident shall have the opportunity to participate in at least one outing every other month. Residents interested in being involved in the community more frequently shall be encouraged to do so.

(g) ~~Each resident~~ Residents shall have the opportunity to participate in ~~meaningful work type and~~ volunteer service activities in the ~~home facility~~ or in the ~~community~~, but participation shall be on an entirely voluntary basis, ~~never forced upon residents and not assigned in place of staff.~~ community. Participation in volunteer activities shall not be required of residents and shall not involve duties that are typically performed by facility staff.

History Note: Authority G.S. 131D-2.16; ~~131D-4.5; 143B-165~~; 131D-4.1; 131D-4.3;

Eff. January 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. April 1, 1987; April 1, 1984;

Temporary Amendment Eff. July 1, 2003;

Amended Eff. July 1, 2004;

Temporary Amendment Eff. July 1, 2004 (This temporary amendment replaces the permanent rule approved by RRC on May 20, 2004);

Amended Eff. July 1, 2005;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, ~~2018~~ 2018;

Amended Eff. October 1, 2022.

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .1006

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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 7, it is unclear what you are requiring by "maintained in a safe manner". Please clarify.

In (d), lines 13-14, please delete the "and" between "administration" and "administrator", replace with a comma, and add a comma between "administrator" and "or" so that the list of staff who may access the locked storage area is a grammatical list. I think you also need to add articles ("the administrator, "the administrator-in-charge").

In (i), line 32, what are you requiring when you say first aid supplies shall be stored in an "orderly" manner?

In (i), line 32, please consider revising "and stored separately from medications, and in an orderly manner" to "and stored in an orderly manner, separately from medications."

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

Brian Liebman
Commission Counsel
Date submitted to agency: August 31, 2022

10A NCAC 13F .1006 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13F .1006 MEDICATION STORAGE

(a) Medications that are self-administered and stored in the resident's room shall be stored in a safe and secure manner as specified ~~in~~ by the adult care home's medication storage policy and procedures.

(b) All prescription and non-prescription medications stored by the facility, including those requiring refrigeration, shall be maintained in a safe manner under locked security except when under the ~~immediate or~~ direct physical supervision of staff in charge of medication administration.

(c) The medication storage area shall be ~~clean, well lighted, well ventilated,~~ routinely cleaned, include functional lighting, ventilated to circulate fresh air, large enough to store medications in an orderly manner, and located in areas other than the bathroom, kitchen or utility room. Medication carts shall be ~~clean~~ routinely cleaned and medications shall be stored in an orderly manner.

(d) ~~Accessibility to locked~~ Locked storage areas for medications shall only be accessible by staff responsible for medication administration and administrator or ~~person in charge,~~ administrator-in-charge.

(e) Medications intended for topical or external use, except for ophthalmic, ~~otic~~ otic, and transdermal medications shall be stored in a designated area separate from the medications intended for oral and injectable use. Ophthalmic, ~~otic~~ otic, and transdermal medications may be stored with medications intended for oral and injectable use. Medications shall be stored apart from cleaning agents and hazardous chemicals.

(f) Medications requiring refrigeration shall be stored at 36 degrees F to 46 degrees F (2 degrees C to 8 degrees C).

(g) Medications shall not be stored in a refrigerator containing non-medications and non-medication related items, except when stored in a separate container. The container shall be locked when storing medications unless the refrigerator is locked or is located in a locked medication area.

(h) The facility may possess a stock of non-prescription medications or the following prescription legend medications for general or common ~~use;~~ use in accordance with physicians' orders:

- (1) irrigation solutions in single unit quantities exceeding 49 ml. and related diagnostic agents;
- (2) diagnostic agents;
- (3) vaccines; and
- (4) water for injection and normal saline for injection.

~~Note: A prescribing practitioner's order is required for the administration of any medication as stated in Rule .1004(a) of this Section.~~

(i) First aid supplies shall be immediately ~~available,~~ available to staff within the facility, stored out of sight of residents and ~~visitors~~ visitors, and stored separately from medications, and in ~~a secure and an~~ orderly manner.

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

Eff. July 1, 2005; 2005;

Readopted Eff. October 1, 2022.

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .1008

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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 4, define "readily retrievable." As written, it is unclear what you are requiring here.

In (a), line 6, what are you requiring an "accurate reconciliation" with?

In (e), line 24, is it necessary to say "a minimum of?" All rules set minimum requirements.

In (g), line 27, is the destruction of the controlled substance to be carried out in the same manner as prescribed in (d)?

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

10A NCAC 13F .1008 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13F .1008 CONTROLLED SUBSTANCES

(a) An adult care home shall assure a readily retrievable record of controlled substances by documenting the receipt, ~~administration~~ administration, and disposition of controlled substances. These records shall be maintained with the resident's record and in such an order that there can be accurate reconciliation.

(b) Controlled substances may be stored together in a common location or container. If Schedule II medications are stored together in a common location, the Schedule II medications shall be under double lock.

(c) Controlled substances that are expired, ~~discontinued~~ discontinued, or no longer required for a resident shall be returned to the pharmacy within 90 days of the expiration or discontinuation of the controlled substance or following the death of the resident. The facility shall document the resident's name; the name, strength and dosage form of the controlled substance; and the amount returned. There shall also be documentation by the pharmacy of the receipt or return of the controlled substances.

(d) If the pharmacy will not accept the return of a controlled substance, the administrator or the administrator's designee shall destroy the controlled substance within 90 days of the expiration or discontinuation of the controlled substance or following the death of the resident. The destruction shall be witnessed by a licensed pharmacist, dispensing practitioner, or designee of a licensed pharmacist or dispensing practitioner. The destruction shall be conducted so that no person can use, administer, ~~sell~~ sell, or give away the controlled substance. Records of controlled substances destroyed shall include the resident's name; the name, strength and dosage form of the controlled substance; the amount destroyed; the method of destruction; and, the signature of the administrator or the administrator's designee and the signature of the licensed pharmacist, dispensing practitioner or designee of the licensed pharmacist or dispensing practitioner.

(e) Records of controlled substances returned to the pharmacy or destroyed by the facility shall be maintained by the facility for a minimum of three years.

(f) Controlled substances that are expired, discontinued, prescribed for a deceased ~~resident~~ resident, or deteriorated shall be stored securely in a locked area separately from actively used medications until disposed of.

(g) A dose of a controlled substance accidentally contaminated or not administered shall be destroyed at the facility. The destruction shall be documented on the medication administration record (MAR) or the controlled substance record showing the time, date, quantity, manner of ~~destruction~~ destruction, and the initials or signature of the person destroying the substance.

(h) The facility shall ensure that all known drug diversions are reported to the pharmacy, local law enforcement ~~agency~~ agency, and Health Care Personnel Registry as required by ~~state~~ State law, and that all suspected drug diversions are reported to the pharmacy. There shall be documentation of the contact and action taken.

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

Eff. July 1, ~~2005~~ 2005;

Readopted Eff. October 1, 2022.

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13F .1010

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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), lines 5-6, add commas and delete “and” where appropriate to make the list grammatical. It should read: “with the requirements of this Section, all applicable State and federal rules and regulations, and the facilities medication management policies and procedures.”

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

10A NCAC 13F .1010 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13F .1010 PHARMACEUTICAL SERVICES

(a) An adult care home shall allow the residents the right to choose a pharmacy provider as long as the pharmacy provides services that are in accordance with requirements of this Section and all applicable ~~state~~ State and federal rules and regulations and the facility's medication management policies and procedures.

(b) There shall be a current, written agreement with a licensed pharmacist or a prescribing practitioner for pharmaceutical care services in accordance with Rule .1009 of this Section. The written agreement shall include a statement of the responsibility of each party.

(c) The facility shall assure the provision of pharmaceutical services to meet the needs of the residents including procedures that assure the accurate ordering, ~~receiving~~ receiving, and administering of all medications prescribed on a routine, emergency, or as needed basis.

(d) The facility shall assure the provision of medication for residents on temporary leave from the facility or involved in day activities out of the facility. The facility shall have written policies and procedures for a resident's temporary leave of absence. The policies and procedures shall facilitate safe administration by assuring that upon receipt of the medication for a leave of absence the resident or the person accompanying the resident is able to identify the medication, dosage, and administration time for each medication provided for the temporary leave of absence. The policies and procedures shall include ~~at least~~ the following provisions:

(1) The amount of resident's medications provided shall be sufficient and necessary to cover the duration of the resident's absence. For the purposes of this Rule, sufficient and necessary means the amount of medication to be administered during the leave of absence or only a current dose pack, card, or container if the current dose pack, card, or container has enough medication for the planned absence;

(2) ~~Written~~ written and verbal instructions for each medication to be released for the resident's absence shall be provided to the resident or the person accompanying the resident upon the medication's release from the facility and shall ~~include at least:~~ include:

(A) the name and strength of the medication;

(B) the directions for administration as prescribed by the resident's physician; and

(C) any cautionary information from the original prescription package if the information is not on the container released for the leave of absence;

(3) ~~The~~ the resident's medication shall be provided in a capped or closed container that will protect the medications from contamination and spillage; and

(4) ~~Labeling~~ labeling of each of the resident's individual medication containers for the leave of absence shall be legible, include at least the name of the resident and the name and strength of the medication, and be affixed to each container.

The facility shall maintain documentation in the resident's record of medications provided for the resident's leave of absence, including the quantity released from the facility and the quantity returned to the facility. The documentation

1 of the quantities of medications released from and returned to the facility for a resident's leave of absence shall be
2 verified by signature of the facility staff and resident or the person accompanying the resident upon the medications'
3 release from and return to the facility.

4 (e) The facility shall assure that accurate records of the receipt, use, and disposition of medications are maintained in
5 the facility and available upon request for review.

6 (f) A facility with 12 or more beds shall have a current, written agreement with a pharmacy provider for dispensing
7 services. The written agreement shall include a statement of the responsibility of each party.

8
9 *History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*

10 *Eff. July 1, 2005;*

11 *Amended Eff. April 1, ~~2015~~, 2015;*

12 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0404

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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 (1) and (2), lines 6 and 10, respectively, please consider changing “on or after” to “after September 30, 2022”, as your effective date is October 1, 2022. Therefore, these requirements cannot apply to anyone hired **on** September 30, 2022.*

In (2)(b), line 22, what is a “social or recreation program”?

In (2)(b), line 23, what is a “patient activities program”?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13G .0404 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13G .0404 QUALIFICATIONS OF ACTIVITY DIRECTOR

~~There shall be a designated family Adult care home homes shall have an~~ activity director who meets the following qualifications: ~~qualifications set forth in this Rule.~~

- (1) The activity director (~~employed~~ hired on or after ~~August 1, 1991~~ September 30, 2022) shall meet a minimum educational requirement by being ~~at least~~ a high school graduate or certified under the GED Program ~~or by passing an alternative examination established by the Department of Health & Human Services. Program.~~
- (2) The activity director hired on or after ~~July 1, 2005~~ September 30, 2022 shall have ~~completed or~~ complete, within nine months of employment or assignment to this position, the basic activity course for assisted living activity directors offered by community colleges or a comparable activity course as determined by the Department based on instructional hours and content. ~~A person with a degree in recreation administration or therapeutic recreation or who is state or nationally certified as a Therapeutic Recreation Specialist or certified by the National Certification Council for Activity Professional meets this requirement as does a person who completed the activity coordinator course of 48 hours or more through a community college before July 1, 2005. An activity director shall be exempt from the required basic activity course if one or more of the following applies:~~
 - (a) be a licensed recreational therapist or be eligible for certification as a therapeutic recreation specialist as defined by the North Carolina Recreational Therapy Licensure Act in accordance with G.S. 90C;
 - (b) have two years of experience working in a social or recreation program within the last five years, one year of which was full-time in a patient activities program in a health care setting;
 - (c) be a licensed occupational therapist or licensed occupational therapy assistant in accordance with G.S. 90, Article 18D; or
 - (d) be certified as an Activity Director by the National Certification Council for Activity Professionals.

*History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
Eff. April 1, 1984;
Amended Eff. July 1, 1990; April 1, 1987; January 1, 1985;
ARRC Objection Lodged March 18, 1991;
Amended Eff. August 1, 1991;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005- 2005;
Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0406

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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)(1), line 5, should this read "...reflects the position's duties..."?

In (a)(3), line 12, add a hyphen between "131D" and "21.1".

In (a)(5), line 15, what is a "substantiated" finding? 131E-256 talks about "findings", but I didn't see the term "substantiated" there. Please clarify.

In (a)(6), lines 17-18, are you saying that staff shall be vaccinated against influenza, except as provided in 131D-9? It's a little unclear what you mean by "except as document otherwise according to exceptions in this law".

In (a)(7) and (a)(8), when you say staff shall "have" a background check and "have" controlled substance screening results, what do you mean?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13G .0406 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13G .0406 OTHER STAFF QUALIFICATIONS

(a) Each staff person of a family care home shall:

- (1) have a job description that reflects ~~actual~~ the positions, duties and responsibilities and is signed by the administrator and the employee;
- (2) be able to ~~apply~~ implement all of the family care home's accident, fire ~~safety~~ safety, and emergency procedures for the protection of the residents;
- (3) be informed of the confidential nature of resident information and shall protect and preserve ~~such~~ the information from unauthorized use and ~~disclosure~~; disclosure, in accordance with
Note: G.S. 131D-2(b)(4), G.S. 131D-21(6), and G.S. 131D-21.1 govern the disclosure of such the information; G.S. 131D-21.1;
- (4) not hinder or interfere with the exercise of the rights guaranteed under the Declaration of Residents' Rights in G.S. 131D-21;
- (5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry according to G.S. 131E-256;
- (6) have documented annual immunization against influenza virus according to G.S. 131D-9, except as documented otherwise according to exceptions in this law.
- (7) have a criminal background check in accordance with ~~G.S. 114-19.10~~ and G.S. 131D-40;
- (8) have results of the examination and screening for the presence of controlled substances in accordance with G.S. 131D-45;
- ~~(8)(9)~~ maintain a ~~valid~~ current driver's license if responsible for transportation of residents; and
- ~~(9)(10)~~ be willing to ~~work~~ cooperate with ~~bona fide state and local~~ inspectors ~~and the monitoring and licensing agencies toward meeting and maintaining~~ when determining and maintaining compliance with the rules of this Subchapter.

(b) ~~Any~~ At all times, there shall be at least one staff member person in the facility left in charge of ~~the resident~~ care of residents who shall be 18 years or older.

(c) If licensed practical nurses are employed by the facility and practicing in their licensed capacity as governed by ~~their practice act and occupational licensing laws,~~ the North Carolina Board of Nursing, there shall be ~~continuous~~ availability of a registered nurse consistent available in accordance with the rules set forth in Rules 21 NCAC 36 .0224(i) .0224 and 21 NCAC 36 .0225, .0225, which are hereby incorporated by reference including subsequent amendments.

~~Note: The practice of licensed practical nurses is governed by their occupational licensing laws.~~

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

Eff. January 1, 1977;

Readopted Eff. October 31, 1977;

1 *Amended Eff. April 1, 1984;*
2 *Temporary Amendment Eff. December 1, 1999;*
3 *Amended Eff. July 1, 2000;*
4 *Temporary Amendment Eff. September 1, 2003;*
5 *Amended Eff. June 1, ~~2004~~ 2004;*
6 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0501

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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), p.3, line 27, please make "Directly" lowercase.

In (a), line 29, the URL provided does not work. Please correct.

In (b), p.4, line 2, did you mean to make the requirement effective on October 1, 2022? If so, I would revise to "after September 30, 2022" because as written this would not apply to staff hired until October 2.

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

10A NCAC 13G .0501 is readopted as published in 36:18 NCR 1487-1495 as follows:

**SECTION .0500 – STAFF ORIENTATION, TRAINING, COMPETENCY AND CONTINUING
EDUCATION**

10A NCAC 13G .0501 PERSONAL CARE TRAINING AND COMPETENCY

~~(a) The facility shall assure that personal care staff and those who directly supervise them in facilities without heavy care residents successfully complete a 25-hour training program, including competency evaluation, approved by the Department according to Rule .0502 of this Section. For the purposes of this Subchapter, heavy care residents are those for whom the facility is providing personal care tasks listed in Paragraph (i) of this Rule. Directly supervise means being on duty in the facility to oversee or direct the performance of staff duties.~~

~~(b) The facility shall assure that staff who perform or directly supervise staff who perform personal care tasks listed in Paragraph (i) of this Rule in facilities with heavy care residents successfully complete an 80-hour training program, including competency evaluation, approved by the Department according to Rule .0502 of this Section and comparable to the State approved Nurse Aide I training.~~

~~(c) The facility shall assure that training specified in Paragraphs (a) and (b) of this Rule is successfully completed six months after hiring for staff hired after July 1, 2000. Staff hired prior to July 1, 2000, shall have completed at least a 20-hour training program for the performance or supervision of tasks listed in Paragraph (i) of this Rule or a 75-hour training program for the performance or supervision of tasks listed in Paragraph (j) of this Rule. The 20 and 75-hour training shall meet all the requirements of this Rule except for the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule, within six months after hiring.~~

~~(d) The Department shall have the authority to extend the six-month time frame specified in Paragraph (c) of this Rule up to six additional months for a maximum allowance of 12 months for completion of training upon submittal of documentation to the Department by the facility showing good cause for not meeting the six-month time frame.~~

~~(e) Exemptions from the training requirements of this Rule are as follows:~~

~~(1) The Department shall exempt staff from the 25-hour training requirement upon successful completion of a competency evaluation approved by the Department according to Rule .0502 of this Section if staff have been employed to perform or directly supervise personal care tasks listed in Paragraph (h) and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule in a comparable long-term care setting for a total of at least 12 months during the three years prior to January 1, 1996, or the date they are hired, whichever is later.~~

~~(2) The Department shall exempt staff from the 80-hour training requirement upon successful completion of a 15-hour refresher training and competency evaluation program or a competency evaluation program approved by the Department according to Rule .0502 of this Section if staff have been employed to perform or directly supervise personal care tasks listed in Paragraph (i) and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule in a~~

comparable long term care setting for a total of at least 12 months during the three years prior to January 1, 1996, or the date they are hired, whichever is later.

(3) — The Department shall exempt staff from the 25 and 80 hour training and competency evaluation who are or have been licensed health professionals or Certified Nursing Assistants.

(f) The facility shall maintain documentation of the training and competency evaluations of staff required by the rules of this Subchapter. The documentation shall be filed in an orderly manner and made available for review by representatives of the Department.

(g) The facility shall assure that staff who perform or directly supervise staff who perform personal care tasks listed in Paragraphs (h) and (i), and the interpersonal skills and behavioral interventions listed in Paragraph (j) of this Rule receive on the job training and supervision as necessary for the performance of individual job assignments prior to meeting the training and competency requirements of this Rule.

(h) For the purposes of this Rule, personal care tasks which require a 25 hour training program include, but are not limited to the following:

(1) — assist residents with toileting and maintaining bowel and bladder continence;

(2) — assist residents with mobility and transferring;

(3) — provide care for normal, unbroken skin;

(4) — assist with personal hygiene to include mouth care, hair and scalp grooming, care of fingernails, and bathing in shower, tub, bed basin;

(5) — trim hair;

(6) — shave resident;

(7) — provide basic first aid;

(8) — assist residents with dressing;

(9) — assist with feeding residents with special conditions but no swallowing difficulties;

(10) — assist and encourage physical activity;

(11) — take and record temperature, pulse, respiration, routine height and weight;

(12) — trim toenails for residents without diabetes or peripheral vascular disease;

(13) — perineal care;

(14) — apply condom catheters;

(15) — turn and position;

(16) — collect urine or fecal specimens;

(17) — take and record blood pressure if a registered nurse has determined and documented staff to be competent to perform this task;

(18) — apply and remove or assist with applying and removing prosthetic devices for stable residents if a registered nurse, licensed physical therapist or licensed occupational therapist has determined and documented staff to be competent to perform the task; and

(19) — apply or assist with applying ace bandages, TED's and binders for stable residents if a registered nurse has determined and documented staff to be competent to perform the task.

(i) ~~For the purposes of this Rule, personal care tasks which require a 80-hour training program are as follows:~~

- ~~(1) — assist with feeding residents with swallowing difficulty;~~
- ~~(2) — assist with gait training using assistive devices;~~
- ~~(3) — assist with or perform range of motion exercises;~~
- ~~(4) — empty and record drainage of catheter bag;~~
- ~~(5) — administer enemas;~~
- ~~(6) — bowel and bladder retraining to regain continence;~~
- ~~(7) — test urine or fecal specimens;~~
- ~~(8) — use of physical or mechanical devices attached to or adjacent to the resident which restrict movement or access to one's own body used to restrict movement or enable or enhance functional abilities;~~
- ~~(9) — non-sterile dressing procedures;~~
- ~~(10) — force and restrict fluids;~~
- ~~(11) — apply prescribed heat therapy;~~
- ~~(12) — care for non-infected pressure ulcers; and~~
- ~~(13) — vaginal douches.~~

(j) ~~For purposes of this Rule, the interpersonal skills and behavioral interventions include, but are not limited to the following:~~

- ~~(1) — recognition of residents' usual patterns of responding to other people;~~
- ~~(2) — individualization of appropriate interpersonal interactions with residents;~~
- ~~(3) — interpersonal distress and behavior problems;~~
- ~~(4) — knowledge of and use of techniques, as alternatives to the use of restraints, to decrease residents' intrapersonal and interpersonal distress and behavior problems; and~~
- ~~(5) — knowledge of procedures for obtaining consultation and assistance regarding safe, humane management of residents' behavioral problems.~~

(a) The facility shall assure that staff who provide or directly supervise staff who provide personal care to residents complete an 80-hour personal care training and competency evaluation program established by the Department. For the purpose of this Rule, "Directly supervise" means being on duty in the facility to oversee or direct the performance of staff duties. A copy of the 80-hour training and competency evaluation program is available online at <https://info.ncdhhs.gov/dhsr/acls/training/PCA-trainingmanual.html>, at no cost. The 80-hour personal care training and competency evaluation program curriculum shall include:

- (1) observation and documentation skills;
- (2) basic nursing skills, including special health-related tasks;
- (3) activities of daily living and personal care skills;
- (4) cognitive, behavioral, and social care;
- (5) basic restorative services; and
- (6) residents' rights as established by G.S. 131D-21.

(b) The facility shall assure that training specified in Paragraph (a) of this Rule is completed within six months after hiring for staff hired after October 1, 2022. Documentation of the successful completion of the 80-hour training and competency evaluation program shall be maintained in the facility and available for review by the Division of Health Service Regulation and the county department of social services.

(c) The facility shall assure that staff who perform or directly supervise staff who perform personal care receive training and supervision for the performance of individual job assignments prior to meeting the training and competency requirements of this Rule. Documentation of training shall be maintained in the facility and available for review by the Division of Health Service Regulation and the county department of social services.

(d) The Department shall exempt staff from the 80-hour training and competency evaluation program who are:

(1) licensed health professionals;

(2) listed on the Nurse Aide Registry; or

(3) documented as having completed one of the following previously approved training programs:

(A) a 20-hour or 75-hour training and competency evaluation program prior to July 1, 2000; or

(B) a 25-hour or 80-hour training and competency evaluation program from July 1, 2000 through September 30, 2017.

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

Temporary Adoption Eff. January 1, 1996;

Eff. May 1, 1997;

Temporary Amendment Eff. December 1, 1999;

Amended Eff. July 1, ~~2000~~; 2000;

Readopted Eff. October 1, 2022.

1 10A NCAC 13G .0502 is repealed through readoption as published in 36:18 NCR 1487-1495 as follows:

2
3 **10A NCAC 13G .0502 PERSONAL CARE TRAINING AND COMPETENCY PROGRAM APPROVAL**

4
5 *History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.5; 143B-165;*

6 *Temporary Adoption Eff. January 1, 1996;*

7 *Eff. May 1, 1997;*

8 *Temporary Amendment Eff. December 1, 1999;*

9 *Amended Eff. July 1, ~~2000~~. 2000;*

10 *Repealed Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0503

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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), lines 4-5, you refer to a “clinical skills evaluation” but elsewhere throughout the Rule, you refer to a “clinical skills validation.” While in your responses to the pre-review, you indicate that the validation is included in the evaluation, that suggests to me that there are additional portions of the “evaluation” that aren’t captured here. If “evaluation” and “validation” refer to the same thing, then please change (a) to reflect that. Otherwise, please clarify what else besides the validation is required as part of the evaluation.

In (c), line 21, what does it mean to “successfully complete” the examination? I know (b) says that the individual “shall score at least 90%” but there’s no explicit tie between scoring a 90 and “successfully” completing the exam. Please revise (b) and/or (c) to make this clearer.

*In (d), line 27, the Rule states—as amended—that the clinical skills portion “shall be conducted by a registered nurse or a licensed pharmacist **consistent with their occupational licensing laws** and who has a current unencumbered license in North Carolina.” It is unclear to me whether this means the nurse or pharmacist is to conduct the test consistent with their occupational licensing laws, or whether the nurse/pharmacist must be registered or licensed consistent with their respective occupational licensing laws. Please revise for clarity.*

In (d), the meaning of the sentence beginning with “This validation shall be completed...” remains unclear. While I understand, based on your answer in the pre-review, that validations are to be performed on the duties the staff member performs, this is not evident from the language, largely because the sentence is written in the passive tense. Please revise for clarity.

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13G .0503 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13G .0503 MEDICATION ADMINISTRATION COMPETENCY EVALUATION

(a) The competency evaluation for medication administration shall consist of a written examination and a clinical skills evaluation to determine competency in the following areas:

- (1) medical abbreviations and terminology;
- (2) transcription of medication orders;
- (3) obtaining and documenting vital signs;
- (4) procedures and tasks involved with the preparation and administration of oral (including liquid, sublingual and inhaler), topical (including transdermal), ophthalmic, otic, and nasal medications;
- (5) infection control procedures;
- (6) documentation of medication administration;
- (7) monitoring for reactions to medications and procedures to follow when there appears to be a change in the resident's condition or health status based on those reactions;
- (8) medication storage and disposition;
- (9) ~~regulations~~ rules pertaining to medication administration in adult care facilities; and
- (10) the facility's medication administration policy and procedures.

(b) An individual shall score at least 90% on the written examination which shall be a standardized examination established by the Department.

(c) A certificate of successful completion of the written examination shall be issued to each participant ~~successfully completing the examination. who successfully completes the examination as required in Paragraph (b) of this Rule.~~ A copy of the certificate shall be maintained and available for review in the facility. The certificate is transferable from one facility to another as proof of successful completion of the written examination. ~~A medication study guide for the written examination is available at no charge by contacting the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708.~~

(d) The clinical skills validation portion of the competency evaluation shall be conducted by a registered nurse or a ~~registered~~ licensed pharmacist consistent with their occupational licensing laws and who has a current unencumbered license in North Carolina. This validation shall be completed for those medication administration tasks to be performed in the facility. Competency validation by a registered nurse is required for unlicensed staff who perform any of the personal care tasks related to medication administration listed in Subparagraphs (a)(4), (a)(7), (a)(11), (a)(14), and (a)(15) as specified in Rule .0903 of this Subchapter.

(e) The Medication Administration Skills Validation Form shall be used to document successful completion of the clinical skills validation portion of the competency evaluation for those medication administration tasks to be performed in the facility employing the medication aide. The form requires the following:

- (1) name of the staff and adult care home;
- (2) satisfactory completion date of demonstrated competency of task or skill with the instructor's initials or signature;

1 (3) if staff needs more training on skills or tasks, it should be noted with the instructor's signature; and

2 (4) staff and instructor signatures and date after completion of tasks.

3 Copies of this form and instructions for its use may be obtained at no cost ~~by contacting the Adult Care Licensure~~
 4 ~~Section, Division of Health Service Regulation, 2708 Mail Service Center, Raleigh, NC 27699-2708.~~ on the Adult
 5 Care Licensure website, <https://info.ncdhhs.gov/dhsr/acls/pdf/medchk1st.pdf>. The completed form shall be maintained
 6 and available for review in the facility and is not transferable from one facility to another.

7
 8 *History Note:* *Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*

9 *Temporary Adoption Eff. January 1, 2000; December 1, 1999;*

10 *Eff. July 1, ~~2000~~, 2000;*

11 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0504

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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, does the agency have any rule or standard that governs the process of competency validation? I'm thinking along the lines of what you have in R. 0503.

Also generally to this Rule, I think the language is unnecessarily convoluted. Beyond what I've written here, please make all efforts to simplify and clarify the language of this Rule, because as written, I would have to recommend objection for lack of clarity.

In (a), line 7, what do you mean by the phrase "...are competency validated by return demonstration..."?

In (a), line 7, what is "return demonstration"?

Also in (a), lines 8-10, the sentence, as amended reads "The facility shall assure the competency validation occurs prior to staff performing the task and ongoing competency is assured through facility staff oversight and supervision." This sentence is ungrammatical and as such is unclear. Suggest revising by splitting into two sentences.

Also in (a), lines 8-10, how must the facility ensure validation occurred and is ongoing? Paragraph (b) states who can validate, but nothing in the rule states what the facility must do for validation or maintaining validation.

In subparagraphs (b)(1)-(4), are the registered nurses, pharmacists, and therapists only those registered or licensed in North Carolina?

Subparagraphs (b)(1)-(4) are a list, meaning (1)-(3) should be ended with a semi-colon, and there should be an "and" or "or" following (3).

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

Paragraph (c) is almost impossible to understand. Please revise to separate out the various ideas that are referenced here, and clearly state what you're requiring.

In (c), lines 27-28, what is a "temporary basis" Please define.

In (c), line 28, what is "unnecessary relocation of the resident"? Please define.

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

10A NCAC 13G .0504 is readopted as published in 36:18 NCR 1487-1495 as follows:

**10A NCAC 13G .0504 COMPETENCY VALIDATION FOR LICENSED HEALTH PROFESSIONAL
SUPPORT TASKS**

(a) ~~A family care home~~ The facility shall assure that ~~non-licensed personnel and licensed personnel~~ non-licensed staff and licensed staff not practicing in their licensed capacity ~~as governed by their practice act and~~ in accordance with occupational licensing laws are competency validated by return demonstration for any personal care task specified in Subparagraph (a)(1) through (28) of Rule .0903 of this ~~Subchapter~~ Subchapter. The facility shall assure the competency validation occurs prior to staff performing the task and ~~that their~~ ongoing competency is assured through facility staff oversight and supervision.

(b) Competency validation shall be performed by the following licensed health professionals:

- (1) A registered nurse shall validate the competency of staff who perform any of the personal care tasks specified in Subparagraphs (a)(1) through (28) of Rule .0903 of this Subchapter.
- (2) In lieu of a registered nurse, a licensed respiratory care practitioner ~~licensed under G.S. 90, Article 38,~~ may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(6), (11), (16), (18), ~~(19)~~ (19), and (21) of Rule .0903 of this Subchapter.
- (3) In lieu of a registered nurse, a registered licensed pharmacist may validate the competency of staff who perform the personal care ~~task~~ tasks specified in Subparagraph ~~(a)(8) and (11)~~ (a)(8) and (11) of Rule .0903 of this Subchapter. An immunizing pharmacist may validate the competency of staff who perform the personal care task specified in Subparagraph (a)(15) of Rule .0903 of this Subchapter.
- (4) In lieu of a registered nurse, an occupational therapist or physical therapist may validate the competency of staff who perform personal care tasks specified in Subparagraphs (a)(17) and (a)(22) through (27) of Rule .0903 of this Subchapter.

(c) Competency validation of staff, according to Paragraph (a) of this Rule, for the licensed health professional support tasks specified in Paragraph (a) of Rule .0903 of this Subchapter and the performance of these tasks is limited exclusively to these tasks except in those cases in which a physician acting under the authority of G.S. ~~131D-2(a1)~~ 131D-2.2(a) certifies that non-licensed personnel can be competency validated to perform other tasks on a temporary basis to meet the resident's needs and prevent unnecessary ~~relocation~~ relocation of the resident.

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

Temporary Adoption Eff. September 1, 2003;

Eff. July 1, ~~2004~~ 2004;

Readopted Eff. October 1, 2022.

1 10A NCAC 13G .0507 is readopted as published in 36:18 NCR 1487-1495 as follows:

2
3 **10A NCAC 13G .0507 TRAINING ON CARDIO-PULMONARY RESUSCITATION**

4 Each family care home shall have ~~at least~~ one staff person on the premises at all times who has completed within the
5 last 24 months a course on cardio-pulmonary resuscitation and choking management, including the Heimlich
6 maneuver, provided by the American Heart Association, American Red Cross, National Safety Council, American
7 Safety and Health Institute and Medic First Aid, or by a trainer with documented certification as a trainer on these
8 procedures from one of these organizations. ~~If the only staff person on site has been deemed physically incapable of~~
9 ~~performing these procedures by a licensed physician, that person is exempt from the training.~~ The staff person trained
10 according to this Rule shall have access at all times in the facility to a one-way valve pocket mask for use in performing
11 cardio-pulmonary resuscitation.

12
13 *History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*

14 *Temporary Adoption Eff. September 1, 2003;*

15 *Eff. July 1, ~~2004~~, 2004;*

16 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0508

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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:

On line 6, the Rule requires that persons be trained on resident assessment, without explicitly stating how that training requirement is to be satisfied. Is the training somehow contained in the Manual incorporated by reference?

On line 8, please revise to say "...Homes is herein incorporated...."

On line 9, is the "instruction manual" the same as the "Resident Assessment Self-Instructional Manual for Adult Care Homes"? Please clarify.

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

1 10A NCAC 13G .0508 is readopted as published in 36:18 NCR 1487-1495 as follows [Note: The update shown of the
2 website address in italics was amended pursuant to G.S. 150B-21.5(a)(4) effective April 1, 2022]:

3
4 **10A NCAC 13G .0508 ASSESSMENT TRAINING**

5 The person or persons designated by the administrator to perform resident assessments as required by Rule .0801 of
6 this Subchapter shall ~~successfully~~ complete training on resident assessment established by the Department before
7 performing the required assessments. Registered nurses are exempt from the assessment training. The Resident
8 Assessment Self-Instructional Manual for Adult Care Homes herein incorporated by reference including subsequent
9 amendments and editions. The instruction manual on resident assessment is available on the ~~internet~~ Adult Care
10 Licensure website, ~~*http://facility-services.state.nc.us/gepage.htm*~~, or it is available at the cost of printing and mailing
11 ~~from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh,~~
12 ~~NC 27699-2708.~~ *https://info.ncdhhs.gov/dhsr/acls/pdf/assessmentmanual.pdf*, at no cost.

13
14 *History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*
15 *Temporary Adoption Eff. September 1, 2003;*
16 *Eff. June 1, 2004;*
17 *Amended April 1, ~~2022~~; 2022;*
18 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0903

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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)(9), (14), (19), and (20), what does “well established” mean? Please define.

In (a)(23), p.2, line 3, what is “early” post-operative treatment? Please define.

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13G .0903 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13G .0903 LICENSED HEALTH PROFESSIONAL SUPPORT

(a) ~~A family care home~~ The facility shall assure that an appropriate licensed health ~~professional, professional~~ participates in the on-site review and evaluation of the residents' health status, care ~~plan plan~~, and care provided for residents requiring one or more of the following personal care tasks:

- (1) applying and removing ace bandages, ~~ted~~ TED hose, binders, and braces and splints;
- (2) feeding techniques for residents with swallowing problems;
- (3) bowel or bladder training programs to regain continence;
- (4) enemas, suppositories, break-up and removal of fecal impactions, and vaginal douches;
- (5) positioning and emptying of the urinary catheter bag and cleaning around the urinary catheter;
- (6) chest physiotherapy or postural drainage;
- (7) clean dressing changes, excluding packing wounds and application of prescribed enzymatic debriding agents;
- (8) collecting and testing of fingerstick blood samples;
- (9) care of well-established colostomy or ileostomy (having a healed surgical site without sutures or drainage);
- (10) care for pressure ulcers, up to and including a Stage II pressure ~~ulcer~~ ulcer, which is a superficial ulcer presenting as an abrasion, ~~blister~~ blister, or shallow crater;
- (11) inhalation medication by machine;
- (12) forcing and restricting fluids;
- (13) maintaining accurate intake and output data;
- (14) medication administration through a well-established gastrostomy feeding tube (having a healed surgical site without sutures or drainage and through which a feeding regimen has been successfully established);
- (15) medication administration through subcutaneous injection; injection in accordance with Rule .1004(q) except for anticoagulant medications;
Note: Unlicensed staff may only administer subcutaneous injections as stated in Rule .1004(q) of this Subchapter;
- (16) oxygen administration and monitoring;
- (17) the care of residents who are physically restrained and the use of care practices as alternatives to restraints;
- (18) oral suctioning;
- (19) care of well-established tracheostomy, not to include ~~indo-tracheal~~ endotracheal suctioning;
- (20) administering and monitoring of tube feedings through a well-established gastrostomy tube ~~(see description in Subparagraph (14) of this Paragraph);~~ in accordance with Subparagraph (a)(14) of this Rule;

- (21) the monitoring of continuous positive air pressure devices (CPAP and BIPAP);
- (22) application of prescribed heat therapy;
- (23) application and removal of prosthetic devices except as used in early post-operative treatment for shaping of the extremity;
- (24) ambulation using assistive devices that requires physical assistance;
- (25) range of motion exercises;
- (26) any other prescribed physical or occupational therapy;
- (27) transferring semi-ambulatory or non-ambulatory residents; or
- (28) nurse aide II tasks according to the scope of practice as established in the Nursing Practice Act and rules promulgated under that ~~act~~ Act in 21 NCAC 36.

(b) The appropriate licensed health professional, as required in Paragraph (a) of this Rule, is:

- (1) a registered nurse licensed under G.S. 90, Article 9A, for tasks listed in Subparagraphs (a)(1) through (28) of this Rule;
- (2) an occupational therapist licensed under G.S. 90, Article 18D or physical therapist licensed under ~~G.S. 90-270.24, Article 18B~~ G.S. 90-270.90, Article 18E, for tasks listed in Subparagraphs (a)(17) and (a)(22) through (27) of this Rule;
- (3) a respiratory care practitioner licensed under G.S. 90, Article 38, for tasks listed in Subparagraphs (a)(6), (11), (16), (18), ~~(19)~~ (19), and (21) of this Rule; or
- (4) a registered nurse licensed under G.S. 90, Article 9A, for tasks that can be performed by a nurse aide II according to the scope of practice as established in the Nursing Practice Act and rules promulgated under that ~~act~~ Act in 21 NCAC 36.

(c) The facility shall assure that participation by a registered nurse, ~~occupational therapist~~ occupational therapist, respiratory care practitioner, or physical therapist in the on-site review and evaluation of the residents' health status, care ~~plan~~ plan, and care provided, as required in Paragraph (a) of this Rule, is completed within ~~the first~~ 30 days after of admission or within 30 days from the date a resident develops the need for the task and at least quarterly thereafter, and includes the following:

- (1) performing a physical assessment of the resident as related to the resident's diagnosis or current condition requiring one or more of the tasks specified in Paragraph (a) of this Rule;
- (2) evaluating the resident's progress to care being provided;
- (3) recommending changes in the care of the resident as needed based on the physical assessment and evaluation of the progress of the resident; and
- (4) documenting the activities in Subparagraphs (1) through (3) of this Paragraph.

~~(d) The facility shall assure action is taken in response to the licensed health professional review and documented, and that the physician or appropriate health professional is informed of the recommendations when necessary.~~

(d) The facility shall follow-up and implement recommendations made by the licensed health professional including referral to the physician or appropriate health professional when indicated. The facility shall document follow-up on all recommendations made by the licensed health professional.

1
2 *History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*
3 *Temporary Adoption Eff. January 1, 1996;*
4 *Eff. May 1, 1997;*
5 *Temporary Amendment Eff. December 1, 1999;*
6 *Amended Eff. July 1, 2000;*
7 *Temporary Amendment Eff. September 1, 2003;*
8 *Amended Eff. June 1, ~~2004~~ 2004;*
9 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .0905

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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 (c)(2), lines 14-15, how is it determined that the calendar is “easily readable to residents within the community”?

In (c), line 9, what do you mean by “as required in Rule .0404”?

In (d), line 27, is it necessary to say “a minimum of 14 hours?” All rules set minimum requirements. If necessary, why?

In (g), p. 2, line 6, is “typically” necessary? If so, why?

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

Brian Liebman
Commission Counsel

Date submitted to agency: August 31, 2022

10A NCAC 13G .0905 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13G .0905 ACTIVITIES PROGRAM

(a) Each family care home shall develop a program of activities designed to promote the residents' active involvement with each other, their families, and the community.

(b) The program shall be designed to promote active involvement by all residents but is not to require any individual to participate in any activity against his or her will. If there is a question about a resident's ability to participate in an activity, the resident's physician shall be consulted to obtain a statement regarding the resident's capabilities.

(c) The activity director, as required in Rule .0404 of this Subchapter, shall:

(1) use information on the residents' interests and capabilities as documented upon admission and updated as needed to arrange for or provide planned individual and group activities for the residents, taking into account the varied interests, ~~capabilities~~ capabilities, and possible cultural differences of the residents;

(2) prepare a monthly calendar of planned group activities which shall be ~~easily~~ readable ~~with large print~~, to residents within the community, posted in a ~~prominent~~ location accessible to residents by the first day of each month, and updated when there are any changes;

(3) involve community resources, such as recreational, volunteer, ~~religious, aging and developmentally disabled associated agencies,~~ and religious organizations, to enhance the activities available to residents;

(4) evaluate and document the overall effectiveness of the activities program at least every six months with input from the residents to determine what have been the most valued activities and to elicit suggestions of ways to enhance the program;

(5) encourage residents to participate in activities; and

(6) assure there are ~~adequate supplies,~~ supplies necessary for planned activities, ~~supervision~~ supervision, and assistance to enable each resident to participate. Aides and other facility staff may be used to assist with activities.

(d) There shall be a minimum of 14 hours of a variety of planned group activities per week that include activities that promote socialization, physical interaction, group accomplishment, creative expression, increased ~~knowledge~~ knowledge, and learning of new skills. ~~Homes that care exclusively for residents with HIV disease are exempt from this requirement as long as the facility can demonstrate planning for each resident's involvement in a variety of activities. Examples of group activities are group singing, dancing, games, exercise classes, seasonal parties, discussion groups, drama, resident council meetings, book reviews, music appreciation, review of current events and spelling bees.~~

(e) Residents shall have the opportunity to participate in activities involving one to one interaction and activity by oneself that promote enjoyment, a sense of accomplishment, increased knowledge, learning of new skills, and creative expression. ~~Examples of these activities are crafts, painting, reading, creative writing, buddy walks, card playing, and nature walks.~~

(f) Each resident shall have the opportunity to participate in at least one outing every other month. Residents interested in being involved in the community more frequently shall be encouraged to do so.

(g) ~~Each resident~~ Residents shall have the opportunity to participate in ~~meaningful work type and~~ volunteer service activities in the ~~home~~ facility or in the ~~community~~, but participation shall be on an entirely voluntary basis, ~~never forced upon residents and not assigned in place of staff.~~ community. Participation in volunteer activities shall not be required of residents and shall not involve duties that are typically performed by facility staff.

History Note: Authority G.S. 131D-2.16; ~~143B-165~~; 131D-4.1; 131D-4.3;

Eff. January 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. August 3, 1992; April 1, 1987; April 1, 1984;

Temporary Amendment Eff. July 1, 2004;

Amended Eff. July 1, ~~2005~~; 2005;

Readopted Eff. October 1, 2022.

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .1005

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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), lines 10-11, it appears to me that the intent here is that the facility shall notify the physician when there is (1) a change in the resident's mental or physical ability to self administer, (2) when the resident refuses to comply with the physician's orders, or (3) when the resident refuses to comply with the facility's medication policies or procedures. The way it is currently written, it appears you're requiring the facility to notify the physician when there's a change in the facility's policies or procedures. Please revise for clarity. I think the easiest way to clarify this is to revise (b) into a list.

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

1 10A NCAC 13G .1005 is readopted as published in 36:18 NCR 1487-1495 as follows:

2
3 **10A NCAC 13G .1005 SELF-ADMINISTRATION OF MEDICATIONS**

4 (a) The facility shall permit residents who are competent and physically able to self-administer to self-administer their
5 medications if the following requirements are met:

6 (1) the self-administration is ordered by a physician or other person legally authorized to prescribe
7 medications in North Carolina and documented in the resident's record; and

8 (2) specific instructions for administration of prescription medications are printed on the medication
9 label.

10 (b) When there is a change in the resident's mental or physical ability to self-administer or resident non-compliance
11 with the physician's orders or the facility's medication policies and procedures, the facility staff shall notify the
12 physician. A resident's right to refuse medications does not imply the inability of the resident to self-administer
13 medications.

14
15 *History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*

16 *Temporary Adoption Eff. December 1, 1999;*

17 *Eff. July 1, ~~2000~~ 2000;*

18 *Readopted Eff. October 1, 2022.*

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

AGENCY: North Carolina Medical Care Commission

RULE CITATION: 10A NCAC 13G .1006

DEADLINE FOR RECEIPT: Friday, September 9, 2022.

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 7, it is unclear what you are requiring by "maintained in a safe manner". Please clarify.

In (d), lines 13-14, please delete the "and" between "administration" and "administrator", replace with a comma, and add a comma between "administrator" and "or" so that the list of staff who may access the locked storage area is a grammatical list. I think you also need to add articles ("the administrator, "the administrator-in-charge").

In (i), line 32, what are you requiring when you say first aid supplies shall be stored in an "orderly" manner?

In (i), line 32, please consider revising "and stored separately from medications, and in an orderly manner" to "and stored in an orderly manner, separately from medications."

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

Brian Liebman
Commission Counsel
Date submitted to agency: August 31, 2022

10A NCAC 13G .1006 is readopted as published in 36:18 NCR 1487-1495 as follows:

10A NCAC 13G .1006 MEDICATION STORAGE

(a) Medications that are self-administered and stored in the resident's room shall be stored in a safe and secure manner as specified ~~in~~ by the facility's medication storage policy and procedures.

(b) All prescription and non-prescription medications stored by the facility, including those requiring refrigeration, shall be maintained in a safe manner under locked security except when under the ~~immediate or~~ direct physical supervision of staff in charge of medication administration.

(c) The medication storage area shall be ~~clean, well lighted, well ventilated,~~ routinely cleaned, include functional lighting, ventilated to circulate fresh air, large enough to store medications in an orderly manner, and located in areas other than the bathroom, kitchen or utility room. Medication carts shall be ~~clean~~ routinely cleaned and medications shall be stored in an orderly manner.

(d) ~~Accessibility to locked~~ Locked storage areas for medications shall only be by staff responsible for medication administration and administrator or ~~person in charge,~~ administrator-in-charge.

(e) Medications intended for topical or external use, except for ophthalmic, ~~otic~~ otic, and transdermal medications, shall be stored in a designated area separate from the medications intended for oral and injectable use. Ophthalmic, ~~otic~~ otic, and transdermal medications may be stored with medications intended for oral and injectable use. Medications shall be stored apart from cleaning agents and hazardous chemicals.

(f) Medications requiring refrigeration shall be stored at 36 degrees F to 46 degrees F (2 degrees C to 8 degrees C).

(g) Medications shall not be stored in a refrigerator containing non-medications and non-medication related items, except when stored in a separate container. The container shall be locked when storing medications unless the refrigerator is locked or is located in a locked medication area.

(h) The facility shall only possess a stock of non-prescription medications or the following prescription legend medications for general or common ~~use;~~ use in accordance with physicians' orders:

- (1) irrigation solutions in single unit quantities exceeding 49 ml. and related diagnostic agents;
- (2) diagnostic agents;
- (3) vaccines; and
- (4) water for injection and normal saline for injection.

~~Note: A prescribing practitioner's order is required for the administration of any medication as stated in Rule .1004 (a) of this Section.~~

(i) First aid supplies shall be immediately ~~available,~~ available to staff within the facility, stored out of sight of residents and ~~visitors~~ visitors, and stored separately from medications, and in ~~a secure and an~~ orderly manner.

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

Temporary Adoption Eff. December 1, 1999;

Eff. July 1, ~~2000~~, 2000;

Readopted Eff. October 1, 2022.

1 10A NCAC 13G .1208 is readopted as published in 36:18 NCR 1487-1495 as follows:

2
3 **10A NCAC 13G .1208 FACILITIES TO REPORT RESIDENT DEATHS**

4 ~~For purposes of this Section, facilities licensed in accordance with G.S. 131D-2~~ The facility shall report resident deaths
5 to the Division of Health Service ~~Regulation.~~ Regulation, in accordance with G.S. 131D-34.1.

6
7 *History Note: Authority G.S. 131D-2.4; 131D-2.16; 131D-34.1; 143B-165;*

8 *Temporary Adoption Eff. May 1, 2001;*

9 *Eff. July 18, ~~2002.~~ 2002.*

10 *Readopted Eff. October 1, 2022.*