



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

KODY H. KINSLEY • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

MEMORANDUM

TO: Substance Abuse Intensive Outpatient Programs Licensed under 10A NCAC 27G .4400
Substance Abuse Comprehensive Outpatients Programs Licensed under 10A NCAC 27G .4500

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

DATE: August 1, 2022

RE: Temporary Waivers or Modifications of Certain Rules

Pursuant to the authority vested in the United States Secretary of Health and Human Services (“Secretary”) under Section 319 of the Public Health Service Act, the Secretary determined that a public health emergency exists as a result of the consequences of the Coronavirus Disease 2019 (“COVID-19 Public Health Emergency”) since January 27, 2020. Former Secretary Azar previously renewed the determination that a public health emergency exists and has existed since January 27, 2020 nationwide on April 21, 2020, July 23, 2020, October 2, 2020, and January 7, 2021 and Secretary Becerra renewed the determination on April 15, 2021, July 19, 2021, October 15, 2021, January 14, 2022, April 12, 2022, and July 15, 2022.

Section 9E.2.(a) of North Carolina Session Law 2022-74 added North Carolina General Statute § 122C-27.5 giving the Division of Health Service Regulation (“DHSR”) the authority to temporarily waive any rules adopted to implement Article 2 of Chapter 122C in the event of a declaration of a public health emergency by the Secretary.

In response to the COVID-19 Public Health Emergency and after careful consideration, DHSR is waiving or modifying enforcement of the regulatory requirements contained in this memorandum. DHSR’s intent in issuing the following waivers is to protect the health, safety, and welfare of residents and visitors located in North Carolina and provide necessary relief to Substance Abuse Intensive Outpatient Programs Licensed under 10A NCAC 27G .4400 and Substance Abuse Comprehensive Outpatients Programs Licensed under 10A NCAC 27G .4500 in responding to the COVID-19 pandemic and to allow for more efficient treatment of patients.

The following blanket waivers will expire at the end of the COVID-19 Public Health Emergency or at such time as DHSR determines that an emergency no longer exists or at any time:

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

LOCATION: 1800 Umstead Drive, Williams Building, Raleigh, NC 27603

MAILING ADDRESS: 2718 Mail Service Center, Raleigh, NC 27699-2718

<https://ncnar.ncdhhs.gov/> • TEL: 919-855-3795 • FAX: 919-715-8078

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

PROGRAM	RULE / POLICY / LAW	DHSR RULE WAIVER
Substance Abuse Intensive Outpatient Program (SAIOP)	10A NCAC 27G .4403(b)	This Rule requires that each SAIOP operate at least three hours per day, at least three days per week with a maximum of two days between offered services The required minimum service availability of three hours per day three days per week is waived; but services must be provided a minimum of 1.5 hours of treatment per day, three days per week.
	10A NCAC 27G .4402 (b) and (c)	Rule requires the following: (b) when a SAIOP serves adult clients there shall be at least one direct care staff who meets the requirements of a Qualified Professional as set forth in 10A NCAC 27G .0104 (18) for every 12 or fewer adult clients. (c) When a SAIOP serves adolescent clients there shall be at least one direct care staff who meets the requirements of a Qualified Professional as set forth in 10A NCAC 27G .0104 (18) for every 6 or fewer adolescent clients. The required client to staff ratio is waived if service is provided outside of the facility.
	10A NCAC 27G .4401(c)(9)	This Rule requires that each SAIOP have a structured program that includes biochemical assays to identify recent drug use (e.g. urine drug screens). The Urine Drug Screening requirements are waived.
	10A NCAC 27G .4401(c)(3)	This Rule requires that each SAIOP have a structured program which includes family counseling. The requirement for family counseling is waived if the family is unavailable, sick, or unwilling to participate in telehealth or telephonic interventions.
	<u>10A NCAC 27G .4403(a)</u>	The requirements are waived to allow for service to be provided outside of the facility by telehealth, telephonically or in-person, including in the person's residence.
Substance Abuse Comprehensive Outpatient Treatment (SACOT)	10A NCAC 27G .4503(c)	This Rule requires that each SACOT operate at least four hours per day, at least five days per week with a maximum of two days between offered services. The requirement for a minimum service availability of four hours per day, five days per week is waived; but a minimum of two hours per day, five days per week must be provided.
	10A NCAC 27G .4501(c)(9)	This Rule requires that each SACOT have a structured program that includes biochemical assays to identify recent drug use (e.g. urine drug screens). The Urine Drug Screening requirements are waived.
	10A NCAC 27G .4501(c)(3)	This Rule requires that each SACOT have a structured program that includes family counseling. The requirement for family counseling is waived if family is unavailable, sick or unwilling to participate in telehealth or telephonic interventions.
	10A NCAC 27G .4503(a)	The requirement for services to be offered in a setting separate from the client's residence is waived to allow services to be provided outside of the facility by telehealth, telephonically or in-person, including in the person's residence.

cc: Julie Cronin
Bethany Burgon
Emery Milliken
Mark Payne