DHSR Adult Care Licensure Section
Fiscal Impact Analysis
Permanent Rule Readoption and Amendment without Substantial Economic Impact

Agency: North Carolina Medical Care Commission

Contact Persons: Nadine Pfeiffer, DHSR Rules Review Manager, (919) 855-3811
Megan Lamphere, Adult Care Licensure Section Chief, (919) 855-3784
Shalisa Jones, Regulatory Analyst, (704) 589-6214

Impact:

Federal Government: No
State Government: No
Local Government: No
Private Entities: Yes
Substantial Impact: No

Titles of Rule Changes and N.C. Administrative Code Citation

Rule Readoptions (*See proposed text of these rules in Appendix)*
10A NCAC 13F. 0703 Tuberculosis Test, Medical Examination, and Immunization
10A NCAC 13F .0704 Resident Contract, Information On Home And Resident Register
10A NCAC 13F .1106 Settlement Of Cost Of Care
10A NCAC 13G .0702 Tuberculosis Test And Medical Examination
10A NCAC 13G .0704 Resident Contract And Information On Home, And Resident Register
10A NCAC 13G .1102 Authorized Representative
10A NCAC 13G .1103 Accounting For Resident's Personal Funds
10A NCAC 13G .1106 Settlement Of Cost Of Care

Rule Amendments (*See proposed text of these rules in Appendix)*
10A NCAC 13F .1103 Authorized Representative
10A NCAC 13F .1104 Accounting for Resident's Personal Funds

Rule Repeal through Readoption
10A NCAC 13G .0703 Resident Register

Authorizing Statutes: G.S. 131D-2.16; 131D-4.5; 143B-165

Introduction and Background

The agency is proposing changes to clarify the requirements of the medical examination required upon admission, update the guidelines for medical examination, and clarify the admission protocol for residents being treated for mental illness. The proposed language includes the current medical examination form that has been approved by the agency. The proposed rule language promotes a person-centered approach during the admission process by involving the resident when completing the Resident Register, allowing

the resident to provide input about their care needs and preferences. The updated rule language now includes the contents for the medical examination and Resident Register forms.

The technical changes were proposed to update information required to be included in the resident contract to specify the description of level of services. Revisions were also made to 13G .0704 to update the title of the rule and include requirements of the Resident Register to be consistent with the adult care home rules. The proposed changes will have limited fiscal impact on licensed providers as most changes have no substantial costs associated. The proposed changes will generate minimal costs and/or benefits for adult care homes and family care homes.

The proposed changes will have no impact on the Adult Care Licensure Section. The agency does not anticipate any additional impact on state government or local government (i.e. county Departments of Social Services who monitor and conduct complaint investigations in adult care homes and family care homes) beyond their current job requirements to implement, monitor, or regulate the proposed amendments.

Under the authority of G.S. 150B-21.3A, Periodic review of existing rules, the North Carolina Medical Care Commission and Rules Review Commission approved the Subchapter reports with classifications for the rules under 10A NCAC 13F Licensing of Adult Care Homes of Seven or More Beds and 10 NCAC 13G Licensing of Family Care Homes. The rules were classified in the reports as necessary with substantive public interest. Rules 10A NCAC 13F .0703, 13F .0704, 13G .0702, 13G .0704, 13G .1102 are being presented for readoption with substantive changes. The following rules were identified for readoption without substantive changes: 13F .1106, 13G .1103, 13G .1106. The following rules were not identified for readoption with substantive changes based on public comment but is being proposed for amendment to correlate with the 13G rule of the same title and similar content being proposed for readoption: 13F .1103 and 13F .1104. Rule 10A NCAC 13G .0703 is being repealed through readoption, it will have no impact, and will not be discussed in this analysis.

Rules Summary and Anticipated Fiscal Impact

10A NCAC 13F .0703/13G .0702 Tuberculosis Test, Medical Examination And Immunizations:
These rules outline residents' medical examination and immunizing requirements needed for admission to a facility. Technical changes were made to be consistent with current writing styles. The proposed language includes the current examination form, guidelines for medical examination and clarifies the admission protocol for residents who have recently been treated for mental illness to ensure they receive proper follow-up care after admission to an adult care home.

1. A resident is required to undergo a medical examination prior to admission to an adult care home and annually thereafter. Paragraph (b) now identifies who can complete the resident medical examination and requires the form be used to determine if residents' needs are able to be met by the facility. The new term "physician extender" is inclusive of licensed nurse practitioners and licensed physician assistants. The new term clarifies that facilities have flexibility to use physician extenders to complete the required medical exam and FL-2 form. The proposed changes better align the rule with the current practices taking place in the adult care home industry.

2. The proposed language in Paragraph (e) updates how the medical examination is to be documented on the "Adult Care Home FL2 form" and the contents of the form are also included for clarity. The form was created by NC Medicaid and has been approved by the agency for use by facilities. The form is free and

provides no additional cost to facilities. An internet address has also been included for where the forms can be obtained at no cost.

3. The proposed language in Paragraph (h) was added to clarify procedures for when a resident is re-admitted to an adult care home after a recent hospitalization, including the responsibility to obtain and review the discharge summary or discharge instructions and medication orders when the resident returns. This practice ensures that residents receive appropriate follow-up care as ordered by the hospital physician, as well as prevents any issues related to discrepancies with medication orders before and after the resident's hospitalization. Clarifying these procedures in rule ensures safe continuity of care for a resident after hospitalization. Currently, facilities are required to obtain this information when a resident is hospitalized, therefore there are no additional impact beyond providing rule clarity.

4. Technical changes were made to clarify the wording in Paragraph (j) regarding residents who are being admitted with a history of treatment for mental illness. The proposed language was modified to include residents who have been evaluated and diagnosed with or treated for mental illness. The term "physician extender" was also added in this paragraph to include licensed nurse practitioners and licensed physician assistants, clarifying that physician extenders can complete a medical evaluation. The proposed language also clarifies that the follow-up examination can be completed by a licensed mental health professional. The proposed changes better align the rule with the current practices taking place in adult care homes.

10A NCAC 13F/G .0704 Resident Contract, Information On Home And Resident Register:
Technical changes were made to update information required to be included in the resident contract to specify the description of level of services. Revisions were also made to 13G .0704 to update the title of the rule and include requirements of the Resident Register to be consistent with the adult care home rules.

1. Paragraph (a)(1) requires facilities to have a resident contract that includes the rates of services and accommodations. The proposed language includes a description of the types of care and services and the charges for those services, and any other charges or fees a resident may incur while residing at the facility.

Currently, facilities are required to include rates and services and the costs. Facilities provide 24-hour care and services for residents who need assistance with various tasks such as personal care, medication administration, food and nutrition services, health care referral, housekeeping and laundry, social and recreational activities, and supervision for safety. These services are provided based on resident's assessed needs. Facilities may charge for services as a whole, such as a daily or monthly rate, or charge based on the types of services the resident needs. The proposed language promotes transparency about the description services provided and the potential costs to residents and families if those services are needed. Review of facility contracts submitted to the Adult Care Licensure Section as part of initial licensing process for new facilities revealed that most are already including the description of types of care and services in their contract, therefore, operational costs to update the contract would be minimal.

2. Paragraph (a)(1)(D) clarifies the 30-day notice facilities are required to give the resident or responsible party who is to be notified of a change in charges and accommodations and confirmation of receipt of the amended copy of the contract. The agency updated the language to include the confirmation of receipt to provide verification that the resident/responsible party is aware of the changes.

3. Technical changes were made in Paragraph (b) to update the language to include "management designee" as a person who is able to complete the Resident Register and clarifies that the resident is to be involved in the completion of the assessment form. Additionally, the rule includes Paragraph (b) was added to rule 13G .0704 to include the Resident Register information. The mailing address was also

removed from rule 13F. 0704 since the website address in included where the Resident Register is available at no charge. The contents of Resident Register form were included for clarity.

Rationale: Currently, rule 13F .0704 identifies the Administrator or the Administrator-In-Charge as the individuals responsible for reviewing and furnishing the Resident Register. The updated rule language now identifies an alternate person as a management designee which gives facilities flexibility to utilize other management personnel within the facility to be a part of this process. This change will be beneficial to administrators, saving them time and allowing them to focus on other job requirements as they are now able to designate this task to other management personnel. The time savings would vary depending on the time it takes to complete the Resident Register. The rule now specifies the involvement of the resident when completing the Resident Register unless they are cognitively unable to participate. Involvement of the resident allows the resident the opportunity to participate and provide input on their care and services.

Fiscal Impact: Facilities that do not already include the description of the types of charges for services would have minimal costs associated with the time to update the resident contract. The costs associated with obtaining confirmation of receipt of an amended contract are minimal. The resident or responsible party could verify confirmation either through email at no cost, in person, or via mail. Facilities have the flexibility of choosing how to obtain this confirmation.

10A NCAC 13F .1103/ 13G .1102 Authorized Representative: These rules identify the person authorized to act on behalf of the resident when managing their funds. The title of these rules was changed to "authorized representative" to update the title and provide a definition. The new definition provides clarity and the term will be used throughout the Subchapter when addressing residents' personal funds. There are no foreseeable costs associated with the proposed rule change.

10A NCAC 13F .1104/ 13G .1103 Accounting for Resident's Personal Funds: These rules outline how resident personal funds are to be accounted for if the resident is unable to manage their own funds and requests assistance in doing so. Technical changes were made to remove outdated language and provide clarity.

1. In Paragraph (a) and (c), the proposed rule language now requires only one witness signature when documents require a mark by a resident who is physically unable to sign. There are no costs associated with this proposed change. Facilities will benefit from this change as they are no longer required to have two witness signatures, minimizing the time staff are being removed from their job duties to witness and sign the funds transactions.

Rationale: The agency received feedback from various providers regarding the hardship of finding two witnesses to provider a signature. The proposed change only requires one witness signature to remove the hardship and clarifies that the one witness cannot include staff who directly handle the residents' personal funds transactions.2. Paragraph (c) requires the authorized representative to receive a copy of the monthly resident funds statement when a resident has been adjudicated incompetent. The updated rule language changes the time required for the personal needs allowance to be credited to the resident's account from 24 hours to one business day to account for bank transactions that occur during holidays and during the weekend. It is anticipated that the costs associated with providing an authorized representative a copy of the funds statement would be minimal. Current technology and the use of email to communicate allows facilities to send a copy of the funds statement to the authorized representative quickly and easily with no cost of mailing. Based on Adult Care Licensure Section data, 99% of licensed facilities reported having an email address, and therefore, would be able to send resident fund statements electronically.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10A NCAC 13F .0704 RESIDENT CONTRACT, INFORMATION ON ~~HOME~~ FACILITY, AND RESIDENT REGISTER

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

(1) the resident contract to which the following applies:

(A) the contract shall specify ~~rates~~ charges for resident services and accommodations, including the cost of different levels of service, ~~if applicable,~~ description of levels of care and services, and any other charges or fees;

(B) the contract shall disclose any health needs or conditions that the facility has determined it cannot ~~meet pursuant to G.S. 131D-2(a1)(4);~~ meet;

(C) the contract shall be signed and dated by the administrator or ~~administrator-in-charge~~ management designee and the resident or ~~responsible person,~~ the resident's authorized representative, a copy given to the resident or ~~responsible person~~ the resident's authorized representative and a copy kept in the resident's record;

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

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

(F) the maximum monthly adult care home rate that may be charged to Special Assistance recipients ~~is~~ as established by the North Carolina Social Services Commission and the North Carolina General Assembly.

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

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

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

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

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

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

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

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

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

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

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

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

The Resident Register is available on the internet website, https://info.ncdhhs.gov/dhsr/acls/pdf/resregister.pdf ~~or~~ at no ~~charge from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708.~~ charge. The facility may use a resident information form other than the Resident Register as long as it contains ~~at least~~ the

same information as the Resident Register. Information on the Resident Register shall be kept updated and maintained in the resident's record.

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

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

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

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

(b) In the case of funds administered by the Social Security Administration, the Veteran's Administration or other federal government agencies, the administrator of the ~~home~~ facility may serve as a payee when so authorized as a legally constituted authority by the respective federal agencies.

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

History Note: *Authority G.S. 35A-1203; 108A-37; 131D-2.16; 143B-165;*
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. January 1, 2024.

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

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

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

(b) Upon the written authorization of the resident or ~~his legal representative or payee,~~ their authorized representative, an ~~administrator~~ administrator, or the administrator's designee may handle the personal money for a resident, provided an accurate

accounting of monies received and disbursed and the balance on hand is available upon request of the resident or ~~his legal representative or payee.~~ their authorized representative during the facility's established business days and hours.

(c) A record of each transaction involving the use of the resident's personal funds according to Paragraph (b) of this Rule shall be signed by the ~~resident, legal~~ resident of the resident's authorized representative ~~or payee~~ or marked by the ~~resident, if not adjudicated incompetent, with two witnesses' signatures~~ resident at least monthly verifying the accuracy of the disbursement of personal funds. If marked by the resident, there shall be one witness signature. For residents who have been adjudicated incompetent, the facility shall provide the resident's authorized representative with a copy of the monthly resident's funds statement and shall obtain verification of receipt. The ~~record~~ records shall be maintained in the ~~home.~~ facility.

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

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

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

History Note: *Authority G.S. 131D-2.16; 143B-165;*
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. January 1, 2024.

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

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

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

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

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

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

(e) When a resident leaves the facility with the intent of returning to it, the following apply:

(1) The facility may reserve the resident's bed for a set number of days with the written agreement of the facility and the resident or his or her responsible person and thereby require payment for the days the bed is held.

(2) If, after leaving the facility, the resident decides not to return to it, the resident or someone acting on his or her behalf may be required by the facility to provide up to a 14-day written notice that he is not returning.

(3) Requirement of a notice, if it is to be applied by the facility, shall be a part of the written agreement and explained by the facility to the resident and his or her family or responsible person before signing.

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

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

(6) Exceptions to the ~~two weeks'~~ 14-day notice, if required by the facility, are cases where returning to the facility would jeopardize the health or safety of the resident or others in the facility as certified by the resident's physician or approved by the county department of social services, and in the case of the resident's death. In these cases, the facility shall refund the rest of any advance payment calculated beginning with the day the facility is notified.

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

History Note: *Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*
Eff. July 1, ~~2005.~~ 2005;
Readopted Eff. January 1, 2024.

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

10A NCAC 13G .0702 TUBERCULOSIS TEST AND MEDICAL ~~EXAMINATION~~ EXAMINATION, AND IMMUNIZATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. December 1, 1993; July 1, 1990; April 1, 1987; April 1, 1984;
Temporary Amendment Eff. September 1, 2003;
Amended Eff. June 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2024.

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

10A NCAC 13G .0703 RESIDENT REGISTER

History Note: *Authority G.S. 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; April 1, 1987; April 1, 1984;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. April 1, 2022; July 1, ~~2005.~~ 2005;
Repealed Eff. January 1, 2024.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

History Note: *Authority G.S. 131D-2.16; 143B-165;*
Eff. April 1, 1984;
Amended Eff; July 1, 1990; April 1, 1987;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, ~~2005.~~ 2005;
Readopted Eff. January 1, 2024.

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

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

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

(b) In the case of funds administered by the Social Security Administration, the Veteran's Administration or other federal government agencies, the administrator of the ~~home~~ facility may serve as a payee when so authorized as a legally constituted authority by the respective federal agencies.

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

History Note: *Authority G.S. 35A-1203; 108A-37; 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 2005; April 1, ~~1984.~~ 1984;

Effective January 1, 2024.

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

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

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

(b) Upon the written authorization of the resident or ~~his legal representative or payee,~~ their authorized representative, an administrator or the administrator's designee may handle the personal money for a resident, provided an accurate accounting of monies received and disbursed and the balance on hand is available upon request of the resident or ~~his legal representative or payee.~~ their authorized representative during the facility's established business days and hours.

(c) A record of each transaction involving the use of the resident's personal funds according to Paragraph (b) of this Rule shall be signed by the ~~resident, legal representative or payee~~ the resident or the resident's authorized representative, or marked by the ~~resident, if not adjudicated incompetent, with two witnesses' signatures~~ resident, at least monthly verifying the accuracy of the disbursement of personal funds. If marked by the resident, there shall be one witness signature. For residents who have been adjudicated incompetent, the facility shall provide the resident's authorized representative with a copy of the monthly resident's funds statement and shall obtain verification of receipt. The ~~record~~ records shall be maintained in the ~~home.~~ facility.

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

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

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

History Note: *Authority G.S. 131D-2.16; 143B-165;*
Eff. April 1, 1984;
Amended Eff. July 1, 2005; April 1, ~~1987.~~ 1987;
Readopted Eff. January 1, 2024.

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

10A NCAC 13G .1106 SETTLEMENT OF COST OF CARE

(a) If a resident of a family care home, after being notified by the ~~home~~ facility of its intent to discharge the resident in accordance with Rule .0705 of this Subchapter, ~~moves out of the home before the period of time specified in the notice has elapsed,~~ the ~~home~~

facility shall refund the resident an amount equal to the cost of care for the remainder of the month minus any nights spent in the ~~home~~ facility during the notice period. The refund shall be made within 14 days after the resident leaves the ~~home.~~ facility. For the purposes of this Rule, "cost of care" means any monies paid by the resident or the resident's legal representative in advance for room and board and services provided by facility as agreed upon in the resident's contract.

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

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

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

(e) When a resident leaves the ~~home~~ facility with the intent of returning to it, the following apply:

(1) The ~~home~~ facility may reserve the resident's bed for a set number of days with the written agreement of the ~~home~~ facility and the resident or his or her responsible person and thereby require payment for the days the bed is held.

(2) If, after leaving the ~~home,~~ facility, the resident decides not to return to it, the resident or someone acting on his or her behalf may be required by the ~~home~~ facility to provide up to a 14-day written notice that he or she is not returning.

(3) Requirement of a notice, if it is to be applied by the ~~home,~~ facility, shall be a part of the written agreement and explained by the ~~home~~ facility to the resident and his or her family or responsible person before signing.

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

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

(6) Exceptions to the ~~two weeks'~~ 14-day notice, if required by the ~~home,~~ facility, are cases where returning to the ~~home~~ facility would jeopardize the health or safety of the resident or others in the ~~home~~ facility as certified by the resident's physician or approved by the county department of social services, and in the case of the resident's

death. In these cases, the ~~home~~ facility shall refund the rest of any advance payment calculated beginning with the day the ~~home~~ facility is notified.

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

History Note: *Authority G.S. 131D-2.16; 131D-4.5; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; June 1, 1987; April 1, 1984;
Temporary Amendment Eff. January 1, 2001;
Temporary Amendment Expired October 13, 2001;
Amended Eff. July 1, ~~2005.~~ 2005;
Readopted Eff. January 1, 2024.