



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

JOSH STEIN • Governor


DEV DUTTA SANGVAI • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

March 21, 2025

MEMORANDUM

TO: Licensed Mental Health, Developmental Disabilities, & Substance Use Services Facilities

FROM: Robin Sulfridge 
Chief, Mental Health Licensure and Certification Section

RE: EXPIRATION of Waiver/Modification of Enforcement of Mental Health Licensure and Certification Rules – 10A NCAC Chapter 27

The waivers and modifications issued on October 16, 2024, pursuant to the authority granted under N.C. Gen. Stat. § 122C-27.5 and listed herein, will expire effective March 23, 2025.

On September 25, 2024, Governor Roy Cooper issued Executive Order No. 315, Declaration of a Statewide State of Emergency for Tropical Storm Helene (“Helene State of Emergency”), declaring it likely that Tropical Storm Helene would cause significant impacts to the State of North Carolina. Governor Cooper declared that the anticipated impacts from Helene constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(20). Governor Cooper authorized the State of Emergency, with concurrence from the Council of State, pursuant to N.C. Gen. Stat. §§ 166A-19.10 and 166A-20, activating the powers and duties set forth therein to direct and aid in the response to, recovery from, and mitigation against emergencies.

On September 28, 2024, President Joseph R. Biden, Jr., declared that a major disaster exists in the State of North Carolina and ordered Federal aid to supplement State, tribal, and local recovery efforts in the areas affected by Tropical Storm Helene beginning on September 25, 2024, and continuing.

On September 28, 2024, Health and Human Services Secretary Xavier Becerra declared a public health emergency (PHE) stating, “as a result of the consequences of Hurricane Helene on the State of North Carolina, on this date and after consultation with public health officials as necessary, I, Xavier Becerra, Secretary of Health and Human Services, pursuant to the authority vested in me under section 319 of the Public Health Service Act, do hereby determine that a public health emergency exists and has existed since September 25, 2024, in the State of North Carolina.”

Secretary Becerra, as required under Section 1135(d) of the Social Security Act (the Act), 42 U.S.C. § 1320b-5, further notified that effective on October 1, 2024, certain HIPAA and Medicare, Medicaid, and Children’s Health Insurance Program requirements are waived or modified and that the waivers and/or modifications are necessary to carry out the purposes of Section 1135 of the Act.

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

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AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

N.C. Gen. Stat. § 122C-27.5 gives authority to the Division of Health Service Regulation (“DHSR”) to temporarily waive any rule implementing Article 2 of Chapter 122C pertaining to licensed mental health facilities in the event of a declaration of a state of emergency by the Governor in accordance with Article 1A of Chapter 166A of the General Statutes; a declaration of a national emergency by the President of the United States; a declaration of a public health emergency by the Secretary of the United States Department of Health and Human Services; to the extent necessary to allow for consistency with any temporary waiver or modification issued by the Secretary of the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services under Section 1135 or 1812(f) of the Social Security Act; or when DHSR determines the existence of an emergency that poses a risk to the health or safety of residents.

The following waivers were issued on October 16, 2024, pursuant to the authority granted under N.C. Gen. Stat. § 122C-27.5:

Training Extensions

1. **Training on Alternatives to Restrictive Interventions:** 10A NCAC 27E .0107(e) and (i) require that formal refresher training must be completed by each service provider periodically (minimum annually) and trainers shall teach a training program aimed at preventing, reducing, and eliminating the need for restrictive interventions at least once annually. The requirements are waived to allow for refresher training to be extended for an additional **one hundred eighty (180) days.**
2. **Training in Seclusion, Physical Restraint and Isolation Time-Out:** 10A NCAC 27E .0108(e) and (i)(6)(10) require formal refresher training must be completed by each service provider periodically (minimum annually) and that trainers shall teach a program on the use of restrictive interventions at least once annually. The requirements are waived to allow for refresher training to be extended for an additional **one hundred eighty (180) days.**

Staff Supervision

1. **Competencies and Supervision of Associate Professionals:** The deadline for the governing body for the facility to develop and implement policies for the initiation of an individualized supervision plan upon hiring an associate professional pursuant to 10A NCAC 27G .0203(f) is hereby extended **ninety (90) days.**
2. **Competencies and Supervision of Paraprofessionals:** The deadline for the governing body for the facility to develop and implement policies for the initiation of an individualized supervision plan upon hiring a paraprofessional pursuant to 10A NCAC 27G .0204(f) is hereby extended **ninety (90) days.**

Client Assessment and Treatment Planning

1. **Client Assessment:** For clients admitted to the facility with an existing treatment/habilitation or service plan, the deadline to complete the client assessment pursuant to 10A NCAC 27G .0205(a) shall be **sixty (60) days** after admission. During the period between admission and the client’s assessment, services shall be provided in accordance with the client’s existing treatment/habilitation or service plan.
2. **Client Treatment/Habilitation or Service Plan:** For clients admitted to the facility with an existing treatment/habilitation or service plan, the deadline to develop a treatment/habilitation or

service plan within 30 days of admission for clients who are expected to receive services beyond thirty days shall be extended to **ninety (90) days** from the date the assessment. During the period prior to the development of the treatment/habilitation or service plan, services shall be provided in accordance with the client's existing treatment/habilitation or service plan and any assessment conducted by the facility after the client's admission.

Partial Hospitalization

1. **Scope – Partial Hospitalization:** The requirement that Partial Hospitalization services must be provided at a Partial Hospitalization facility pursuant to 10A NCAC 27G .1101 is hereby waived. For the duration of this waiver, Partial Hospitalization services may be provided in a client's residence.
2. **Operating Hours – Partial Hospitalization:** The requirement that a Partial Hospitalization facility must operate for a minimum of four hours per day, five days per week (exclusive of transportation time) pursuant to 10A NCAC 27G .1103(b) is hereby waived in part. For the duration of the waiver, Partial Hospitalization facilities must operate a minimum of ten hours per week (exclusive of transportation time).

Psychosocial Rehabilitation (PSR)

1. **Operations – PSR:** The requirement that a Psychosocial Rehabilitation (PSR) facility must provide PSR services at its own facility pursuant to 10A NCAC 27G .1203(a) is hereby waived. For the duration of this waiver, PSR services may be provided in a client's residence.
2. **Operating Hours – PSR:** The requirement that a PSR facility must operate for a minimum of five hours per day, five days per week (exclusive of transportation time) pursuant to 10A NCAC 27G .1203(c) is hereby waived in part. For the duration of the waiver, PSR facilities must operate a minimum of ten hours per week (exclusive of transportation time).

Adult Developmental and Vocational Programs (ADVP)

1. **Scope – ADVP:** The requirement that an Adult Developmental and Vocations Program (ADVP) must have a majority of its activities be carried out on the premises of a site specifically designed for that purpose pursuant to 10A NCAC 27G .2301(d) is hereby waived. For the duration of this waiver, ADVP activities may be carried out in a client's residence.

Medically Monitored Inpatient Withdrawal Services

1. **Staff Training:** The requirement that direct care staff members of a Non-Hospital Medical Detoxification for Individuals who are Substance Abusers (Medically Monitored Inpatient Withdrawal Services) facility must receive continuing education as specified in 10A NCAC 27G .3102(e) is hereby waived for the duration of this waiver.

Ambulatory Withdrawal Management With & Without Extended On-Site Monitoring

1. **Staff Training:** The requirement that direct care staff members of Outpatient Detoxification for Substance Abuse (Ambulatory Withdrawal Management With Extended On-Site Monitoring programs and Ambulatory Withdrawal Management Without Extended On-Site Monitoring) programs must receive continuing education as specified in 10A NCAC 27G .3302(d) is hereby waived for the duration of this waiver.

Operations of Opioid Treatment Programs (OTPs)

1. **Staff Training – OTP:** The requirement that each direct care staff member shall receive continuing education as specified in 10A NCAC 27G .3603(c) is hereby waived for the duration of this waiver.
2. **Waiver of Rules for Unsupervised Take Home Methadone Doses:** DHSR hereby waives 10A NCAC 27G .3604(f)(1)(A)–(G), (f)(2)(A)–(C) and (f)(3)(A) and permits Opioid Treatment Programs (OTPs) in the Affected Counties to provide unsupervised medication as permitted under 42 C.F.R § 8.12(i). OTPs in the Affected Counties may provide unsupervised take-home doses of methadone in accordance with the following time in treatment standards: (1) If patient in treatment 0–14 days, up to 7 unsupervised take-home doses of methadone may be provided to the patient; (2) If patient in treatment 15–30 days, up to 14 unsupervised take-home doses of methadone may be provided to the patient; (3) If patient 31 or more days in treatment, up to 28 unsupervised take-home doses of methadone may be provided to the patient. OTP decisions regarding dispensing methadone for unsupervised use under this exemption shall be determined by an appropriately licensed OTP medical practitioner or the medical director. In all instances, it is within the clinical judgement of the OTP practitioner to determine the actual number of take-home doses within the ranges set forth above. In determining which patients may receive unsupervised doses, the medical director or program medical practitioner shall consider whether the therapeutic benefits of unsupervised doses outweigh the risks, with particular attention paid to the risks of a patient losing access to medication continuity during the State of Emergency.
3. **Random Testing – OTP:** The requirements that random testing for alcohol and other drugs shall be conducted on each active opioid treatment client at a minimum of one random drug test each month of continuous treatment, and that in two out of each three-month period of a client's continuous treatment episode, at least one random drug test will be observed by program staff, pursuant to 10A NCAC 27G .3604(h), are hereby waived. For the duration of this waiver, OTPs are not required to perform random drug tests of clients at any minimum interval, and OTPs are not required to have random drug tests observed by program staff at any minimum interval.

Substance Abuse Intensive Outpatient Program (SAIOP)

1. **Family Counseling – SAIOP:** The requirement that a SAIOP shall include in its services family counseling pursuant to 10A NCAC 27G .4401(c)(3) is hereby waived if the family is unavailable, sick, or unwilling to participate in telehealth or telephonic interventions. SAIOP shall continue to provide family counseling services when the circumstances permit.
2. **Drug Screening – SAIOP:** The requirement that a SAIOP shall include in its services biochemical assays to identify recent drug use (e.g. urine drug screens) pursuant to 10A NCAC 27G .4401(c)(9) is hereby waived. For the duration of this waiver, SAIOP is not required to perform drug screens of clients.

3. **Staff – SAIOP:** The requirement that a SAIOP's Licensed Clinical Addictions Specialist or Certified Clinical Supervisor be on site a minimum of 50% of the hours the program is in operation pursuant to 10A NCAC 27G .4402(a) is hereby waived. For the duration of this waiver, a SAIOP's Licensed Clinical Addictions Specialist or Certified Clinical Supervisor must be available virtually when program is in operation, but need not be on site for any minimum number of hours.
4. **Operations – SAIOP:** The requirement that a SAIOP shall operate in a setting separate from the client's residence pursuant to 10A NCAC 27G .4403 is hereby waived. For the duration of this waiver, SAIOP services may be provided in a client's residence.
5. **Operating Hours – SAIOP:** The requirement that a SAIOP must operate for a minimum of three hours per day at least three days per week, with a maximum of two days between offered services, pursuant to 10A NCAC 27G .4403(b), is hereby waived in part. Additionally, the requirement that a SAIOP shall provide services a minimum of nine hours per week for each client pursuant to 10A NCAC 27G .4403(d) is hereby waived in part. For the duration of the waiver, SAIOP must provide a minimum of 1.5 hours of treatment per day at least three days per week.

Substance Abuse Comprehensive Outpatient Treatment Program (SACOT)

1. **Family Counseling – SACOT:** The requirement that a SACOT shall include in its services family counseling pursuant to 10A NCAC 27G .4501(c)(3) is hereby waived if the family is unavailable, sick, or unwilling to participate in telehealth or telephonic interventions. SACOT shall continue to provide family counseling services when the circumstances permit.
2. **Drug Screening – SACOT:** The requirement that a SACOT shall include in its services biochemical assays to identify recent drug use (e.g. urine drug screens) pursuant to 10A NCAC 27G .4501(c)(9) is hereby waived. For the duration of this waiver, SACOT is not required to perform drug screens of clients.
3. **Staff – SACOT:** The requirement that a SACOT's Licensed Clinical Addictions Specialist or Certified Clinical Supervisor be on site a minimum of 90% of the hours the program is in operation pursuant to 10A NCAC 27G .4502(a) is hereby waived. For the duration of this waiver, a SACOT's Licensed Clinical Addictions Specialist or Certified Clinical Supervisor must be available virtually when program is in operation, but need not be on site for any minimum number of hours.
4. **Operations – SACOT:** The requirement that a SACOT shall operate in a setting separate from the client's residence pursuant to 10A NCAC 27G .4503(a) is hereby waived. For the duration of this waiver, SACOT services may be provided in a client's residence.
5. **Operating Hours – SACOT:** The requirement that a SACOT must operate at least four hours per day at least five days per week, with a maximum of two days between offered services, pursuant to 10A NCAC 27G .4503(c), is hereby waived in part. Additionally, the requirement that a SACOT shall provide services a minimum of twenty hours per week for each client pursuant to 10A NCAC 27G .4503(b) is hereby waived in part. For the duration of the waiver, SACOT must provide a minimum of two hours of treatment per day, at least five days per week.

The October 16, 2024, Memorandum stated that the waivers therein would remain in effect until rescinded by DHSR. The Public Health Emergency related to Hurricane Helene is scheduled to expire effective March 23, 2025. Consequently, the waivers listed herein will also expire effective March 23, 2025.

Should you have any questions about this memorandum or need additional information, please contact Robin Sulfridge, Chief of the Mental Health Licensure and Certification Section, at Robin.Sulfridge@dhhs.nc.gov.