

April 24, 2020

Dear Adult Care Home and Family Care Home Providers:

As the situation surrounding COVID-19 continues to change rapidly, the attached Notice provides statewide waivers for certain licensing requirements applicable to Adult Care Homes and Family Care Homes licensed pursuant to N.C.G.S. § 131D, Article 1, and rules 10A NCAC 13F and 10A NCAC 13G without the need for providers to make individual requests, subject to the Waiver Terms and Conditions included in the attached Notice. These waivers are granted pursuant to N.C.G.S. § 131D-7 and the Director of Emergency Management's request for waiver of certain regulations.

The Department is taking major and unprecedented actions to protect the health, safety, and welfare of the people in North Carolina. We recommend all providers and staff follow our guidance, as well as guidance or instructions from health care providers, the federal Centers for Disease Control and Prevention (CDC), the North Carolina Department of Public Health (NC DPH) and local public health departments. This statewide waiver will expire at the conclusion of the Governor's emergency declaration or sooner as determined by the Department and is subject to the terms and conditions set forth in the Notice.

Should you have any questions about this Notice, please send an email to DHSR.AdultCare.Questions@dhhs.nc.gov.

Thank you for the care you are taking to ensure the health and safety of residents living in our adult care and family care homes.

Yours truly,

Megan

Megan Lamphere, MSW
Chief, Adult Care Licensure Section
Division of Health Service Regulation
N.C. Department of Health & Human Services



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**


ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

April 24, 2020

To: N.C. Licensed Adult Care Home & Family Care Home Providers

From: Megan Lamphere, Chief 
DHSR Adult Care Licensure Section

RE: Notice of Statewide Waivers of Certain Licensing Requirements Due to Novel Coronavirus Disease (COVID-19)

STATEWIDE WAIVERS
OF CERTAIN LICENSING REQUIREMENTS
FOR ADULT CARE HOMES (ACH) AND FAMILY CARE HOMES (FCH)
DUE TO NOVEL CORONAVIRUS DISEASE 2019 (COVID-19)

NOTICE

As the situation surrounding COVID-19 continues to change rapidly, this Notice provides statewide waivers for certain licensing requirements applicable to Adult Care Homes and Family Care Homes licensed pursuant to N.C.G.S. § 131D, Article 1, and rules 10A NCAC 13F and 10A NCAC 13G without the need for providers to make individual requests, subject to the following Waiver Terms and Conditions. These waivers are granted pursuant to N.C.G.S. § 131D-7 and the Director of Emergency Management's request for waiver of certain regulations.

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Personnel Requirements & Hiring New Staff

The following waivers are issued to enable new staff to begin providing care immediately in an adult care home or family care home. Documentation of each requirement below shall be maintained in the employee's personnel file as applicable.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

ADULT CARE LICENSURE SECTION

LOCATION: 801 Biggs Drive, Brown Building, Raleigh, NC 27603
MAILING ADDRESS: 2708 Mail Service Center, Raleigh, NC 27699-2708
www.ncdhhs.gov/dhstr/ • TEL: 919-855-3765 • FAX: 919-733-9379

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

1. **Tuberculosis Testing**, superseding 10A NCAC 13F .0406 and 10A NCAC 13G .0405, in accordance with the memorandum issued on April 16, 2020 from the N.C. Division of Public Health EPI/CD/TB Control Branch (https://epi.dph.ncdhhs.gov/cd/lhds/manuals/tb/Deferring_TB_testing_on_healthcare_new_hires_revised.pdf), providers may defer testing new employees for tuberculosis so long as the applicant employee successfully completes a baseline symptom screening for tuberculosis prior to starting work. In addition, any applicant employee showing symptoms of tuberculosis should undergo an appropriate evaluation, including chest radiography, prior to starting work. The facility must track all persons for whom testing is deferred and assure testing of these individuals at the conclusion of the State of Emergency.
2. **Criminal Background Check**, in accordance with Executive Order No. 130 (<https://files.nc.gov/governor/documents/files/EO130-Meeting-North-Carolinas-Health-and-Human-Services-Needs.pdf>) and superseding 10A NCAC 13F .0407(a)(7) and 10A NCAC 13G .0406(a)(7), the following direction applies to adult care facilities:

In areas where fingerprinting is currently unavailable, adult care homes and family care homes may temporarily accept a written verification from a potential new hire's current employer (or most recent employer within 30 days) in lieu of the national background check that would require fingerprinting to continue efforts to grow the pool of care providers and care givers. This authority applies only in areas of North Carolina where fingerprinting is not available.

The written verification is required to show that the potential new hire passed a national criminal history records check. The written verification must show that the potential new hire passed both the state and national portions of the background check while working for the current or previous employer. This does not waive the requirement to get a state-wide background check. A complete standard records check for the new hire is required as soon as possible, once fingerprinting is available, but in no case later than 30 days following the end of the State of Emergency.

3. **Personal Care Training and Competency**, superseding 10A NCAC 13F .0501(b) and 10A NCAC 13G .0501(b), employees of adult care facilities who provide personal care or who directly supervise those who provide personal care shall now have **nine (9) months** after the date of hiring to complete the 80-hour personal care training and competency evaluation program. However, facilities must still assure necessary supervision and on-the-job training for the employee, as provided in 10A NCAC 13F .0501(d) and 10A NCAC 13G .0501(g), until such time as the employee has successfully completed the personal care training and competency evaluation program. Documentation of on-the-job training shall be maintained in the employee's personnel record.

4. **Training on Care of Diabetic Residents**, superseding 10A NCAC 13F .0505 and 10A NCAC 13G .0505, adult care facilities may waive this training requirement so long as the hiring facility verifies that this training requirement was met at the applicant's *current*¹ place of employment.
5. **Family Care Home Administrator Renewal**, superseding 10A NCAC 13G .1503(b), Family Care Home Administrator Approvals set to expire on June 30, 2020, will now expire on **September 1, 2020**,

Resident Admissions & Other Requirements

1. **Tuberculosis Testing Upon Admission**, superseding 10A NCAC 13F .0703(a) and 10A NCAC 13G .0702(a), in accordance with the memorandum issued on April 16, 2020 from the N.C. Division of Public Health EPI/CD/TB Control Branch (https://epi.dph.ncdhhs.gov/cd/lhds/manuals/tb/Deferring_TB_testing_on_healthcare_new_hires_revised.pdf), providers may defer testing of new residents for tuberculosis, so long as the resident successfully completes a baseline symptom screening for tuberculosis upon admission. Documentation of the resident TB screening shall be maintained in the resident's record. According to the memorandum, any resident showing symptoms of tuberculosis should undergo an appropriate evaluation, including chest radiography. The facility must track all persons for whom testing is deferred and assure testing of these individuals at the conclusion of the State of Emergency.
2. **Annual Medical Exam**: Deadlines for providers to obtain a resident's annual medical exam via Form FL-2, North Carolina Medicaid Program Long Term Care Services, in accordance with 10A NCAC 13F .0703(c) and 10A NCAC 13G .0702(c), will be extended an **additional ninety (90) days**.
3. **Care Plan**: Deadlines for providers to ensure that a physician has authorized and certified a resident's care plan pursuant to 10A NCAC 13F .0802(e) and 10A NCAC 13G .0802(e) are extended an **additional forty-five (45) days** after the completion of the initial assessment or reassessment.
Note: This waiver pertains to licensure rules 10A NCAC 13F .0802(e) and 10A NCAC 13G .0802(e) and does not apply to service plans required by the Medicaid Personal Care Services program.

¹ At this time, this waiver only applies to staff who are current employees of an adult care home or family care home in North Carolina or those who have been employed within the past 30 days in an adult care home or family care home in North Carolina.

4. **Medication Orders:** Deadlines for providers to ensure a physician has countersigned any verbal orders for medication within fifteen (15) days pursuant to 10A NCAC 13F .1002(d)(1) and 10A NCAC 13G .1002(d)(1) are extended an **additional forty-five (45) days** after the verbal order for the medication was given.

5. **Pharmaceutical Care:** The provisions of 10A NCAC 13F .1009(a)(1) and 10A NCAC 13G .1009(a)(1) are not waived and still apply, however, the quarterly medication review for each resident as described in this rule may be conducted remotely.
Deadlines for providers to ensure the provisions in NCAC 13F .1009(a)(2)-(4) and 10A NCAC 13G .1009(a)(2)-(4) are met quarterly, are extended an **additional sixty (60) days** from the date of the last pharmaceutical review.

6. **Licensed Health Professional Support Quarterly Reviews and Evaluations:** Deadlines for providers to assure an appropriate licensed health professional has completed the required quarterly on-site review and evaluation pursuant to 10A NCAC 13F .0903(c) and 10A NCAC 13G .0903(c), for residents requiring assistance with any of the personal care tasks delineated in 10A NCAC 13F .0903(a) and 10A NCAC 13G .0903(a) will be extended **an additional sixty (60) days** from the date of the last quarterly review.

Visitation & Activities

1. **Visitation:** Other than end-of-life situations or other emergent situations as determined by the facility, all resident visitation should be suspended, superseding 10A NCAC 13F .0906 (f)(1)-(2) and 10A NCAC 13G .0906 (f)(1)-(2). Please refer to the Department's guidance on visitation, issued on March 13, 2020, available here <https://info.ncdhhs.gov/dhsr/acls/pdf/memo/NCDHHS-COVID-19-VisitationGuidance-for-LTCFacilities-2020-03-13.pdf>, and which remains in effect. In lieu of in-person visits, facilities shall make arrangements to the greatest extent possible for alternative means of communication between residents and their loved ones including phone calls, video calls, and online communications.

2. **Group Activities & Outings:** The requirements for group activities and outings for residents in 10A NCAC 13F .0905 and 10A NCAC 13G .0905 are waived. As recommended in guidance from the N.C. Division of Public Health on March 12, 2020 which was updated on March 25, 2020, facilities should immediately suspend all group activities and outings in order to prevent the spread of infection. However, facilities should still attempt to ensure residents are able to engage in activities of their choosing from their rooms to the greatest extent possible. Facilities should be mindful of and take measures to prevent the potential spread of infection via activity supplies if shared among multiple residents.

Nutrition & Food Service

1. **Disposable Place Settings:** In order to prevent the spread of infection, the use of disposable place settings is now permitted, superseding 10A NCAC 13F .0904(b)(2) and 10A NCAC 13G .0904(b)(2).

2. **Meal Times & Communal Dining:** As recommended in guidance from the N.C. Division of Public Health on March 12, 2020 which was updated on March 25, 2020, facilities should immediately suspend all communal dining and serve meals to residents in their rooms. If a facility is not able to implement this recommended practice, the facility should implement other measures to the greatest extent possible, including:
 - Staggering meal times to allow for a lesser number of residents in the dining room at one time.
 - Utilize other rooms not normally used for dining to be able to space residents further apart and still allow for social distancing and supervision of those residents who need it (activity room, living room, etc.).
 - Serve meals to residents who are independent and do not need supervision or feeding assistance in their rooms, and serve those who do need assistance and supervision in the dining room spaced at least 6 feet apart.
 - Serve any residents who are sick and showing signs of respiratory illness in their rooms.

Implementation of this recommendation supersedes rules 10A NCAC 13F .0904(g) and 10A NCAC 13G .0904(g), however, all residents should be served three (3) meals per day and three (3) snacks per day.

3. **Menus:** Menus shall be prepared according to the requirements of 10A NCAC 13F .0904(c) and 10A NCAC 13G .0904(c) insofar as possible. However, should certain menu items become unavailable, the use of substitutions is permitted so long as the substitution is within the same general food category as the original menu item (e.g. substituting a vegetable for a different vegetable).

Effect, Rescission, or Modification

The waivers set forth above are effective retroactive to April 11, 2020. The Department reserves the right to rescind, modify, or extend this waiver based upon new federal, state, or local directives or guidance. This statewide waiver shall expire on the 30th day after the Declaration of a State of Emergency, declared in Executive Order No. 116, is rescinded, or sooner as determined by the Department.