

Fiscal Impact Analysis of Permanent Rule Readoption

Agency Proposing Rule Change

North Carolina Medical Care Commission

Contact Persons

Nadine Pfeiffer, DHSR Rules Review Manager - (919) 855-3811

Azzie Conley, Section Chief, Acute and Home Care Licensure & Certification - (919) 855-4646

Clarence Ervin, Assistant Section Chief, Acute & Home Care Licensure & Certification - (919) 855-4635

Cindy Deporter, Acting Assistant Section Chief, Acute & Home Care Licensure & Certification - (919) 855-4557

Greta Hill, Team Lead, Acute & Home Care Licensure & Certification - (919) 339-9339

Nancy Joyce, Administrative Officer, Acute & Home Care Licensure & Certification - (919) 855-4645

Impact Summary

Federal Government:	No Impact
State Government:	No Impact
Local Government:	No Impact
Small Business:	No Impact
Substantial Impact:	No

Title of Rules Changes and Statutory Citations

10A NCAC 13J

Section .0900 -- General Information

- Definitions 10A NCAC 13J .0901 (Readopt)

Section .1000 – Administration

- Evaluation 10A NCAC 13J .1004 (Readopt)
- Client Rights and Responsibilities 10A NCAC 13J .1007 (Readopt)

Section .1100 – Scope of Services

- In-Home Aide Services 10A NCAC 13J .1107 (Readopt)
- Supervision and Competency of In-Home Aides or Other In-Home Care Providers 10A NCAC 13J .1110 (Readopt)

Section .1200 – Case Review and Plan of Care

- Case Review and Plan of Care 10A NCAC 13J .1202 (Readopt)

Section .1400 -- Service Record

- Content of Record 10A NCAC 13J .1402 (Readopt)

Section .1500 – Companion, Sitter, and Respite Services

- Scope of Service 10A NCAC 13J .1502 (Readopt)

****See proposed text of these rules in Appendix 1***

Statutory Authority

N.C.G.S. 131E-136-140

Background

Under authority of N.C.G.S. 150B-21-3A, Periodic review and expiration of existing rules, the Medical Care Commission, Rules Review Commission and the Joint Legislative Administrative Procedure Oversight Committee approved the subchapter report with classifications for the rules located at 10A NCAC 13J – Rules for Licensing of Home Care Agencies – on February 12, 2016, April 21, 2016 and June 25, 2016, respectively. The following eight rules were classified as necessary with substantive public interest in this report: 10A NCAC 13J .0901, .1004, .1007, .1107, .1110, .1202, .1402, and .1502.

The rule readoptions presented in this fiscal analysis will provide clarity and remove ambiguity, address standing objections by the Rules Review Commission (RRC) and implement several technical and formatting changes. Changes will also include updates to definitions and where appropriate refer to definitions in state statutes.

There are 1505 licensed Home Care agencies. Of that number 1292 are non-certified Home Care agencies and 213 are Medicare Certified Home Health agencies that provide Home Health Services. The Medicare Certified Agencies must meet the requirements for licensure, but are regulated by federal regulations. Medicaid is the primary payer of Home Care Services. The Community Care Block Grant and the Social Services Block Grant through the Division of Aging and Adult services is the second largest payer. There are a small number of private pay entities, fifty or less, that utilize Home and Community Care Block Grant funds and do not bill Medicaid.

Rules Summary and Anticipated Fiscal Impact

Rule .0901 – Definitions

The agency is proposing to readopt this rule with changes. The rule is being readopted to remove definitions to satisfy an existing RRC objection, in addition to correcting and clarifying definitions. There were modifications to definitions to reference general statute, changes to definitions which reflect current terminology, and updated language and technical changes to remove ambiguity.

The following definitions were removed:

1. Allied Health Personnel (Redundant, included under Health Care Practitioner definition)
2. Appropriate professional (ambiguous definition)
3. In-Home Aide (redundant. Falls under the definition of in-home care provider)
4. Medical Social Services, Medical Social Worker, Medical Social Worker Assistant (ambiguous, lack of authority to define)
5. Paraprofessional (lack of authority)

The following are defined in General Statute and the statute is referenced for definition. The Medical Care Commission (MCC) lacks the authority to define the following definition because they are either in statute or is a licensed entities.

1. Client
2. Licensed Clinical Social Worker. (replaces Medical Social Worker definition)
3. Health Care Practitioner
4. Licensed Practical Nurse
5. Occupational Therapist, Occupational Therapist Assistant
6. Physical Therapist, Physical Therapy Assistant, Physical Therapy Services
7. Physician
8. Registered Nurse

9. Practice of Respiratory Therapy
10. Respiratory Care Practitioner
11. Social Worker
12. Speech and Language Pathologist
13. The Practice of Speech and Language Therapy

The following definitions were added:

1. Licensed Clinical Social Worker (current terminology)
2. Instrumental Activities of Daily Living

Fiscal Impact

There is no fiscal impact associated with the readoptions of this rule

Rule .1004 – Evaluation

The agency is proposing to readopt this rule with substantive changes. The rule is changed to remove ambiguity and to satisfy a previous RRC Objection related to lack of authority. In Paragraph (d) the agency has no authority to restrict who may evaluate client records. To satisfy the objection, the language was deleted and new language was added to require the Home Care agency’s governing body or designee to ensure a quarterly evaluation. The quarterly evaluation is an existing requirement and is currently monitored by the nurse consultant as part of the survey process. In addition, a number of technical changes were done.

Fiscal Impact

There is no fiscal impact associated with the readoption of this rule.

Rule .1007 – Client rights and Responsibilities

The agency is proposing to readopt this rule with substantive changes. The rule is being changed to reference the statute, G.S. 131E-144.3 regarding clients’ rights. The current Administrative Procedures Act (APA) rule only identified 9 of the clients’ rights listed in G.S. 131E-144.3. Agencies are trained on all 15 rights during the initial Home Care Licensure training prior to receiving a license. Also, the agencies are surveyed and held accountable to all 15 client rights identified in the statute. Agencies are currently advising clients of all 15 client rights. Also, the reference to the complaint hotline number and the Department of Health and Human Service careline number was removed and G.S. 131E-144.4 was referenced.

Clients Rights And Responsibilities Not Included In Current APA Rule	Add Time
To be informed and participate in his or her plan of care	1 minute
To receive care and services that are adequate, appropriate, and in compliance with relevant federal and state laws and rules and regulations	1 minute
To be free of mental and physical abuse, neglect, and exploitation	1 minute
To receive reasonable response to his or her requests of the agency	1 minute
To be notified within 10 days when the agency’s license has been revoked, suspended, canceled, annulled, withdrawn, recalled or amended	1 minute

To be advised of the agency's policies regarding patient responsibilities	2 minutes
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Table identifies rights not in current rule .1007, and an estimate of the time it takes to inform clients of the additional rights. The estimate is based on the amount of time it would take to inform the client of the rights. The time to inform the clients doesn't equate to any additional units of service therefore no additional reimbursement will be provided. Medicaid reimburses in 15 minute units, Aging 1 hour units and Private pay one hour units.

Fiscal Impact

There is no fiscal impact associated with the readoption of this rule. The estimated time to inform clients of the additional six client rights doesn't equate to any additional unit of service. The two major payers of Home Care Services; Medicaid and the Home and Community Block Grant or Social Services Block Grant Programs through the Division of Aging and Adult services, have acknowledged that there will be no additional reimbursement as a result of these changes. Both agencies reimburse on a per unit bases. Please see table in rule 1107 below.

Rule .1107 – In-Home Aide Services Rule

The agency is proposing to readopt this rule with substantive changes. In Paragraph (a), the agency added language clarifying that the plan of care shall contain the level of assistance required by the client, it shall be signed and dated by the registered nurse, client or designee and a copy of the plan shall be left in the client's home. This is not a new requirement as providers are aware and have been adhering to this requirement. It won't result in any additional time or additional reimbursement. It's a current practice.

Paragraph (a), Clarifies who signs and dates the plan of care and that a copy shall be left in the home. The information on line 6, beginning with "Agencies" was deleted and moved to (g).

Paragraph (b) line 11 clarifies what the plan of care should contain.

Paragraph (c), Healthcare practitioner was deleted. The change clarifies that registered nurse writes the plan of care for hands on care. The change is reflective of current practice for in-home aide services.

Added Paragraph (d), to clarify for agencies providing in-home aide services where the initial assessment should be done and by who. In addition, it clarifies the components of the initial assessment.

Added Paragraph (e), to clarify that the initial assessment must be signed, dated, and when it should be conducted. This will help ensure the plan of care addresses the clients' needs. This has been and continues to be a standard practice. Agencies are currently required to have a registered nurse available for the provision of In-Home Aide services for supervision and consultation. In-home aide services is a hands on service and nurses are required for the provision of hands on care.

Added (g), information was moved from (a) to (g).

Medicaid and the Home and Community Care Block Grant or Social Services Block Grant through the Division of Aging and Adult Services are the two major payers. Medicaid is the primary payer for the service and reimburses for in-home aid services on a per unit basis. A unit equals 15 minutes and the rate is \$3.47 per billing unit. Block Grant reimbursement for the services range from \$14.00 - \$37.00 based on the local region cost of living.

Agency Type	Number of Agencies	Billing Unit	Billing Rate	Add Time
Medicaid	1292	15 Minutes	\$3.47	0
Block Grant	166	60 Minutes	\$15.00-\$37.00	0
Private Pay	<50	60 Minutes	\$18.00	0

1. Medicaid Clinical coverage policy 3L Personal Care Services Benefit Program; September 2016:
[http://nc-pcs.com/pdfs/PCS%20Provider%20Manual%20SEPT%202016%20FINAL%20v%207.0.0%20\(9%2028%2016\).pdf](http://nc-pcs.com/pdfs/PCS%20Provider%20Manual%20SEPT%202016%20FINAL%20v%207.0.0%20(9%2028%2016).pdf)

Note 1: Private pay agencies won't disclose their fee schedule. The North Carolina Home Care Association identified \$18.00 as the per hour national average.

Note 2: The Block Grant Agencies include 91 subcontracted licensed agencies and 75 direct provider agencies.

Fiscal Impact

There is no fiscal impact associated with the readoption of this rule. The items clarified with these changes are current requirements/practices and won't necessitate any additional time or reimbursement. Also, there won't be any reduction in reimbursement or time.

Rule .1110 – Supervision and Competency of In-Home Aides or Other In-Home Care Providers

The agency is proposing to readopt this rule with substantive changes. This rule contains the competency requirements for in-home aides. This rule is being changed to correct and clarify definitions, remove ambiguity, to satisfy a standing objection by the RRC related to statutory authority, and to make technical changes. The changes clarify what it means to meet competency and how to determine if a home care aide can perform client tasks and to whom the demonstration will be given. This rule clarifies existing practices. In-home aides or other allied health personnel was replaced with In-home care providers. Appropriate professional is replaced with health care practitioner as defined in G.S. 90-640(a). Appropriate professional was deleted from the definitions. This was done to satisfy a standing RRC objection related to statutory authority and ambiguity. Lines 23-27 were removed as a result of a standing objection by the RRC for lack of statutory authority. The State licensing entity establishes licensing and supervisory criteria for respiratory care, not the state survey agency. Language was moved from line 36-37 to line 31. The remainder of (e), was deleted in response to an RRC objection regarding authority to dictate who will perform the supervisory visit. There were also additional technical changes to the rule to remove ambiguity and for clarity.

Fiscal Impact

There is no fiscal impact associated with the readoption of this rule.

Rule .1202 – Case Review and Plan of Care

The agency is proposing to readopt this rule with substantive changes. This rule contains the requirements for case review and plan of care. This rule is being changed to correct definitions, remove ambiguity and to satisfy an existing objection from the RRC regarding lack of authority to set the Job qualifications in Paragraph (c): lines 26-29 were removed. The quarterly visits are addressed in 10A NCAC 13J .1110 (c); lines 28-32. Additional technical changes were made for clarity purposes.

Fiscal Impact

There is no fiscal impact associated with the readoption of this rule.

Rule .1402 – Content of Record

The agency is proposing to readopt this rule with substantive changes. This rule contains the requirements for Content of Record for Home Care clients. Technical changes were made to remove ambiguity and for clarity that included reorganization of the text.

Fiscal Impact

There is no fiscal impact associated with the readoption of this rule.

Rule .1502 – Scope of services

The agency is proposing to readopt this rule with substantive changes. This rule contains the requirement for Scope of Services. In line 6 “comply for those clients” is deleted to remove ambiguity. Line 7 is being changed to add “or respite”. In line 8, the site address was added to identify where a copy of 10A NCAC 06A and 06X can be obtained. Respite services have been provided and reimbursed by Block Grant agencies for years. The word respite was inadvertently left out when the rule was promulgated in 2010; however the services were and are currently provided and reimbursed. In addition, there were several other technical changes made.

Fiscal Impact

There is no fiscal impact associated with the readoption of this rule

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3 **10A NCAC 13J .0901 DEFINITIONS**

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

- 5 (1) "Activities of Daily Living" (ADL) means mobility, eating, bathing, dressing, ~~toileting, and~~
6 ~~continence. and toileting.~~ and toileting.
- 7 (2) "Agency" means a home care agency.
- 8 (3) "Agency director" means the person having administrative responsibility for the operation of the
9 agency.
- 10 ~~(4) "Allied health personnel" means licensed practical nurses, physical therapy assistants, occupational~~
11 ~~therapy assistants or other health professionals as defined in occupational licensure laws that are~~
12 ~~subject to supervision by a health professional.~~
- 13 ~~(5) "Appropriate professional means a licensed health care professional or a person with a baccalaureate~~
14 ~~degree in social work or an individual who meets the job specifications established for a social~~
15 ~~worker by the Office of State Personnel.~~
- 16 ~~(6)~~ (4) "Client" means ~~a home care client.~~ as defined in G.S. 131E-136 (2b).
- 17 ~~(7)~~ (5) "Clinical respiratory services" means the provision of respiratory equipment and services that
18 involve the assessment of a client's pulmonary status, monitoring of a client's response to ~~therapy~~
19 therapy, and reporting to the client's physician. Procedures include: oximetry, blood gases, delivery
20 of medication via aerosolization, management of ventilatory support equipment, pulmonary
21 function ~~testing~~ testing, and infant monitoring.
- 22 ~~(8)~~ (6) "Department" means the North Carolina Department of Health and Human Services.
- 23 ~~(9)~~ (7) "Extensive Assistance" means a client is ~~totally~~ dependent or requires ~~weight-bearing support hands~~
24 ~~on assistance~~ more than half the time while performing part of an activity, ~~such as guiding or~~
25 ~~maneuvering of limbs~~, and meets one of the following criteria:
- 26 (a) ~~Requires~~ requires extensive assistance in more than two activities of daily living (ADLs),
27 as defined in Item (1) of this Rule; ~~or~~
- 28 (b) ~~Needs~~ needs an in-home aide to perform at least one task at the nurse aide II level; or
- 29 (c) ~~Requires~~ requires extensive assistance in more than one ADL and has a medical or
30 cognitive impairment as defined in ~~Item (19)~~ item (20) of this Rule.
- 31 ~~(10)~~ (8) "Follow-up care" means services provided to a licensed hospital's discharged ~~clients~~ client in their
32 ~~homes~~ home by a hospital's employees. No services except pulmonary care, pulmonary
33 ~~rehabilitation~~ rehabilitation, or ventilator services shall exceed three visits in any two month period
34 and shall not extend beyond a 12 month period following discharge.
- 35 ~~(11)~~ (9) "Governing body" means the person or group of persons having legal authority for the operation of
36 the agency.

- 1 ~~(12)~~ (10) "Hands-on care" means any home care service ~~which~~ that involves touching the patient in order to
2 implement the patient's plan of care.
- 3 (11) "Health care practitioner" means as defined in G.S. 90-640(a).
- 4 ~~(13)~~ (12) "Infusion nursing services" means those services related to the administration of pharmaceutical
5 agents directly into a body organ or cavity. Routes of administration include ~~but are not limited to~~
6 sub-cutaneous intravenous, intraspinal, ~~epidural~~ epidural, or intrathecal infusion. Administration
7 shall be by or under the supervision of a registered nurse in accordance with their legal scope of
8 practice.
- 9 ~~(14)~~ — "In-home aide" means ~~an individual who provides hands-on care to home care clients.~~
- 10 ~~(15)~~ (13) "In-home aide services" are hands-on ~~paraprofessional~~ services ~~which~~ that assist individuals, their
11 ~~family~~ family, or both with home management tasks, personal care tasks, or supervision of the
12 client's activities, or all of the above, to enable the individual, their family or both, to remain and
13 function ~~effectively at home as long as possible.~~ home.
- 14 ~~(16)~~ (14) "In-home care provider" means any individual who provides home care services as enumerated in
15 G.S. 131E-136.
- 16 (15) "Instrumental Activities of Daily Living" (IADL) means meal preparation, housekeeping,
17 medication reminders, shopping, errands, transportation, money management, phone use, reading,
18 and writing.
- 19 (16) "Licensed Clinical Social Worker" means as defined in G.S. 90B-3(6a).
- 20 (17) "Licensed practical nurse" means ~~a person licensed as such, pursuant to~~ as defined in G.S. 90-
21 ~~171.30.~~ G.S. 90-171.30 or G.S 90-171.32.
- 22 (18) "Limited Assistance" means care to a client who requires hands-on care involving guided
23 maneuvering of limbs with eating, toileting, bathing, dressing, personal hygiene, self-monitoring of
24 ~~medications~~ medications, or other tasks assigned that require weight bearing assistance half the time
25 or less during the activity and does not meet the definition of extensive assistance in ~~Item (9)~~ Item
26 (8) of this Rule.
- 27 (19) "Medical or cognitive impairment" means a diagnosis and client assessment that documents at least
28 one of the following:
- 29 (a) ~~Pain~~ pain that is present more than half the time that interferes with an individual's activity
30 or ~~movement.~~ movement;
- 31 (b) ~~Dyspnea~~ dyspneic or noticeably short of breath with minimal exertion during the
32 performance of ADLs and requires continuous use of ~~oxygen.~~ oxygen; or
- 33 (c) ~~Individual~~ individual is not alert and oriented or is unable to shift attention and recall
34 directions more than half the time.
- 35 ~~(20)~~ — "Medical social services" means ~~those professional services provided to individuals in their homes~~
36 ~~by a medical social worker, or by a medical social worker assistant under the supervision of a~~

1 medical social worker, when provided by an agency in conjunction with other nursing or therapy
2 services provided by the same agency.

3 ~~(21)~~ "Medical social worker" means a person with a master's degree from a school of social work
4 approved by the Council on Social Work Education who is eligible for certification by the North
5 Carolina Social Work Certification Licensure Board as a Certified Master Social Worker.

6 ~~(22)~~ "Medical social worker assistant" means a person who has a baccalaureate degree in social work,
7 psychology, sociology, or other field related to social work, and has had at least one year of social
8 work experience.

9 ~~(23)~~ (20) "Nursing registry" means a person or organization that maintains a list of nurses or in-home aides
10 or both that is made available to persons seeking nursing care or in-home aide services service, but
11 does not collect a placement fee from the worker or client, coordinate the delivery of services or
12 supervise or control the provision of services.

13 ~~(24)~~ (21) "Nursing services" means professional services provided by a registered nurse or a licensed practical
14 nurse under the supervision of a registered nurse.

15 ~~(25)~~ (22) "Occupational therapist" means a person licensed as such, pursuant to as defined in G.S. 90-270.70.
16 G.S. 90-270.67(2) or G.S. 90-270.72.

17 ~~(26)~~ (23) "Occupational therapist assistant" means a person licensed as such, pursuant to as defined in G.S.
18 90-270.70, G.S. 90-270.67(3) or G.S. 90-270.72.

19 ~~(27)~~ (24) "Occupational therapy services" means professional services provided by a licensed occupational
20 therapist or a licensed occupational therapist assistant under the supervision of a licensed
21 occupational therapist, as defined in G.S. 90-270.67(4).

22 ~~(28)~~ "Paraprofessional" means an in-home care provider who does not hold a professional license or
23 professional certification and through the nature of their duties assists a professional.

24 ~~(29)~~ (25) "On-call services" means unscheduled home care services made available to clients on a 24-hour
25 basis.

26 ~~(30)~~ (26) "Personal care" ~~includes tasks that range from~~ means assistance to an individual with basic personal
27 hygiene, grooming, feeding and ambulation to Activities of Daily Living and medical ~~monitoring~~
28 ~~and other health care related tasks.~~ monitoring.

29 ~~(31)~~ (27) "Physical therapist" means a person licensed as such, pursuant to as defined in G.S. 90-270.29, G.S.
30 90-270-24(2), G.S. 90-270-30, or G.S. 90-270-31(b).

31 ~~(32)~~ (28) "Physical therapist assistant" means a person licensed as such pursuant to as defined in G.S. 90-
32 270.29, G.S. 90-270.24(2) or G.S. 90-270-31(b).

33 ~~(33)~~ (29) "Physical therapy services" means professional services provided by a licensed physical therapist
34 or a licensed physical therapist assistant under the supervision of a licensed physical therapist. as
35 defined in G.S. 90-270.24(4).

36 ~~(34)~~ (30) "Physician" means a person licensed as such, pursuant to as defined in G.S. 90-15, G.S.90-9.1 or
37 G.S. 90-9.2.

1 ~~(35)~~ (31) "Plan of care" means the written description of the authorized home care services and tasks to be
2 provided to a client.

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

4 ~~(36)~~ (33) "Premises" means the location or licensed site ~~from which~~ that the agency provides home care
5 services or maintains client service records or advertises itself as a home care agency.

6 ~~(37)~~ (34) "Qualified" means suitable for employment as a consequence of having met the standards of
7 education, experience, ~~licensure~~ licensure, or certification established in the applicable job
8 description created and adopted by the agency.

9 ~~(38)~~ (35) "Registered nurse" means ~~a person licensed as such, pursuant to~~ as defined in G.S. 90-171.30.
10 G.S.90-171.30 or G.S. 90.171.32.

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

13 ~~(40)~~ (36) "Respiratory care practitioner" means ~~those persons licensed in the state of North Carolina who~~
14 ~~provide clinical respiratory services in a client's home.~~ as defined in G.S. 90-648 (12).

15 ~~(41)~~ (37) "Scope of services" means those specific services provided by a licensed agency as listed on their
16 home care license.

17 ~~(42)~~ (38) "Survey" means an inspection by the Division of Health Service Regulation in order to assess the
18 compliance of agencies with the home care licensure rules.

19 ~~(43)~~ (39) "Social worker" means ~~a person who meets the qualifications of the North Carolina Office of State~~
20 ~~Personnel for social workers.~~ as defined in G.S 90B-3(8).

21 ~~(44)~~ (40) "Speech and language pathologist" means ~~a person licensed as such, pursuant to~~ G.S. 90-294. as
22 defined in G.S. 90-293(5).

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

24 ~~(46)~~ (41) "Skilled Services" means all home care services enumerated in G.S. 131E-136(3) with the exception
25 of in-home aide services.

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

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

1 10A NCAC 13J .1004 is proposed for readoption with substantive changes as follows:

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

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

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

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

12 Data to be assessed shall include ~~at a minimum~~ the following:

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

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

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

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28 *History Note: Authority G.S. 131E-140;*
29 *Eff. July 1, 1992;*
30 *RRC Objection due to lack of statutory authority Eff. November 16, 1995;*
31 *Amended Eff. February 1, ~~1996.~~ 1996;*
32 *Readopted Eff. January 1, 2018.*

1 10A NCAC 13J .1007 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13J .1007 CLIENT RIGHTS AND RESPONSIBILITIES**

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

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

- 9 (1) ~~be informed and participate in their plan of care;~~
- 10 (2) ~~voice grievances about their care and not be subjected to discrimination or reprisal for doing so;~~
- 11 (3) ~~confidentiality of their records;~~
- 12 (4) ~~be informed of their liability for payment for services;~~
- 13 (5) ~~be informed of the process for acceptance and continuance of service and eligibility determination;~~
- 14 (6) ~~accept or refuse services;~~
- 15 (7) ~~be informed of the agency's on-call service;~~
- 16 (8) ~~be informed of supervisory accessibility and availability; and~~
- 17 (9) ~~be advised of the agency's procedures for discharge.~~

18 ~~(e) (b)~~ An agency shall provide all clients with a telephone number for information, questions, or complaints about
19 services provided by the agency. The agency shall also provide the Division of Health Service Regulation complaints
20 ~~hotline number or the Department of Health and Human Services Careline number.~~ notice to clients as defined in G.S.
21 131E-144.4. The Division of Health Service Regulation shall investigate all allegations of non-compliance with ~~the~~
22 ~~rules.~~ Rules of this Subchapter.

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

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26 *History Note: Authority G.S. 131E-140; 131E-144.3;*
27 *Eff. July 1, 1992;*
28 *Amended Eff. February 1, ~~1996.~~ 1996;*
29 *Readopted Eff. January 1, 2018.*

1 10A NCAC 13J .1107 is proposed for readoption with substantive changes as follows:

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

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

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

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

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

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

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

33 (f) Agencies providing in-home aide services shall provide availability of the registered nurse for supervision and
34 consultation.

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

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

5

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

7 *Eff. July 1, 1992;*

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

9 *Readopted Eff. January 1, 2018.*

1 10A NCAC 13J .1110 is proposed for readoption with substantive changes as follows:

2
3 **10A NCAC 13J .1110 SUPERVISION AND COMPETENCY OF ~~INHOME~~ IN-HOME AIDES OR**
4 **~~OTHER IN-HOME~~ CARE PROVIDERS**

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

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

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

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

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

33 ~~(e) A quarterly supervisory visit to the home of each client, by the appropriate professional supervisor for each type~~
34 ~~of in home care provider as specified in Paragraphs (a) and (b) of this Rule, shall meet the minimum requirement for~~
35 ~~supervision of any and all of the specified type of in home care providers who have provided service to the client~~
36 ~~within the quarter. The supervisory visit shall include review of the client's general condition, progress and response~~
37 ~~to the services provided by the specified type of in-home care provider.~~

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

3 (1) ~~date of visit;~~

4 (2) ~~findings of visit; and~~

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

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

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

17 ~~(h)~~ (f) ~~An appropriate professional~~ A health care practitioner conducting a supervisory visit for any ~~and all of a~~
18 specified type of in-home care provider may simultaneously conduct the quarterly case review as required in Rule
19 .1202 of this Subchapter.

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

23
24 *History Note: Authority G.S. 131E-140;*

25 *Eff. July 1, 1992;*

26 *Amended Eff. July 1, 1993;*

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

28 *Amended Eff. February 1, 1996;*

29 *Temporary Amendment Eff. April 1, 2006;*

30 *Amended Eff. November 1, 2006. 2006;*

31 *Readopted Eff. January 1, 2018.*

1 10A NCAC 13J .1202 is proposed for readoption with substantive changes as follows:

2

3 **10A NCAC 13J .1202 CASE REVIEW AND PLAN OF CARE**

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

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

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

- 18 (1) equipment required;
- 19 (2) functional limitations;
- 20 (3) rehabilitation potential;
- 21 (4) diet and nutritional needs;
- 22 (5) medications and treatments;
- 23 (6) specific therapies;
- 24 (7) pertinent diagnoses; and
- 25 (8) prognosis.

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

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

- 32 (1) quarterly assessment of client's condition and response;
- 33 (2) provision of regularly scheduled professional services; or
- 34 (3) supervision of ~~in-home aide or other allied health personnel.~~ in-home care provider.

35

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

37 *Eff. July 1, 1992;*

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

1 10A NCAC 13J .1402 is proposed for readoption with substantive changes as follows:

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

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

- 6 (1) Admission data:
- 7 (A) identification data such as name, address, telephone number, date of birth, sex, marital
8 status, and social security number; ~~all information essential to the identification of the~~
9 ~~client; and a copy of the signed client's right's form or documentation of its delivery;~~
 - 10 (B) ~~names of next of kin or legal guardian;~~ a copy of the signed client's rights form or
11 documentation of its delivery;
 - 12 (C) names of next of kin, legal guardian, or other family members;
 - 13 (D) source of referral; and
 - 14 (E) assessment of home environment.
- 15 (2) Service data:
- 16 (A) initial assessments by ~~appropriate professional~~ the health care practitioner of the client's
17 functional status in the areas of social, mental, physical health, environmental, economic,
18 ~~activities of daily living ADLs, and instrumental activities of daily living; IADLs;~~
 - 19 (B) identification of problems, the establishment of goals and proposed ~~intervention~~
20 intervention, and indication of the client's understanding of and approval for services to be
21 provided. If the client is diagnosed as not competent to understand the treatment plan,
22 competent, the approval of the client's responsible party shall be recorded;
 - 23 (C) a record of all services ~~provided, provided directly and by contract,~~ with entries dated and
24 signed by the individual providing the service. Records shall include dates and times of
25 ~~services provision; service;~~
 - 26 (D) discharge summary ~~which that~~ includes an overall summary of services provided by the
27 agency and the date and reason for discharge. When a specific service to a client is
28 terminated and other services continue, there shall be documentation of the date and reason
29 for terminating the specific service; and
 - 30 (E) evidence of coordination of services when the client is receiving more than one ~~home in-~~
31 home care service.

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

- 34 (1) Admission data:
- 35 (A) admission and discharge dates from hospital or other institution when applicable; and
 - 36 (B) names of physician(s) responsible for the client's care.
- 37 (2) Service data:

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

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

11 *Eff. July 1, 1992;*

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

13 *Readopted Eff. January 1, 2018.*

1 10A NCAC 13J .1502 is proposed for reoption with substantive changes as follows:

2

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

4 (a) If an agency provides In-home companion, sitter, or respite services, the services shall be provided in
5 accordance with the client's plan of care. Agencies participating in the Home and Community Care Block Grant or
6 Social Services Block Grant through the Division of Aging and Adult Services shall ~~comply, for those clients,~~
7 comply with the ~~companion or sitter service level~~ rules contained in 10A NCAC 06A and ~~10A NCAC 06X~~ 10A
8 NCAC 06X, which are hereby incorporated by reference ~~with all~~ including subsequent amendments and editions.
9 Copies of 10A NCAC 06A and 06X are available at [14 \(b\) ~~In-home Companion,~~ companion, sitter, or respite services personnel shall follow the service plan of care
15 written by ~~personnel required by agency policy for the services provided.~~ the in-home companion, sitter, or respite
16 services supervisor.](http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 10A -</u>
10 <u>Health and Human Services\Chapter 06 - AGING - PROGRAMS OPERATIONS</u> at no cost. All other agencies
11 providing companion and sitter <u>in-home companion, sitter, or respite</u> services shall comply with the provisions of
12 the rules in this Section <u>Section</u>, unless exempt from these rules. <u>subject to the provisions of the Rules of this</u>
13 <u>Subchapter.</u></p></div><div data-bbox=)

17

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

19 *Eff. January 1, ~~2010~~ 2010;*

20 *Readopted Eff. January 1, 2018.*