

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

Agency: North Carolina Medical Care Commission

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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 .0405 Qualifications of Food Service Supervisor
10A NCAC 13F .1213 Availability of Corrective Action and Survey Reports
10A NCAC 13G .0509 Food Service Orientation
10A NCAC 13G .1214 Availability of Corrective Action and Survey Reports

Rule Amendment (*See proposed text of these rules in Appendix*)

10A NCAC 13F .0509 Food Service Orientation

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

Introduction and Background

The Adult Care Licensure Section is proposing changes to clarify the experience needed for Food Service Supervisors in adult care homes and further clarify when a food service supervisor should consult with a dietitian. Additional technical changes clarify staff who are required to complete the food service manual. Technical changes to the rules update them to current standards according to statute and provide clarity to the types of reports providers should make available to residents, residents' families and other responsible persons. The technical changes are proposed for clarity and consistency but do not affect current operations. The proposed changes will have limited fiscal impact on adult care homes and family care homes as they are privately owned and are mostly in line with current practice based on recent surveys. The proposed changes will have no fiscal impact on the Adult Care Licensure Section.

Under the authority of G.S. 150B-21.3A, Periodic review of existing rules, the North Carolina Medical Care Commission and Rule 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 13G .0509, 13G .1214 and 13F .0405 and 13F .1213 are being presented for readoption with substantive changes. The following rule was 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: 10A NCAC 13F .0509. Most of the rules for both types of assisted living residences, adult care homes of seven beds or more and family care homes, are the same with the primary exception of staffing and physical plant requirements since they serve the same population based on need for care and services. Therefore, the 13F rules corresponding to the 13G rules being proposed for readoption with substantive changes are being amended concurrently to assure this traditional consistency. The rule proposed for amendment, while not receiving comment for substantive change, is being amended for clarification and updating purposes.

Rules Summary and Anticipated Fiscal Impact

10A NCAC 13F .0405 Qualifications of Food Service Supervisor: Technical changes were made to this rule to provide clarification on the experience of a food service supervisor and when to consult with a dietitian. Revisions to this rule also includes the deletion 13F .0405 (b) due to the reference to rules 10A NCAC 13G .0405 (c) and (d) no longer exist.

1. The rule as written requires food service supervisors to have experience in food service. The proposed rule language allows providers the opportunity to implement their hiring practices and employ food service supervisors based on the experience the provider determines will best meets the dietary needs of the residents and duties assigned as an employee of the facility.

Rationale: In a recent survey conducted by ACLS in January 2021 of adult care providers, 67% percent of providers reported hiring food service supervisors with at least one year of experience in food service and experience as a food service supervisor. The survey revealed while 26% of providers sought restaurant experience, 41% of experiences include working at other adult care and long-term care facilities, cafeterias, hospitals, resorts, culinary school, and as a certified dietary manager. This experience is consistent with the proposed language to reflect experience in commercial or institutional settings. The survey revealed providers promote dietary staff into the role of food service supervisor. Although food service supervisors have experience from varied food service roles, they are required to complete the additional training of the food service orientation manual in accordance with 13F .0509.

Fiscal Impact: There is no fiscal impact since the rule language was updated to reflect providers' current standards for hiring food service supervisors.

2. The current rule as written directs food service supervisors be willing to accept consultation from a dietitian. The proposed rule modifies the language to reflect the intent of the rule which directs food service supervisors to consult with a dietitian when there is an identified need for assistance related to rule 13F .0904.

Rationale: Adult Care providers establish the types of therapeutic diets they are able to prepare and serve to residents based on dietitian-approved therapeutic menus. The menus serve as guides to the unlicensed dietary staff on what to prepare and how to prepare food items for individuals with therapeutic diets. The need for consultation is primarily associated with therapeutic diets. Therapeutic diets provide limitations or modifies "the intake of certain foods or nutrients. It is part of the treatment of a medical

condition and are normally prescribed by a physician and planned by a dietician. A therapeutic diet is usually a modification of a regular diet. In therapeutics diets, modifications are done in nutrients, texture and food allergies or food intolerances” (Journal of Clinical Nutrition & Dietetics, 2021). Food Service Supervisors are required to have experience in settings where food is prepared for a variety of individuals and where foods prepared are based on therapeutic menus approved by dietitians. Adult Care facilities are not required to employ registered dietitians as part of their daily operations. In accordance with rule 10A NCAC 13F .0904(c)(6), therapeutic menus are to be planned or reviewed by registered dietitian.

Facilities are required to provide nutrition to residents based on daily food requirements as outlined in 10A NCAC 13F .0904(d). Residents without nutritional restrictions are considered on a regular diet. Any physician-ordered modification to residents’ nutritional intake, such as diet type, requires a therapeutic menu approved by a dietitian to provide guidance to the facility’s dietary staff as what foods to prepare and how to prepare food modification. Examples of therapeutic diets ordered by physicians include “No Concentrated Sweets” to reduce sugar intake for residents diagnosed with diabetes or “No Added Salt” to reduce sodium for hypertension. As a resident’s medical or nutritional needs change, a physician may order a therapeutic diet to address the resident’s need. A consultation with the dietitian may be needed when there is not an approved therapeutic diet to match the order. Providers may notify the physician of the types of therapeutic menus already approved by the dietitian and request the physician clarify the order by ordering the use of an existing therapeutic menu. A consultation with a dietitian may be needed to provide guidance to food service supervisors when ordered to change the texture of food or liquids or managing food preferences of newly admitted residents.

Fiscal Impact: There is no fiscal impact since consultation with a dietitian is required based on current rules. There is limited data on the frequency of dietary consultations required; however, dietitian hourly rate is approximately \$30/hour in North Carolina¹.

10A NCAC 13F .0509 & 13G .0509 Food Service Orientation: Technical changes were made to this rule to clarify the type of food service orientation training, who is required to complete the training and how to obtain copies of the training.

1. Both 13F .0509 and 13G .0509 requires food service staff to complete the orientation manual. Technical changes to the rule clarifies the staff required to complete the food service orientation manual.

Rationale: In family care homes, due to the size of the facility with a maximum capacity of 6 residents, there is primarily one staff preparing each meal. Unlike adult care facilities, due to the resident capacity, multiple food service staff are required to prepare and serve food to ensure the food service standards are met. In a December 2020 survey, adult care facilities reported, 55% employ between 1-5 food service staff.

Table 1: December 2020 ACLS Survey, Number of Food Service Staff at Adult Care Facilities

Number of Food Service Staff	Percentage of Adult Care Facilities
1-5 employees	55%
6-10 employees	35%
11-15 employees	6%
16-20 employees	2%
21 or more employees	2%

¹ (U.S. Bureau of Labor Statistics, 2019)

In the December 2020 survey, 61% of adult care facilities reported that all of their food service staff completed the food service orientation manual, while an additional 31% of facilities reported all food service staff, personal care aides and medication aides that are involved in serving food.

2. Technical changes were made to the rule to clarify the wording the required training for food service staff. The language as currently written refers to the required training as a food service “orientation program”. The proposed language was modified to reflect the name of the training which is food service “orientation manual”. The orientation manual includes a quiz for food service staff based on the information presented in the manual.

3. The rule as written provides a mailing address for copies of the Food Service Orientation manual. The proposed language removes the mailing address and provides an updated internet address where the orientation manual is available at no cost.

Fiscal Impact: There are no fiscal impacts to providers for the technical changes made to these rules.

10A NCAC 13F .1213 & 13G .1214 Availability of Corrective Action and Survey Reports: Technical changes were made to this rule to clarify the length of time survey reports and corrective action reports are to remain available at the facility for review by residents, residents’ family members and responsible persons.

Rationale: The Adult Care Licensure Section and local County Department of Social Services (DSS) are mandated to by N.C. Gen. Stat. §131D-2.11 to inspect and monitor facilities for regulatory compliance. Types of inspections conducted by ACLS at facilities include annual or biennial surveys and follow up or subsequent surveys related to identified deficient practice and complaint investigations. Local County DSS conduct quarterly routine monitoring and complaint investigations. Providers receive written reports for all ACLS inspections and Corrective Action Reports issued by local County DSS that result in noncompliance with rules.

N.C. Gen. Stat. §131D-2.11 outlines the frequency of inspections by ACLS based on facility’s rating effective in the year 2007. The facility’s rating determines if ACLS inspections of the facility will be annual or biennial. The rule as currently written does account for the statute including biennial inspections. The proposed rule language clarifies the type of survey reports required to be available to residents, residents’ family members and responsible persons. The proposed rule clarifies available to include within public view. The proposed rule updates the survey frequency to be consistent with the statute.

Fiscal Impact: There is no fiscal impact as providers were previously required to make these reports available. There is limited to no cost to provide the reports as these reports are mailed or hand-delivered to the facility.

Appendix

10A NCAC 13F .0405 is proposed for readoption with substantive changes as follows:

10A NCAC 13F .0405 QUALIFICATIONS OF FOOD SERVICE SUPERVISOR

~~(a) The~~ Each facility shall have a food service supervisor shall be experienced in food service in commercial or institutional settings and willing to accept consultation from who shall consult with a registered dietitian. dietitian as necessary, to meet the dietary needs of the residents in accordance with Rule .0904 of this Subchapter.

~~(b) Rule 10A NCAC 13G .0405 (c) and (d) shall control for this Subchapter.~~

*History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1987; April 1, 1984. 1984;
Readopted Eff. January 1, 2022.*

10A NCAC 13F .0509 is proposed for amendment as follows:

10A NCAC 13F .0509 FOOD SERVICE ORIENTATION

The food service supervisor and adult care home dietary staff person in charge of the preparation and serving of who prepare and serve food shall complete a food service orientation program manual established by the Department or an equivalent within 30 days of hire for those staff hired on or after July 1, 2004. hire. Registered dietitians are exempt from this orientation. The orientation program manual is available on the internet website, <http://facility-services.state.nc.us/gepage.htm>, or it is available at the cost of printing and mailing from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708. <https://info.ncdhhs.gov/dhsr/acls/pdf/foodsrvman.pdf>, at no cost.

*History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Temporary Adoption Expired March 12, 2005;
Eff. June 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, 2022.*

10A NCAC 13F .1213 is proposed for readoption with substantive changes as follows:

10A NCAC 13F .1213 AVAILABILITY OF CORRECTIVE ACTION AND SURVEY REPORTS

An adult care home shall make available to residents and their families or responsible persons and to prospective residents and their families or responsible persons, upon request and ~~within the facility, corrective action reports by the county departments of social services and facility survey reports by state licensure consultants that have been approved by the Adult Care Licensure Section of the Division of Health Service Regulation within the past 12 months.~~ in a publicly viewable place in the home the following:

- (1) the most recent annual or biennial and subsequent facility survey reports issued by the Adult Care Licensure Section of the Division of Health Service Regulation;
- (2) any other reports issued by the Adult Care Licensure Section of the Division of Health Service Regulation within the past 12 months; and
- (3) corrective action reports issued by the county department of social services within the past 12 months.

*History Note: Authority G.S. 131D-2.16; 143-165;
Eff. July 1, 2005- 2005;
Readopted Eff. January 1, 2022.*

10A NCAC 13G .0509 is proposed for readoption without substantive changes as follows:

10A NCAC 13G .0509 FOOD SERVICE ORIENTATION

~~The family~~ Family care home staff ~~person in charge of the preparation and serving of~~ who prepare and serve food shall complete a food service orientation ~~program manual~~ program manual established by the Department or an equivalent within 30 days of ~~hire for those staff hired on or after July 1, 2004.~~ hire. The orientation ~~program manual~~ program manual is available on the internet website, ~~http://facility-services.state.nc.us/gepage.htm, or it is available at the cost of printing and mailing from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699 2708.~~ <https://info.ncdhhs.gov/dhsr/acls/pdf/foodsrvman.pdf>, at no cost.

*History Note: Authority G.S. 131D-2.16; 131D-4.5; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Temporary Adoption Expired March 12, 2005;
Eff. June 1, 2005- 2005;
Readopted Eff. January 1, 2022.*

10A NCAC 13G .1214 is proposed for readoption with substantive changes as follows:

10A NCAC 13G .1214 AVAILABILITY OF CORRECTIVE ACTION AND SURVEY REPORTS

A family care home shall make available ~~within the facility, upon request, corrective action reports by the county departments of social services and facility survey reports by state licensure consultants that have been approved by the Adult Care Licensure Section of the Division of Health Service Regulation within the past 12 months to residents and their families or responsible persons and to prospective residents and their families or responsible persons.~~ to residents and their families or responsible persons and to prospective residents and their families or responsible persons, upon request and in a publicly viewable place in the home the following:

- (1) the most recent annual or biennial and subsequent facility survey reports issued by the Adult Care Licensure Section of the Division of Health Service Regulation;
- (2) any other survey reports issued by the Adult Care Licensure Section of the Division of Health Service Regulation within the past 12 months; and
- (3) corrective action reports issued by the county department of social services within the past 12 months.

*History Note: Authority 131D-2.16; 143B-165;
Eff. July 1, 2005- 2005;
Readopted Eff. January 1, 2022.*