

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**The North Carolina Medical Care Commission  
809 Ruggles Drive  
Raleigh, North Carolina**

**MINUTES**

**CALLED MEETING OF THE EXECUTIVE COMMITTEE  
CONFERENCE TELEPHONE MEETING ORIGINATING  
FROM THE COMMISSION'S OFFICE  
AUGUST 21, 2014  
2:00 P.M.**

**Members of the Executive Committee Present:**

Joseph D. Crocker, Vice-Chairman  
George A. Binder, MD  
George H.V. Cecil  
Albert F. Lockamy, RPh  
Mary L. Piepenbring  
Carl K. Rust, MD

**Members of the Executive Committee Absent:**

John A. Fagg, MD, Chairman

**Members of Staff Present:**

Drexdal R. Pratt, DHSR Director/NCMCC Secretary  
Christopher B. Taylor, CPA, Assistant Secretary  
Megan Lamphere, DHSR Rule-Making Coordinator  
Alice S. Creech, Bond Program Assistant

**Others Present:**

Alice Adams, Robinson Bradshaw & Hinson, PA  
Tommy Brewer, Ziegler  
John Franklin, BB&T Capital Markets  
Michelle Le, BB&T Capital Markets  
Allen Robertson, Robinson Bradshaw & Hinson, PA  
Bob Zimmer, Galloway Ridge

1. **Purpose of Meeting**

(1) To authorize the sale of bonds, the proceeds of which are to be loaned to Galloway Ridge, Inc., (2) To authorize the execution and delivery of a First Supplemental Trust Agreement for the 2009A Bonds issued for the benefit of The United Methodist Retirement Homes, Incorporated, the successor by merger to Cypress Glen Retirement Community, (3) A final resolution to approve the change from Bank of New York Mellon to Regions Bank as Master Trustee and Bond Trustee for all of Novant Health NCMCC Bond Issues and (4) A memorandum requesting that the NCMCC Executive Committee grant approval for Division of Health Service Regulation to move forward with the repeal of Subchapter 10A NCAC 13H, Licensing of Homes for Developmentally Disabled Adults.

2. **Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of \$15,495,000 North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Refunding Bonds (Galloway Ridge Project) Series 2014A –**

Remarks were made by John Franklin, Michelle Le, and Allen Robertson.

**Executive Committee Action:** A motion was made by Mr. George Cecil, seconded by Mr. Al Lockamy, and unanimously approved with Dr. Carl Rust abstaining from the vote.

WHEREAS, the North Carolina Medical Care Commission (the “Commission”) is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the “Act”), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities (including retirement facilities); and

WHEREAS, Galloway Ridge, Inc. (the “Corporation”) is a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina and is a “nonprofit agency” within the meaning of the Act; and

WHEREAS, the Corporation has made application to the Commission for a loan for the purpose of providing funds, together with other available funds, to (a) refund the outstanding principal amount of the Commission’s Retirement Facilities First Mortgage Revenue Bonds (Galloway Ridge Project), Series 2010B (the “2010B Bonds”), (b) fund a debt service reserve fund and (c) pay certain expenses incurred in connection with the issuance of the Bonds by the Commission; and

WHEREAS, proceeds of the 2010B Bonds were used, together with other funds, to (a) refund a portion of existing taxable bank loans, the proceeds of which were used to refinance a portion of the costs of acquiring, constructing and equipping a continuing care retirement community known as Galloway Ridge located at 3000 Galloway Ridge, Pittsboro, Chatham County, North Carolina (the “Community”), (b) pay a portion of the cost of an expansion of the Community, including (i) the

construction and equipping of 66 new independent living apartment units and one independent living villa, (ii) the construction and equipping of 29 assisted living units (15 of which are designated for dementia care and 14 of which are designated as multi-unit assisted housing with services), (iii) the construction and equipping of 24 skilled nursing beds, and (iv) the addition and renovation of common areas, (c) pay interest on the new money portion of the 2010B Bonds (as defined below) for approximately 24 months, (d) fund a debt service reserve fund, and (e) pay certain expenses incurred in connection with the issuance of the 2010B Bonds by the Commission; and

WHEREAS, the Commission has determined that the public will best be served by the proposed refinancing and, by a resolution adopted on July 10, 2014, has approved the issuance of the Bonds, subject to compliance by the Corporation with the conditions set forth in such resolution, and the Corporation has complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there have been presented at this meeting draft copies of the following documents relating to the issuance of the Bonds:

(a) a Contract of Purchase, dated August 21, 2014 (the "Purchase Agreement"), between BB&T Capital Markets, a division of BB&T Securities, LLC (the "Underwriter") and the Local Government Commission of North Carolina (the "LGC"), and approved by the Commission and the Corporation, pursuant to which the Underwriter has agreed to purchase the Bonds on the terms and conditions set forth therein and in the Trust Agreement (as defined below);

(b) a Trust Agreement, dated as of September 1, 2014 (the "Trust Agreement"), between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the "Bond Trustee"), the provisions of which relate to the issuance of and security for the Bonds and includes the form of the Bonds;

(c) a Loan Agreement, dated as of September 1, 2014 (the "Loan Agreement"), between the Commission and the Corporation, pursuant to which the Commission will lend the proceeds of the Bonds to the Corporation;

(d) a Supplemental Indenture for Obligation No. 5, dated as of September 1, 2014 ("Supplement No. 5"), between the Corporation and The Bank of New York Mellon Trust Company, N.A., as master trustee (the "Master Trustee") under the Master Trust Indenture, dated as of October 1, 2010 (as supplemented and amended, the "Master Indenture") between the Corporation and the Master Trustee;

(e) Obligation No. 5, to be dated the date of delivery of the Bonds ("Obligation No. 5"), to be issued by the Corporation to the Commission;

(f) a First Amendment to Deed of Trust, dated as of September 1, 2014 (the "First Amendment to Deed of Trust"), among the Corporation, the trustee named therein and the Master Trustee, amending the Deed of Trust, dated as of October 1, 2010 (the

“Corporation Deed of Trust”), from the Corporation to the trustee named therein for the benefit of the Master Trustee; and

(g) a Preliminary Official Statement, dated August 7, 2014, relating to the Bonds (the “Preliminary Official Statement”); and

WHEREAS, the Commission has determined that the Corporation is financially responsible and capable of fulfilling its obligations under the Loan Agreement, the Master Indenture, Supplement No. 5 and Obligation No. 5; and

WHEREAS, the Commission has determined that adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Capitalized words and terms used in this Series Resolution and not defined herein shall have the same meanings in this Series Resolution as such words and terms are given in the Master Indenture, the Trust Agreement and the Loan Agreement.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Refunding Bonds (Galloway Ridge Project) Series 2014A (the “Bonds”), in the aggregate principal amount of \$15,495,000. The Bonds shall mature in such amounts and at such times and shall bear interest at such rates as are set forth in Schedule 1 attached hereto. The Bonds designated as Term Bonds shall be subject to the Sinking Fund Requirements set forth in Schedule 1 hereto.

The Bonds shall be issued as fully registered bonds in the denominations of \$5,000 or any whole multiple thereof. The Bonds shall be issued in book-entry form as provided in the Trust Agreement. Interest on the Bonds shall be paid on each January 1 and July 1, beginning January 1, 2015. Payments of principal of and interest on the Bonds shall be made to the registered owners of the Bonds in such manner as is set forth in the Trust Agreement.

Section 3. The Bonds shall be subject to optional, extraordinary and mandatory sinking fund redemption, all at the times, upon the terms and conditions, and at the prices set forth in the Trust Agreement.

Section 4. The proceeds of the Bonds shall be applied as provided in Section 2.08 of the Trust Agreement. The Commission hereby finds that the use of the proceeds of the Bonds for a loan to refund the outstanding 2010B Bonds, fund a debt service reserve fund and pay costs of issuing the Bonds will accomplish the public purposes set forth in the Act.

Section 5. The forms, terms and provisions of the Trust Agreement and the Loan Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Trust

Agreement and the Loan Agreement in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 6. The form, terms and provisions of the Purchase Agreement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) is hereby authorized and directed to execute and deliver the Purchase Agreement in substantially the form presented at this meeting, together with such changes, modifications, insertions and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. The forms of the Bonds set forth in the Trust Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such forms of the Bonds, and to deliver to the Bond Trustee for authentication on behalf of the Commission, the Bonds in definitive form, which shall be in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary, appropriate and consistent with the Trust Agreement, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. The forms, terms and provisions of Supplement No. 5, Obligation No. 5 and the First Amendment to Deed of Trust are hereby approved in substantially the forms presented to this meeting, together with such changes, modifications and deletions as the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission, with the advice of counsel may deem necessary and appropriate; and the execution and delivery of the Trust Agreement as provided in Section 5 of this Series Resolution shall be conclusive evidence of the approval of the documents listed in this Section by the Commission.

Section 9. The Commission hereby approves the action of the Local Government Commission in awarding the Bonds to the Underwriter at the purchase price of \$15,223,597.90 (representing the principal amount of the Bonds less net original issue discount of \$239.60 and underwriter's discount of \$271,162.50).

Section 10. Upon their execution in the form and manner set forth in the Trust Agreement, the Bonds shall be deposited with the Bond Trustee for authentication, and the Bond Trustee is hereby authorized and directed to authenticate the Bonds and, upon the satisfaction of the conditions set forth in Section 2.08 of the Trust Agreement, the Bond Trustee shall deliver the Bonds to the Underwriter against payment therefor.

Section 11. The Commission hereby approves and ratifies the use and distribution of the Preliminary Official Statement and approves the use and distribution of a final Official Statement

(the “Official Statement”), both in connection with the sale of the Bonds. The Chairman, Vice Chairman, Secretary or any Assistant Secretary (or any member of the Commission designated by the Chairman) is hereby authorized to execute, on behalf of the Commission, the Official Statement in substantially the form of the Preliminary Official Statement, together with such changes, modifications and deletions as they, with the advice of counsel, may deem appropriate. Such execution shall be conclusive evidence of the approval thereof by the Commission. The Commission hereby approves and authorizes the distribution and use of copies of the Official Statement, the Trust Agreement, the Loan Agreement, the Master Indenture, Supplement No. 5, Obligation No. 5 and the Corporation Deed of Trust by the Underwriter in connection with such sale.

Section 12. The Bank of New York Mellon Trust Company, N.A. is hereby appointed as the initial Bond Trustee for the Bonds.

Section 13. The Depository Trust Company, New York, New York is hereby appointed as the initial Securities Depository for the Bonds, with Cede & Co., a nominee thereof, being the initial Securities Depository Nominee and initial registered owner of the Bonds.

Section 14. Drexdal R. Pratt, Secretary of the Commission, Christopher B. Taylor, C.P.A., Assistant Secretary of the Commission, Steven Lewis, Chief of the Construction Section of the Division of Health Service Regulation, and Kathy C. Larrison and Crystal Watson-Abbott, Auditors for the Commission, are each hereby appointed a Commission Representative as that term is defined in the Loan Agreement, with full power to carry out the duties set forth therein.

Section 15. The Chairman, Vice Chairman, Secretary, and any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are each hereby authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the refunding of the 2010B Bonds and the transactions contemplated by the Trust Agreement, the Loan Agreement, and the Purchase Agreement.

Section 16. This Series Resolution shall take effect immediately upon its passage.

3. **Resolution of the North Carolina Medical Care Commission Approving and Authorizing Execution and Delivery of a First Supplemental Trust Agreement Relating to the North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Refunding Bonds (Cypress Glen Retirement Community), Series 2009A (the “Bonds”)** – Remarks were made by Tommy Brewer and Allen Robertson.

**Executive Committee Action:** A motion was made by Ms. Mary Piepenbring, seconded by Dr. George Binder and unanimously approved with Dr. Carl Rust abstaining from the vote.

WHEREAS, the North Carolina Medical Care Commission (the “Commission”), a commission of the Department of Health and Human Services of the State of North Carolina, issued \$6,585,000 aggregate principal amount of its Retirement Facilities First Mortgage Revenue

Refunding Bonds (Cypress Glen Retirement Community), Series 2009A, of which \$5,955,000 aggregate principal amount is outstanding (the “Bonds”), pursuant to the terms of a Trust Agreement dated as of October 1, 2009 (the “Trust Agreement”) between the Commission and First-Citizens Bank & Trust Company, succeeded by U.S. Bank National Association, as trustee (the “Bond Trustee”); and

WHEREAS, the Commission loaned the proceeds of the Bonds to Cypress Glen Retirement Community, a North Carolina nonprofit corporation (“Cypress Glen”), pursuant to a Loan Agreement dated as of October 1, 2009 (the “Agreement”) between the Commission and Cypress Glen; and

WHEREAS, as evidence of its obligation to make payments under the Agreement, Cypress Glen executed and delivered Obligation No. 4 dated as of October 15, 2009 (“Obligation No. 4”) to the Commission pursuant to a Master Trust Indenture dated as of March 15, 2004 (the “Cypress Glen Master Indenture”) between Cypress Glen and First-Citizens Bank & Trust Company, succeeded by U.S. Bank National Association, as trustee; and

WHEREAS, simultaneously with the issuance of the Commission’s Retirement Facilities First Mortgage Revenue Refunding Bonds (The United Methodist Retirement Homes), Series 2013A, in the aggregate principal amount of \$8,370,000 (the “2013A Bonds”), Cypress Glen became a Member of the Obligated Group established under the Amended and Restated Master Trust Indenture, dated as of February 1, 2005 (as amended or supplemented from time to time in accordance with its terms, the “Master Indenture”), between The United Methodist Retirement Homes, Incorporated (the “Corporation”), The United Methodist Retirement Homes Foundation (the “Foundation”) and First-Citizens Bank & Trust Company, succeeded by U.S. Bank National Association, as trustee (the “Master Trustee”); and

WHEREAS, upon the receipt of the requisite consents of the holders of outstanding Obligations under the Cypress Glen Master Indenture, which occurred simultaneously with the issuance of the 2013A Bonds, the Cypress Glen Master Indenture was amended by substituting the Master Indenture in its entirety therefor; and

WHEREAS, upon the substitution of the Master Indenture for the Cypress Glen Master Indenture, Cypress Glen issued Obligation No. 13 dated as of April 11, 2013 (“Obligation No. 13”) under the Master Indenture and Supplemental Indenture for Obligation No. 13 dated as of April 1, 2013 (“Supplement No. 13”) between the Corporation, Cypress Glen, the Foundation and the Master Trustee to evidence its obligations under the Agreement and substituted Obligation No. 13 for Obligation No. 4, which was cancelled; and

WHEREAS, effective October 1, 2013, Cypress Glen merged with and into the Corporation, with the Corporation as the surviving entity; and

WHEREAS, the Bonds were purchased upon their initial issuance and continue to be held by Branch Banking and Trust Company (the “Bank Holder”); and

WHEREAS, since their initial issuance, the Bonds have been bearing interest at a Bank-Bought Rate (as defined in the Trust Agreement) equal to 68% of One-Month LIBOR plus 1.625% per annum; and

WHEREAS, during the initial Bank-Bought Rate Period (as defined in the Trust Agreement), the Bonds are subject to mandatory tender upon notice by the Majority Bank Holders (as defined in the Trust Agreement) on or after the last day of the Bank-Bought Minimum Holding Period (as defined in the Trust Agreement), which was initially specified to be October 1, 2014; and

WHEREAS, the Bank has proposed to reduce the Bank-Bought Rate to 68% of One-Month LIBOR plus 1.1325% per annum and extend the Bank-Bought Minimum Holding Period to October 1, 2024 (the “Modifications”);

WHEREAS, the Modifications will be treated as a “reissuance” (i.e., a deemed current refunding) of the Bonds for federal income tax purposes; and

WHEREAS, Section 11.02 and 11.08 of the Trust Agreement permit the Commission and the Bond Trustee, with the consent of the Bank Holder as the Holder (as defined in the Trust Agreement) of 100% of the Bonds, to enter into agreements supplemental to the Trust Agreement to make any change to the Trust Agreement;

WHEREAS, by a resolution adopted on August 12, 2014, the Commission preliminarily approved the Modifications, subject to compliance by the Corporation with the conditions set forth in such resolution, and the Corporation has complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there has been presented at this meeting a draft copy of a First Supplemental Trust Agreement, to be dated the date of delivery thereof (the “Supplement”) between the Commission and the Bond Trustee, that would amend the Trust Agreement to make the Modifications and certain other technical changes to reflect the merger of Cypress Glen into the Corporation, the substitution of the Master Indenture for the Cypress Glen Master Indenture and the issuance of Obligation No. 13 to replace Obligation No. 4; and

WHEREAS, the Corporation has requested that the Commission approve the Supplement and authorize its execution and delivery;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. The form, terms and provisions of the Supplement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) is hereby authorized and directed to execute and deliver the Supplement in substantially the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of bond counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.



As set forth in the Trust Agreement, the Bonds mature on October 1, 2034 and are subject to the Sinking Fund Requirements set forth in Schedule 1 hereto.

Section 2. The Chairman, Vice Chairman, Secretary or Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) or any duly authorized Commission Representative under the Trust Agreement are authorized and directed to execute and deliver a replacement Bond reflecting the terms of the Supplement to the Bank Holder and to take such other action and to execute and deliver any such other documents, certificates, undertakings, agreements or other instruments as they, with the advice of bond counsel, may deem necessary or appropriate to effect the changes made in the Supplement and the reissuance of the Bonds.

Section 3. This Resolution shall take effect immediately upon its passage.

### Schedule 1

#### Required Redemption of the Bonds

<u>October 1,</u>	<u>Amount</u>	<u>October 1,</u>	<u>Amount</u>
2023	\$1,025,000	2026	\$1,275,000
2024	1,225,000	2033	600,000
2025	1,250,000	2034*	1,210,000

\* Final Maturity

#### Professional Fees Comparison for UMRH Series 2009A Bonds (2014 Reissuance)

<u>Professional</u>	<u>Fees Estimated In Preliminary Approval Resolution</u>	<u>Actual Fees</u>
Bank counsel	\$ 3,500	\$ 3,500.00
Bond counsel	15,000	15,000.00
Corporation counsel	9,500	9,500.00
Structuring agent fee	20,895	20,842.50

Schedule 1

**2014A Bonds**

\$90,000 Serial Bonds

<u>Due January 1</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2016	\$10,000	2.00%
2017	10,000	2.00
2018	10,000	3.00
2019	10,000	3.00
2020	10,000	3.00
2021	10,000	3.00
2022	10,000	4.00
2023	10,000	4.00
2024	10,000	4.00

\$105,000 4.875% Term Bonds due January 1, 2034

<u>Due January 1</u>	<u>Sinking Fund Requirement</u>
2025	\$10,000
2026	5,000
2027	10,000
2028	10,000
2029	10,000
2030	10,000
2031	10,000
2032	15,000
2033	10,000
2034	15,000

\$15,300,000 5.25% Term Bonds due January 1, 2041

<u>Due January 1</u>	<u>Sinking Fund Requirement</u>
2035	\$ 15,000
2036	15,000
2037	15,000
2038	2,940,000
2039	2,215,000
2040	4,920,000
2041	5,180,000

Professional Fees Comparison for  
Galloway Ridge, Inc.

<u>Professional</u>	<u>Fees Estimated In Preliminary Approval Resolution</u>	<u>Actual Fees</u>
Underwriter's discount (includes Underwriter's counsel)	\$272,388 (Underwriter's counsel, \$50,000)	\$271,162.50 (Underwriter's counsel, \$50,000)
Feasibility Consultant	45,000	46,500
Accountant	N/A	26,000
Corporation Counsel	35,000	35,000
Bond Counsel	60,000	60,000

4. **Resolution of the North Carolina Medical Care Commission Approving the (1) Appointment of Regions Bank as successor Bond Trustee for the Series 2004 Bonds, Series 2006 Bonds, Series 2008 Bonds, Series 2010 Bonds and Series 2013A Bonds issued for the benefit of Novant Health, Inc. ("Novant"), (2) Appointment of Regions Bank as successor Tender Agent for the Series 2004 Bonds and Series 2008 Bonds issued for the benefit of Novant and (2) Appointment of Regions Bank as successor Master Trustee under Novant's Master Trust Indenture** – Remarks were made by Alice Adams.

**Executive Committee Action:** A motion was made by Mr. George Cecil, seconded by Dr. Carl Rust and unanimously approved.

**WHEREAS,** The Bank of New York Mellon Trust Company, N.A. ("BNY Mellon"), a national banking association duly organized and existing under the laws of the United States of America, serves as the master trustee under the Master Trust Indenture (Amended and Restated) dated as of June 1, 2003 (as amended and supplemented, the "Master Indenture") among Novant Health, Inc. (the "Borrower" or Novant"), Forsyth Memorial Hospital, Inc., The Presbyterian Hospital and Wachovia Bank, National Association, succeeded by BNY Mellon, as master trustee (the "Master Trustee"); and

**WHEREAS,** the North Carolina Medical Care Commission (the "Commission"), a commission of the Department of Health and Human Services of the State of North Carolina, has issued its Variable Rate Demand Health Care Facilities Revenue Bonds (Novant Health Obligated Group), Series 2004 (the "2004 Bonds"), consisting of Series 2004A Bonds (the "2004A Bonds") and Series 2004B Bonds (the "2004B Bonds"), pursuant to a Trust Agreement, dated as of December 1, 2004 (as amended, the "2004 Trust Agreement"), between the Commission and BNY

Mellon, as bond trustee, and loaned the proceeds thereof to the Borrower pursuant to a Loan Agreement, dated as of December 1, 2004, between the Commission and the Borrower; and

**WHEREAS**, the Commission has issued its Health Care Facilities Revenue Bonds (Novant Health Obligated Group), Series 2006 (the “2006 Bonds”) pursuant to a Trust Agreement, dated as of December 1, 2006 (as amended, the “2006 Trust Agreement”), between the Commission and BNY Mellon, as bond trustee, and loaned the proceeds thereof to the Borrower pursuant to a Loan Agreement, dated as of December 1, 2006, between the Commission and the Borrower; and

**WHEREAS**, the Commission has issued its Variable Rate Demand Health Care Facilities Revenue Refunding Bonds (Novant Health Obligated Group), Series 2008 (the “2008 Bonds”), consisting of Series 2008A Bonds (the “2008A Bonds”), Series 2008B Bonds (the “2008B Bonds”) and Series 2008C Bonds (the “2008C Bonds”), pursuant to (1) an Amended and Restated Trust Agreement dated as of March 23, 2011 (the “2008A Trust Agreement”), between the Commission and BNY Mellon, as bond trustee, (2) an Amended and Restated Trust Agreement dated as of March 23, 2011 (the “2008B Trust Agreement”), between the Commission and BNY Mellon, as bond trustee, and (3) an Amended and Restated Trust Agreement dated as of March 23, 2011 (the “2008C Trust Agreement,” and collectively with the 2008A Trust Agreement and the 2008B Trust Agreement, the “2008 Trust Agreements”), between the Commission and BNY Mellon, as bond trustee, and loaned the proceeds thereof to the Borrower pursuant to three Amended and Restated Loan Agreements, each dated as of March 23, 2011, between the Commission and the Borrower; and

**WHEREAS**, the Commission has issued its Health Care Facilities Revenue Bonds (Novant Health Obligated Group), Series 2010A (the “2010A Bonds”) pursuant to a Trust Agreement, dated as of November 1, 2010 (as amended, the “2010A Trust Agreement”), between the Commission and BNY Mellon, as bond trustee, and loaned the proceeds thereof to the Borrower pursuant to a Loan Agreement, dated as of November 1, 2010, between the Commission and the Borrower; and

**WHEREAS**, the Commission has issued its Health Care Facilities Revenue and Revenue Refunding Bonds (Novant Health Obligated Group), Series 2013A (the “2013A Bonds,” and collectively with the 2004 Bonds, the 2006 Bonds, the 2008 Bonds and the 2010A Bonds, the “Bonds”) pursuant to a Trust Agreement, dated as of May 1, 2013 (as amended, the “2013A Trust Agreement,” and collectively with the 2004 Trust Agreement, the 2006 Trust Agreement, the 2008 Trust Agreements, the 2010A Trust Agreement and the 2013A Trust Agreement, the “Trust Agreements”), between the Commission and BNY Mellon, as bond trustee, and loaned the proceeds thereof to the Borrower pursuant to a Loan Agreement, dated as of May 1, 2013, between the Commission and the Borrower; and

**WHEREAS**, BNY Mellon also serves as the Tender Agent for the 2004 Bonds and each series of the 2008 Bonds; and

**WHEREAS**, at the request of the Borrower, BNY Mellon has agreed to resign as (1) Master Trustee under the Master Indenture, (2) Bond Trustee under each of the Trust Agreements and (3) Tender Agent under the 2004 Trust Agreement and the 2008 Trust Agreements; and

**WHEREAS**, the Master Indenture provides the Borrower may appoint a successor Master Trustee with the approval of the Commission, and the Borrower desires to appoint Regions Bank (“Regions”) as successor Master Trustee under the Master Indenture;

**WHEREAS**, the Trust Agreements provide that the Commission may appoint a successor bond trustee upon the Borrower’s recommendation, and the Borrower desires for the Commission to appoint Regions as bond trustee under each of the Trust Agreements; and

**WHEREAS**, the 2004 Trust Agreement provides that the Commission may appoint a successor tender agent and the Borrower desires the Commission to appoint Regions as the successor tender agent for the 2004 Bonds; and

**WHEREAS**, the 2008 Trust Agreements provide that the Borrower may appoint a successor tender agent and the Borrower desires to appoint Regions as the successor tender agent for each series of the 2008 Bonds; and

**WHEREAS**, Regions is willing to accept all such appointments;

**WHEREAS**, in order to accomplish such resignations, appointments and acceptances, the Borrower, Regions, BNY Mellon and the Commission will enter into an Agreement of Resignation, Appointment and Acceptance dated on or about September 5, 2014 (the “Agreement”), a draft of which has been presented to the staff of the Commission;

**NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE**, as follows:

Section 1. The appointment of Regions Bank as successor Master Trustee under the Master Indenture is hereby approved. The Chairman, Vice Chairman, the Secretary and the Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are hereby authorized and directed to take such action and to execute and deliver any and all documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the appointment of Regions Bank as successor Master Trustee under the Master Indenture.

Section 2. The appointment of Regions Bank as successor Bond Trustee under each of the Trust Agreements is hereby approved. The Chairman, Vice Chairman, the Secretary and the Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are hereby authorized and directed to take such action and to execute and deliver any and all documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the appointment of Regions Bank as successor Bond Trustee under each of the Trust Agreements.

Section 3. The appointment of Regions Bank as successor Tender Agent under the 2004 Trust Agreement and each of the 2008 Trust Agreements is hereby approved. The Chairman, Vice Chairman, the Secretary and the Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are hereby authorized and directed to take such action and to execute and deliver any and all documents, certificates, undertakings, agreements or

other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the appointment of Regions Bank as successor Tender Agent under the 2004 Trust Agreement and each of the 2008 Trust Agreements.

Section 4. The forms, terms and provisions of the Agreement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary, and any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are hereby authorized and directed to execute and deliver the Agreement in substantially the form presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 5. This Resolution shall take effect immediately upon its passage.

5. Approval for Repeal of Subchapter 10A NCAC 13H – Megan Lamphere



North Carolina Department of Health and Human Services  
Division of Health Service Regulation  
Office of the Director

Pat McCrory  
Governor

Aldona Z. Wos, M.D.  
Ambassador (Ret.)  
Secretary DHHS  
  
Drexdal Pratt  
Division Director

August 13, 2014

MEMORANDUM

TO: Dr. John Fagg, M.D., Chair, N.C. Medical Care Commission  
FROM: Megan Lamphere, DHSR Rules Review Manager  
RE: Approval for Repeal of Subchapter 10A NCAC 13H

I respectfully request that the Executive Committee of the N.C. Medical Care Commission grant approval for the Division of Health Service Regulation (DHSR) to move forward with the repeal of Subchapter 10A NCAC 13H, *Licensing of Homes for Developmentally Disabled Adults*, at the next meeting to be held on August 21, 2014. The rules can be found by clicking [HERE](#).

DHSR staff have identified that the rules included in this Subchapter are outdated and unnecessary. The rules were originally under the jurisdiction of the N.C. Social Services Commission until 1999 when Senate Bill 10 was passed and placed the rule-making authority for these homes under the Medical Care Commission.

When facilities that existed under these rules came under the authority of the Medical Care Commission, and thus the DHSR, they became licensed as either adult or family care homes or mental health "5600" group homes. DHSR did not create a new licensure category for facilities under this Subchapter or allow for any facilities licensed as "DDA homes" to continue to be licensed as such.

Currently, there is no licensure category for these rules and there are no facilities licensed under this Subchapter. All facilities have been converted to either an adult care or mental health facility.

For these reasons, it is DHSR staff's opinion that Subchapter 10A NCAC 13H be repealed. We ask for permission to move forward with rule-making so that a Notice of Text may be published. A public hearing will be held on the repeal of the rules, but we do not expect any comment or objections. No fiscal note is required when rules are to be repealed, however, there would be no fiscal impact as these types of homes no longer exist. Following the public comment period, the rules would be brought before the full Commission for final adoption (repeal) at the Commission's November meeting.

Thank you for considering our request.



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Cc: Drexdal Pratt, DHSR Director  
Chris Taylor, Assistant Secretary, N.C. Medical Care Commission  
Jan Brickley, Interim Section Chief, DHSR Adult Care Licensure Section  
Stephanie Gilliam, Section Chief, DHSR Mental Health Licensure Section

**Executive Committee Action:** A motion was made by Ms. Mary Piepenbring, seconded by Mr. Al Lockamy and unanimously approved.

## **SUBCHAPTER 13H – LICENSING OF HOMES FOR DEVELOPMENTALLY DISABLED ADULTS**

### **SECTION .0100 - IDENTIFYING INFORMATION**

#### **10A NCAC 13H .0101 GROUP HOMES; DEVELOPMENTALLY DISABLED ADULTS**

(a) A group home for developmentally disabled adults is a small residence which provides care for two to nine adults who are developmentally disabled and who have or can develop self-help skills, are ambulatory, in need of a home and are able to participate in activities in the community. This means a residence established for the specific purpose of serving adults who are capable of having a work experience and/or are able to or have the potential to participate in community activities.

(b) Developmentally disabled adults may purchase care and personal services in this type of home where they shall be given the opportunity to grow and develop to their potential. They shall have the advantage of a homelike atmosphere with the opportunity to progress through the process of normalization.

(c) In those licensed homes (family care homes and group homes for developmentally disabled adults) that are developed and supported in part by state mental health and mental retardation funds, the legal responsibilities are as follows:

- (1) The legal responsibility for licensing belongs to the Division of Health Service Regulation.
- (2) The legal responsibility for evaluation and for sending in licensing materials and recommendations to the Division of Health Service Regulation belongs to the county departments of social services.
- (3) The responsibility of the area mental health and mental retardation programs is to ensure that group homes which receive mental health and mental retardation funds meet program criteria established by the Mental Health and Mental Retardation Commission, and to work with these homes to help them develop and maintain sound programming.

In most private non-profit homes, the area mental health and mental retardation programs have set up non-profit boards to work towards developing homes that will enhance the growth of the developmentally disabled individuals who are admitted to these homes. Their initial money has been used in obtaining, leasing, buying, building, and renovating appropriate houses for use as group homes. The efforts of the division of mental health and mental retardation services and the area mental health and mental retardation programs have proved to be very beneficial to individuals leaving institutional care and coming back to their own communities.

(d) In all instances where homes are being developed by state mental health funds, it is necessary that the county departments of social services and the area mental health and mental retardation programs work together from the beginning. The area mental health and mental retardation programs will give needed assistance to the county departments of social services in gathering information necessary for licensing. The county departments of social services evaluate the homes on the basis of licensing requirements. The area mental health and mental retardation staff will evaluate on the basis of mental health and mental retardation program criteria.

(e) In addition to the standards and regulations contained in this Subchapter, private non-profit and governmentally-operated (public) group homes that are funded by mental health and mental retardation must meet the standards, regulations and procedures contained in Regulation 10 NCAC 18O .0707, .0708, .0805, .0806, .0809, .0812 through .0815 and .0901.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0102 GROUP HOMES FOR DEVELOPMENTALLY DISABLED ADULTS**

(a) Group homes for developmentally disabled adults are divided into the following types:



- (1) homes operated by private non-profit boards,
  - (2) governmentally-operated homes,
  - (3) private for profit homes.
- (b) Private for Profit or Private Non-profit Group Homes. Both private non-profit and private for profit group homes for developmentally disabled adults must apply through and be approved by the county departments of social services and licensed by the Division of Health Service Regulation.
- (c) The division of social services and the county departments do not have responsibility for approving governmentally-operated (public) group homes; however, this type of group home must be licensed by the Division of Health Service Regulation.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

**10A NCAC 13H .0103 PRIVATE FOR PROFIT GROUP HOMES**

Private for profit group homes for developmentally disabled adults are owned and/or managed by an individual who has applied and been licensed to operate this type of home.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

**10A NCAC 13H .0104 DEFINITIONS**

- (a) The following definitions shall apply throughout this Subchapter:
- (1) Group Home for Developmentally Disabled Adults. A group home for developmentally disabled adults is a residence which provides care for two to nine adults who are developmentally disabled and who have or can develop self-help skills, are ambulatory, in need of a home and are able to participate in activities in the community.
  - (2) Developmental Disability. A developmental disability is defined as a severe, chronic disability which:
    - (A) Is attributed to a mental or physical impairment or combination of mental or physical impairments;
    - (B) Is manifested before the person attains age 22;
    - (C) Is likely to continue indefinitely;
    - (D) Results in substantial functional limitations in three or more of the following areas of major life activity:
      - (i) self-care,
      - (ii) receptive and expressive language,
      - (iii) learning,
      - (iv) mobility,
      - (v) self-direction,
      - (vi) capacity for independent living,
      - (vii) economic self-sufficiency; and
    - (E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.
  - (3) Manager. A person hired by a private non-profit board to live in a non-profit group home to manage the home for developmentally disabled adults.
  - (4) Co-manager. One who shares the responsibility of managing a home for developmentally disabled adults with the manager.
  - (5) Executive Director. Person employed by an incorporated private non-profit or governmentally-operated group home body to provide and/or coordinate services to the group home residents, staff and their operation.
  - (6) Relief Person in Charge. A mature, competent adult capable of being in charge of a group home for developmentally disabled adults during the absence of the administrator, co-administrator, manager or co-manager.
  - (7) Adult Group Home Coordinator. The employee in the area mental health and mental retardation program who has been designated to work with group homes.

- (8) Ambulatory. Able to attend to most physical needs with or without special prosthetic devices including walkers.
- (9) Admissions Committee. A committee appointed by a non-profit or governmental board to interview, review, and select potential residents of the group home. This committee is also responsible for referring residents for discharges and/or transfers.
- (10) Governmentally-Operated. Governmentally-operated group homes are homes operated by the area mental health and mental retardation program and funded with mental health and mental retardation money through the regional mental health and mental retardation office. This type home is not supervised by social services but is licensed by the North Carolina Division of Health Service Regulation. Public assistance funds, including state-county special assistance for adults, are not available to residents of these homes.
- (11) Private Non-profit Operated. Group homes operated by non-profit boards and supported by funds channeled through the regional mental health and mental retardation offices to the area mental health and mental retardation programs. These homes are evaluated, approved and supervised by the county departments of social services and licensed by the North Carolina Division of Health Service Regulation. The programs are also supervised by the area mental health and mental retardation programs.
- (12) Normalization. A guiding philosophy which makes available to the developmentally disabled the patterns and conditions of every day life which are as close as possible to the norms and patters of mainstream society. (Nirje, 1969). The overall purposes and goals are to help the mentally retarded individuals gain a concept of self worth, the worth of others and to provide them the tools to function in this society as independently as possible. (Wolf Wolfensberger, Ph.D., National Institute on Mental Retardation, Toronto, Ontario, is considered to be the foremost authority on normalization. Refer to his book, "The Principle of Normalization in Human Services").

(b) The definitions contained in 10A NCAC 13G .0101 of the following terms shall control for this Subchapter: minimum standards, administrator, staff, residents, adult homes specialist, licensing agency, and monitoring agency.

*History Note:* Authority G.S. 131D-2; 143B-153;  
Eff. January 1, 1978;  
Amended Eff. July 1, 1990; February 1, 1986.

## **SECTION .0200 - MANAGEMENT IN PRIVATE FOR PROFIT HOMES**

### **10A NCAC 13H .0201 REGULATION**

Regulation 10A NCAC 13G .0601 shall control for this Subchapter except that: a qualified adult staff member must be in charge of the home during the temporary absence of the administrator or supervisor-in-charge. Note: For those residents who are deemed capable of staying in the home without supervision, it shall be documented in writing by an appropriate professional and approved by the area mental health and mental retardation program and the county department of social services.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0202 THE CO-ADMINISTRATOR**

The rule stated in 10A NCAC 13G .0602 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0203 RELIEF PERSON-IN-CHARGE**

The relief person-in-charge is a qualified individual who is responsible for the operation of the home in the absence of the administrator and/or co-administrator.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978;  
Amended Eff. April 1, 1987; November 1, 1984.

## **SECTION .0300 - MANAGEMENT IN HOMES OPERATED BY PRIVATE NON-PROFIT BOARDS**

### **10A NCAC 13H .0301 THE HOME MANAGER IN PRIVATE NON-PROFIT HOMES**

(a) The home manager has the following responsibilities:

- (1) Is responsible to the board of directors for the operation of the home. The board of directors is responsible to the licensing agency (Division of Health Service Regulation) and the supervising agencies (county departments of social services and the area mental health and mental retardation programs) for maintaining licensing standards and carrying out their recommendations;
- (2) Must live in the home;
- (3) Must be in charge of the home at all times or must have the co-manager or a qualified relief person-in-charge of the home at all times;
- (4) During waking hours the manager, co-manager or a relief person-in-charge must be in the home when any resident needing supervision or care is in the home. There must be at least one staff person in the home at night. One other staff person must be available on call during all hours in case of any emergency; Note: For those residents who are deemed capable of staying in the home without supervision, it shall be documented in writing by an appropriate professional and approved by the area mental health and mental retardation program.

(b) The co-manager has the following responsibilities:

- (1) shares the responsibilities for the operation of the home with the manager;
- (2) may live in with the manager or in absence of the manager.

(c) The co-manager has the following responsibilities:

- (1) shares the responsibilities for the operation of the home with the manager;
- (2) may live in with the manager or in absence of the manager;

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978;  
Amended Eff. April 1, 1987; November 1, 1984.*

### **10A NCAC 13H .0302 CHANGE OF MANAGER**

When a currently licensed manager can no longer continue to manage a home, the following procedure is required:

- (1) The applicant to manage the home must meet the qualifications for manager as outlined in these standards and regulations.
- (2) All residents and their families must be advised of the change and given the opportunity to remain or plan for other living arrangements.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978;  
Amended Eff. July 1, 1990; April 1, 1987.*

## **SECTION .0400 - PERSONNEL**

### **10A NCAC 13H .0401 PERSONNEL REQUIREMENTS**

The qualifications of administrator, co-administrator, supervisor-in-charge, manager, and co-manager are as follows:

- (1) shall be an adult;
- (2) shall be a high school graduate or certified under the G.E.D. Program (applies to those employed on or after August 1, 1991);
- (3) shall earn 12 hours a year of continuing education credits related to the management of homes and training of developmentally disabled adults.

*History Note: Authority G.S. 131D-2; 131D-4.5; 143B-153; 168-1; 168-9; S.L. 99-0334;  
Eff. January 1, 1978;  
Amended Eff. July 1, 1990; September 1, 1987;  
ARRC Objection Lodged January 1, 1991;  
Amended Eff. August 1, 1991;  
Temporary Amendment Eff. January 1, 2000; December 1, 1999;*

*Amended Eff. July 1, 2000.*

**10A NCAC 13H .0402 QUALIFICATIONS OF OTHER STAFF AND FAMILY MEMBERS LIVING IN**

The qualifications of other staff and family members are as follows:

- (1) must be in good health,
- (2) must have a medical form DSS-1864 completed for all staff and family members living in.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.*

**10A NCAC 13H .0403 QUALIFICATIONS OF RELIEF PERSON-IN-CHARGE**

(a) Qualifications of relief person-in-charge are set forth in Rule .0402 of this Section except that the relief person-in-charge must provide written documentation about convictions of criminal offenses from the clerk of court in the county in which the conviction was made, and about any driving offenses other than minor traffic violations from the motor vehicles office.

(b) Desired Standard. Relief person must be willing to improve abilities by taking suitable courses offered in the local community and attending workshops related to the management of homes and training of developmentally disabled adults.

*History Note: Authority G.S. 131D-2; 143B-153;  
Eff. January 1, 1978;  
Amended Eff. September 1, 1987; February 1, 1986.*

**10A NCAC 13H .0404 RESPONSIBILITIES OF RELIEF PERSON-IN-CHARGE**

The relief person-in-charge must be a qualified individual who is responsible for the operation of the home in the absence of the manager and/or co-manager.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978;  
Amended Eff. April 1, 1987; November 1, 1984.*

**10A NCAC 13H .0405 QUALIFICATIONS OF OTHER STAFF NOT LIVING IN**

Qualifications of other staff are as follows:

- (1) must be in good health;
- (2) must have medical information form (DSS-1864) completed.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.*

**10A NCAC 13H .0406 HEALTH REQUIREMENTS**

(a) The administrator and supervisor-in-charge must have a medical examination, including tests for tuberculosis documenting freedom from the disease in a communicable stage, within 30 days prior to employment.

(b) All staff and live-in non-residents must be tested for tuberculosis within 30 days prior to employment or living in the home, and annually thereafter.

(c) All staff and live-in non-residents must be screened for Hepatitis B infection according to guidelines published by the Department of Human Resources.

(d) Any staff member or live-in non-resident who behaves in a manner that jeopardizes the health and safety of others in the home may be required to undergo a medical or psychological examination.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978;  
Amended Eff. May 1, 1992.*

**10A NCAC 13H .0407 GENERAL PERSONNEL REQUIREMENTS**

- (a) Additional staff must be employed to perform housekeeping, supervision and personal care of the residents as determined by the home's licensed capacity and number of the provider's family members living in the home who require care and supervision.
- (b) A detailed job description must be on file in the facility for each staff member, signed by the administrator and the employee.
- (c) All direct care staff must complete training and maintain certification in American Red Cross or equivalent standard first aid and cardio-pulmonary resuscitation.
- (d) All staff must demonstrate ability to apply all of the home's accident, fire safety and emergency procedures.
- (e) All staff must be informed of the confidential nature of resident information and must protect such information from unauthorized disclosure in accordance with G.S. 131D-21 (1) and (6).
- (f) Any staff member left alone with the residents must be 18 years of age or older.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
 Eff. January 1, 1978;  
 Amended Eff. May 1, 1992; April 1, 1987; November 1, 1984.

**10A NCAC 13H .0408 STAFF COMPETENCY AND TRAINING**

10A NCAC 13F .0501 shall control for staff who perform or directly supervise staff who perform personal care tasks listed in Paragraphs (h) and (i) of 10A NCAC 13F .0501.

*History Note:* Authority G.S. 131D-2; 131D-4.3; 143B-153;  
 Temporary Adoption Eff. January 1, 1996;  
 Eff. May 1, 1997.

**10A NCAC 13H .0409 TRAINING PROGRAM CONTENT AND APPROVAL**

10A NCAC 13F .0502 shall control for staff who perform or directly supervise staff who perform personal care tasks listed in Paragraphs (h) and (i) of 10A NCAC 13F .0502.

*History Note:* Authority G.S. 131D-2; 131D-4.3; 143B-153;  
 Temporary Adoption Eff. January 1, 1996;  
 Eff. May 1, 1997.

**10A NCAC 13H .0410 QUALIFICATIONS OF MEDICATION STAFF**

(a) Effective February 15, 2000, staff who administer medications, hereafter referred to as medication aides, and staff who directly supervise the administration of medications shall have documentation of successfully completing the clinical skills validation portion of the competency evaluation according to Paragraphs (d) and (e) of Rule 10A NCAC 13G .0503 as cross-referenced in Rule .0411 of this Section prior to the administration or supervision of the administration of medications. Medication aides who perform other personal care tasks shall also meet the staff training and competency requirements according to Rule 10A NCAC 13F .0501 as cross-referenced in Rule .0408 of this Section. Persons authorized by state occupational licensure laws to administer medications are exempt from this requirement.

(b) Effective October 1, 2000, medication aides and staff who directly supervise the administration of medications, except persons authorized by state occupational licensure laws to administer medications, shall successfully pass the written examination prior to or within 90 days after successful completion of the clinical skills validation portion of a competency evaluation according to Rule 10A NCAC 13G .0503 as cross-referenced in Rule .0411 of this Section.

(c) Medication aides and staff who directly supervise the administration of medications, except persons authorized by state occupational licensure laws to administer medications, shall complete six hours of continuing education annually related to medication administration.

*History Note:* Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334;  
 Temporary Adoption Eff. January 1, 2000; December 1, 1999;  
 Eff. July 1, 2000.

**10A NCAC 13H .0411 MEDICATION ADMINISTRATION COMPETENCY EVALUATION**

Rule 10A NCAC 13G .0503 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334;  
Temporary Adoption Eff. December 1, 1999;  
Eff. July 1, 2000.

## **SECTION .0500 - THE HOME**

### **10A NCAC 13H .0501 LOCATION**

The location of the home shall meet the local zoning requirements.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0502 CONSTRUCTION**

Group homes for developmentally disabled adults must meet the applicable requirements of the North Carolina State Building Code in force at the time of initial licensure. Group homes which increase capacity or which change ownership must meet the applicable requirements of the North Carolina State Building Code in force at that time.

*History Note:* Authority G.S. 131D-2; 143B-153;  
Eff. January 1, 1978;  
Amended Eff. March 1, 1991; February 1, 1986.

## **SECTION .0600 - ARRANGEMENT AND SIZE OF ROOMS**

### **10A NCAC 13H .0601 LIVING AREAS**

- (a) In existing buildings the living areas (living room, den, parlor, and/or family room) must be large enough to meet the needs of the family, residents and guests.
- (b) In buildings to be constructed, the living areas must have a minimum of 300 square feet.
- (c) Living areas must be well-lighted, heated and ventilated.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0602 DINING AREA**

- (a) The home must have a designated dining room or area of 120 square feet or more used exclusively for dining. When used in combination with a kitchen, an area five feet wide must be allowed as work space in front of kitchen work areas. This space cannot be used as dining area. The dining area must be large enough to seat all residents, family and guests comfortably.
- (b) Dining area must be well-lighted, heated and ventilated.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0603 KITCHEN**

The kitchen must be large enough to provide for preparation and preservation of food and for sanitizing of dishes.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0604 BEDROOMS**

- (a) No room can be approved for a resident's bedroom where the only access is through a bathroom, kitchen or another bedroom.
- (b) The residents' bedrooms must have 100 square feet (inside measurements excluding closets and wardrobes) for single occupancy and 80 square feet per bed (inside measurements excluding closets and wardrobes) in multi-occupancy bedrooms.
- (c) No person shall be allowed to sleep in the basement or attic.
- (d) No person shall be allowed to sleep on the second floor who cannot move up and down the steps independently.

- (e) Bedrooms must be well lighted, heated and ventilated.
- (f) Walls and ceilings must be easily cleanable.
- (g) The manager and family must have bedrooms separate from the residents. Bedrooms must be sufficient in number and size to meet individual needs according to age and sex.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0605 CLOSETS**

Bedroom closets or wardrobes must be large enough to provide each resident a minimum of 48 cubic feet of hanging clothing storage space (approximately two feet deep by three feet width by eight feet height).

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0606 BATHROOMS**

- (a) Bathrooms shall be located as conveniently as possible to the bedrooms.
- (b) In existing buildings there must be at least one full bathroom for six or fewer persons including family living in. At least one of these bathrooms must have a tub. In newly constructed buildings there must be at least one full bath for four or fewer persons including family living in.
- (c) If the home has only the minimum number of full baths required, the only entrance to these baths cannot be through another bathroom or a bedroom.
- (d) Comply with rules and regulations governing the sanitation and other aspects of residential care facilities. Copies may be ordered from: Sanitary Engineering Section, Division of Health Services, Raleigh, North Carolina 27611.
- (e) Toilet rooms shall be well ventilated to the outside air through windows, gravity ducts having cross-sectional areas of at least 72 square inches extending through the roof, or mechanical ventilation systems, in accordance with the State Building Code.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0607 STORAGE AREAS**

The storage areas shall be adequate in size and number for storage of clean linens, soiled linens, cleaning materials, household supplies, food and equipment. Refer to rules and regulations governing the sanitation and other aspects of residential care facilities.

*History Note:* Authority G.S. 131D-2; 131D-4.5; 143B-165; 168-9; S.L. 1999-0334;  
Eff. January 1, 1978;  
Temporary Amendment Eff. December 1, 1999;  
Amended Eff. July 1, 2000.

#### **10A NCAC 13H .0608 FLOORS**

All floors must be easily cleanable and shall be kept clean and in good repair.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0609 LAUNDRY**

- (a) In existing buildings, approval of location of laundry equipment will be made by the Division of Health Service Regulation.
- (b) In homes being constructed, the laundry equipment must be located out of the kitchen, living areas, dining areas and bedrooms.
- (c) Desired Standard. Laundry equipment shall be located in a room off the corridor.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0610 OUTSIDE ENTRANCES**

- (a) If any residents are physically handicapped, outside entrances must be at ground level, or (b) of this Rule shall apply.
- (b) The home must have all steps and porches protected by handrails.
- (c) If the board plans to admit residents who are dependent on wheel chairs, ramps must be constructed for easy and safe accessibility for entering and leaving the home. (See building code for specifications).

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.*

### **10A NCAC 13H .0611 FIRE SAFETY REQUIREMENTS**

Fire safety requirements are as follows:

- (1) Fire extinguishers of the type recommended by the fire inspector but no less than a two and one-half gallon water type for every 1800 square feet of floor area and for each floor there shall be at least one; A dry powder of CO(2) type is required for the kitchen;
- (2) Provide automatic single station U.L. products of combustion type smoke detectors as determined by the Division of Health Service Regulation and U.L. approved heat detectors in the attic and basement. These units must be wired directly to the house current;
- (3) Other U.L. approved fire detection system as required by city ordinances or county building inspectors;
- (4) Must have a manual fire alarm or signal system which is audible throughout the building;
- (5) Plan for Evacuation. There must be a written fire evacuation plan approved by the local fire department. Fire drills must be held once a month without warning at various times of the day and night. New residents must have fire drill instructions the first day of residence. This written fire evacuation plan must be posted;
- (6) The electrical system must be approved by the local electrical inspector;
- (7) Stairways must be enclosed by a one-hour fire resistant construction and solid core door equipped with self-closer.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.*

### **10A NCAC 13H .0612 OTHER REQUIREMENTS**

- (a) There must be an approved central heating system which will maintain a comfortable temperature range. No space heaters, room heaters or portable heaters are allowed in the home.
- (b) The plumbing system must be approved by the local plumbing inspector.
- (c) Hot water supply must be large enough to provide continuous hot water to kitchen, bathrooms and laundry. There must be mixing faucets for the sinks and tubs. Water temperature at all fixtures used by residents, except those in the kitchen, shall not exceed 110 degrees Fahrenheit. Facilities providing training for residents returning to nonlicensed community living may provide a second bathroom with water temperature exceeding 110 degrees Fahrenheit.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978;  
Amended Eff. July 1, 1982.*

### **10A NCAC 13H .0613 HOUSEKEEPING AND FURNISHINGS**

- (a) The house shall be maintained in an uncluttered, clean and orderly manner with an attractive, homelike atmosphere.
- (b) The facility must receive an approved rating on DHS-2094 (sanitation form).
- (c) Each bedroom shall be furnished with:
  - (1) single beds equipped with box springs and mattress or solid link springs and no-sag innerspring or foam mattress. Double beds are allowed if used only for single occupancy. Pillows suited to the individual needs and preferences of residents must be provided. Bed coverings must be clean and washable and consist of a top and bottom sheet, pillow case, bedspread and blanket;
  - (2) nightstand and lamp for each resident;



- (3) bureau or chest for each resident;
  - (4) a wall mirror in each room or a mirror for each resident;
  - (5) chair suitable to meet the needs of each resident;
  - (6) individual towels and washcloths.
- (d) Living and dining areas must be appropriately and attractively furnished, taking into consideration the special needs of the residents.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

## **SECTION .0700 - SERVICES**

### **10A NCAC 13H .0701 PERSONAL CARE**

Residents shall be trained to exercise maximum independence in health, hygiene, and grooming practices, including bathing, brushing teeth, shampooing, combing and brushing hair, shaving and caring for toenails and fingernails.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0702 HEALTH CARE**

- (a) Only occasional or incidental medical care shall be provided in the home.
- (b) The resident shall be allowed to choose a physician and dentist whenever possible.
- (c) Provisions shall be made to furnish, and maintain in good repair, dentures, eyeglasses, hearing aids, braces, etc., prescribed by appropriate specialists.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0703 FOOD SERVICE**

- (a) Each resident shall be served a minimum of three nutritionally balanced meals a day with at least a ten-hour period between breakfast and supper. Food preferences and special individual dietary needs shall be considered when planning meals. Six to eight cups of liquid are needed for metabolic purposes.
- (b) Menus shall be prepared one week in advance for guidance in purchasing and preparing foods.
- (c) Menus as served and invoices of purchases or other appropriate receipts shall be kept in a file for a year and are subject to periodic review by the Department of Human Resources.
- (d) Any home canning of fruits or vegetables must be approved by the county health department or the home extension agent.
- (e) Daily menus shall include the following:
  - (1) milk: two cups per resident; (Reconstituted dry skim milk and diluted evaporated milk may be used only in cooking);
  - (2) fruit: two servings daily; one serving of citrus fruit or tomatoes, or juice (fresh, frozen, or canned), daily plus at least one serving of another variety of fresh, canned, or dried fruit (one-half cup equals one serving);
  - (3) vegetables: two servings (one-half cup equals one serving) of vegetables; one of these should be a green leafy or yellow vegetable every other day;
  - (4) eggs: three to five a week, spread over the week;
  - (5) lean meat, fish, poultry: at least a four ounce serving each day; to meet additional requirements for protein, substitutes including cheese, dried beans and peas, and peanut butter may be used;
  - (6) cereals and bread: enriched or whole grain, such as outmeal, enriched rice, corn meal, enriched prepared cereals, bread, or biscuits at least twice a day;
  - (7) fats: include butter or margarine daily; restrict the use of seasoning with fats.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .0704 OTHER REGULATIONS**

(a) Transportation. Transportation services shall be available to the residents and residents shall be encouraged to use public transportation when available, and if the residents are able.

(b) Communication

- (1) Residents shall have access to the telephone for incoming and local outgoing calls, conducive to privacy.
- (2) Residents shall have access to pay telephones, or the equivalent, for outgoing long distance calls.
- (3) Residents shall be encouraged and assisted, if necessary, to correspond with relatives and friends according to resident's wishes.
- (4) Residents shall open their own mail and packages.
- (5) Residents shall not have their incoming or outgoing mail read by staff, unless requested by the resident.

(c) Visiting. Visiting by friends and relatives should be encouraged within reason and concurring with resident wishes.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

## SECTION .0800 - PROGRAM STANDARDS

### 10A NCAC 13H .0801 INDIVIDUAL GOALS

Individual goals shall be developed with all residents. These shall:

- (1) show short-term goals leading up to the long-term goals;
- (2) be developed in coordination with group home staff and each resident;
- (3) build on the strengths of the resident;
- (4) be reviewed on quarterly basis;
- (5) be dated specifically and clearly written in positive terms;
- (6) identify staff responsibilities to assure goal attainment;
- (7) serve as a basis for monitoring and evaluating progress of individuals in the program.

*History Note:* Authority G.S. 131D-2; 143B-153;  
Eff. January 1, 1978;  
Amended Eff. February 1, 1986.

### 10A NCAC 13H .0802 INDIVIDUAL RECORDS

An individual record is maintained for each resident that is adequate for:

- (1) developing and continuously evaluating the individual program plan;
- (2) providing a means of communication among all persons contributing to the individual program plan;
- (3) recording progress in achieving the objective specified in the individual program plan;
- (4) serving as a basis for review, study, and evaluation of the program provided by the agency for its residents;
- (5) protecting the legal rights of the resident, agency and staff.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### 10A NCAC 13H .0803 POLICIES AND PROCEDURES

The facility shall have a written statement of policies and procedures:

- (1) concerning the rights of residents that assure the civil rights of all residents;
- (2) that are in accordance with the Declaration of General and Special Rights of the Mentally Retarded of the International League of Societies for the Mentally Handicapped;
- (3) that describe the means of making legal counsel available to residents for the protection of their rights;
- (4) the "rhythm of life" in the living unit shall resemble the cultural norm for the residents' non-retarded age peers, unless a departure from this rhythm is justified on the basis of maximizing the residents' human qualities.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0804 RESIDENT'S LIVING STATUS**

The group home program shall maximize the resident's independent living status. Residents shall be provided the opportunity to move from:

- (1) more to less structured living;
- (2) larger to smaller facilities;
- (3) larger living units to smaller living units;
- (4) dependent to independent living;
- (5) group to individual residence;
- (6) segregated to integrated living.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0805 ACTIVITIES OUTSIDE OF THE HOME**

- (a) Residents shall be appropriately engaged in competitive employment, a sheltered workshop program (evaluation, training, or work activity) or in an adult developmental activity program, or other appropriate community programs.
- (b) If a volunteer service program exists, provisions shall be made for volunteer orientation and training.
- (c) The residents shall have time for social development both individually and in groups:
  - (1) Residents should be encouraged to develop their own social and recreation activities.
  - (2) The group home should encourage parties, dances, and other social events. Opportunities for activities such as ballgames, movies, and bowling should be offered to the residents.
- (d) There shall be a mechanism whereby each resident shall have an opportunity to express his ideas and concerns which may be incorporated into the program. Leadership roles by residents should be encouraged.
- (e) Residents shall be trained and encouraged to exercise maximum independence in the selection, use and maintenance of their own clothing:
  - (1) Residents shall select and purchase their own clothing as independently as possible.
  - (2) Residents shall select their daily clothing and dress themselves appropriately according to the activities in which they plan to engage.
  - (3) Residents shall launder, mend and iron their own clothing if possible.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0806 ACCIDENT PREVENTION**

There shall be an education program for staff and residents which involves the principles of accident prevention and control of specific hazards:

- (1) Fire drill programs shall be conducted on a monthly basis or as a new resident is admitted.
- (2) Written evacuation plans shall be posted and reviewed.
- (3) Residents shall be trained in personal safety habits and safe working and living conditions.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0807 PLAN FOR MEDICAL SERVICES**

A plan shall be implemented for obtaining medical, dental and related services including emergencies:

- (1) Contact should be made with the county health department and other ancillary services as needed.
- (2) The availability of health insurance for residents should be investigated (the resident may be eligible for medicaid services, for example).

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0808 PERSONAL SKILLS DEVELOPMENT**

Residents shall have an opportunity to acquire personal skills that will make them more independent and self-sufficient. Residents shall participate in ordinary daily chores that relate to family living.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.*

## **SECTION .0900 - ADMISSION: TRANSFER: AND DISCHARGE POLICIES**

### **10A NCAC 13H .0901 ADMISSIONS**

- (a) Admission policies of the home must be in writing.
- (b) Any adult who, because of a developmental disability, is unable to live in or maintain his own home may be admitted, when, in the opinion of the resident and/or physician and/or department of social services social worker and/or group home admissions committee, the services and accommodations of the home will meet his particular needs.
- (c) Regulation 10A NCAC 13G .0701, "Exceptions," shall control for this Subchapter.
- (d) Admission to the group home shall occur only when it is determined to be the optimal available plan or the appropriate resource currently available.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.*

### **10A NCAC 13H .0902 MEDICAL REQUIREMENTS**

- (a) Each resident must have a medical examination including a tuberculin test and/or chest x-ray. When the tuberculin test is given and the results are positive, the resident must have a chest x-ray. The results of the complete examination are to be entered on the form DSS-FL2 and dated within 90 days prior to the resident's admission or re-admission to the home. A current copy of the DSS-FL2 must be kept in the resident's record in the home.
- (b) The medical examination form (DSS-FL2) must be reviewed prior to admission. If the information on the form is not clear or is insufficient, the physician must be contacted for clarification in order to determine if the services of the home can meet his patient's needs.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.*

### **10A NCAC 13H .0903 PERSONAL INFORMATION**

Personal information shall be obtained to share with the manager from the resident, his family or social worker which will help to make the adjustment to the new living situation easier.

*History Note: Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.*

### **10A NCAC 13H .0904 WRITTEN AGREEMENTS**

There shall be a written agreement between each resident and the group home which shall state responsibility of the group home and responsibility of the resident:

- (1) Responsibility of group home shall include:
  - (a) documentation of establishment of goals with the resident;
  - (b) rate to be charged and method of payment;
  - (c) resident's right to privacy and leisure time within reasonable limits;
  - (d) information regarding resident responsibilities in relation to his living in the home shall be conveyed in such a manner that the resident understands his responsibilities.
- (2) Responsibilities of residents shall include:
  - (a) accepting responsibilities in the group home commensurate with their interests, abilities, and goal plans, to enhance feelings of self-respect and to develop skills of independent living;
  - (b) respecting the rights of all persons living in the home;
  - (c) respecting the property of other persons;
  - (d) agreeing to participate in the group home program;

- (e) sharing in daily chores.
- (3) Agreement shall be signed and dated by both parties.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0905 PLANS AT TIME OF ADMISSION**

Plans must be made for the following at the time of admission or before and written on the resident's register (form DSS-1865):

- (1) payment for medical care (physician's fees, drugs, dental, eye, etc.);
- (2) payment for ambulance fees;
- (3) payment for hospitalization (including name of insurance company, if any);
- (4) payment for personal needs (clothing, tobacco, dry cleaning, etc.);
- (5) care of spending money and other valuables;
- (6) refunds;
- (7) death;
- (8) serious illness.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0906 PROCEDURES FOR TRANSFER**

- (a) When it is necessary for a resident to transfer from one licensed facility to another, procedures under Sections .0900 and .1000 of this Subchapter are to be followed.
- (b) When it is necessary for a home to close or another person applies to manage the home immediately, each resident must be given the opportunity to make other plans if he does not desire to remain with the new management.
- (c) Copies of all pertinent information must be sent to the new home.
- (d) If the medical report (DSS-FL2) is less than three months old and there have been no apparent changes in the mental or physical condition of the resident, a copy of it may be used for admission to the home to which the resident is going.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .0907 PROCEDURES FOR DISCHARGE**

Rule 10A NCAC 13G .0705 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334;  
Eff. January 1, 1978;  
Amended Eff. July 1, 1990;  
Temporary Amendment Eff. December 1, 1999;  
Amended Eff. July 1, 2000.

### **SECTION .1000 - MEDICAL POLICIES**

#### **10A NCAC 13H .1001 PHYSICIANS**

- (a) Immediate arrangements must be made for a resident:
  - (1) to secure another physician or dentist when he cannot remain under the care of his own;
  - (2) to have an emergency plan if the need arises.
- (b) The name, address and telephone number of the new physician must be recorded on form DSS-1865.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

#### **10A NCAC 13H .1002 PHYSICAL EXAMINATIONS**

- (a) A physical examination for each resident is required prior to admission and annually thereafter and must be recorded on form DSS-FL2.
- (b) A dental examination before entering, annually and as the need arises thereafter.
- (c) Between annual physical examinations there may be a need for a physician's care. In this case the DSS-1867 must be used by the physician to report any medications prescribed, treatment given or recommended for minor illnesses.
- (d) A tuberculin test and/or chest x-ray is required as part of the annual physical examination. When the tuberculin test is given and the results are positive, a chest x-ray is required. Results and recommendations are recorded on form DSS-FL2 or DSS-1867.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .1003 MEDICATIONS**

- (a) The group home shall have a written policy regarding medication:
  - (1) The group home shall have a systematic training program to help each resident become less reliant on drug administration by staff and more self-reliant regarding drug administration.
  - (2) Programs designed to gradually reduce the use of psychotropic medications shall be under the supervision of a qualified physician. Care shall be taken to distinguish psychotropic medications from medication used for other purposes such as for seizure control.
  - (3) Medications for all residents shall be re-evaluated and re-authorized every six months by a physician.
  - (4) The home administrator-manager shall be responsible for assuring that the resident complies with the prescribed drugs regimen.
- (b) The rules stated in 10A NCAC 13G .1000 shall control for this Section of the Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0334;  
Eff. January 1, 1978;  
Temporary Amendment Eff. December 1, 1999;  
Amended Eff. July 1, 2000.

## **SECTION .1100 – RATES: RESIDENTS' FUNDS: REFUNDS**

### **10A NCAC 13H .1101 HANDLING FUNDS OF RESIDENTS**

- (a) Residents shall handle their own funds whenever possible.
- (b) Residents shall be provided training in money management when needed.
- (c) Residents must endorse checks made out to them unless a legal guardian or personal representative or some other legally constituted authority has been authorized to endorse their checks. Note: It is illegal to endorse a check made out to another person unless the endorser has been legally authorized to do so.
- (d) In situations where the resident is unable to manage his funds, the manager must contact a family member of the department of social services regarding the need for a guardian or personal representative.
- (e) Upon the resident's written request, the manager may handle the personal and/or medically related allowance for a resident provided an accurate accounting of monies received and disbursed and the balance on hand is available upon request by the resident. A copy of this written request must be maintained in the resident's record.
- (f) When a payee for social security payments is needed for a resident and there is not an appropriate family member to serve, it is recommended the county director of social services be appointed as payee.
- (g) If a resident has been declared legally incompetent by the courts, the manager shall give the resident's legal guardian or personal representative receipts for any monies received on behalf of the resident.
- (h) In order to maintain accurate records on the amounts and sources of a resident's funds, the DSS-1866 must be completed each month.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .1102 REFUND POLICIES**

- (a) The refund policies must be in writing and signed by the administrator, manager or an authorized member of the non-profit board.

(b) A copy must be given to the resident, family or social worker at time of admission. A copy must also be filed in the resident's record.

(c) Personal funds of residents:

- (1) When, at the resident's request, the manager handles the personal or medical funds or both funds, the balance must be given to the resident or the person responsible for planning for his care when he leaves the home.
- (2) In case of death, when no administrator for the estate has been appointed and the personal estate is under one thousand dollars (\$1,000), all of the resident's money, including any refund due, shall be paid to the clerk of superior court to be disbursed in accordance with General Statute 28A-25.6.

(d) When payment is made a month in advance and the resident leaves before the end of the month, the daily cost must be refunded to the resident, his nearest of kin, or his estate for days not used. If there are unusual costs, it is recommended that the refund be based on a reasonable charge for any extra expenses incurred prior to the resident's discharge.

*History Note:* Authority G.S. 131D-2; 143B-153;  
Eff. January 1, 1978;  
Amended Eff. July 1, 1990; February 1, 1986.

## **SECTION .1200 - RECORDS AND REPORTS**

### **10A NCAC 13H .1201 RECORDS**

Required forms are available free of charge, upon request, from the county department of social services. The following records shall be maintained in an orderly manner on each resident and be readily available for review by a representative of the supervising and/or licensing agency:

- (1) Agreement between resident and group home;
- (2) The services and accommodations the home offers for a particular resident must be in writing and a copy signed by the manager and the resident or responsible party. A copy must be given to the resident and/or family and/or agency responsible for placement. A copy must be kept in the resident's record in the facility;
- (3) Refund policies must be in writing and signed by an authorized board member or the administrator with a copy given to the resident, family and/or social worker at the time of admission. A copy must also be filed in the resident's record;
- (4) Resident register -- form DSS-1865;
- (5) Resident financial record -- form DSS-1866 or an approved bookkeeping system;
- (6) Report of health services to resident -- form DSS-1867 or DSS-FL2;
- (7) Reports of medical examinations -- form DSS-FL2;
- (8) An approved record noting monthly receipts, disbursements and balance on hand of any money a resident requests the manager to keep. All or any portion of the funds must be available to the resident upon his request;
- (9) Individual goal plan;
- (10) Authorization of self-administering of medication;
- (11) All reports must be used as listed in 10A NCAC 13G .1200 for this type home.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .1202 REPORTS**

Required forms are available free of charge, upon request, from the county department of social services:

- (1) When a resident is admitted or discharged, the manager must send a DSS-1869 to the county department of social services for their records.
- (2) The manager shall submit on or before July 31 of each year an annual population report for the previous fiscal year (DSS-1868) to the county department of social services.
- (3) The manager shall notify the county department of social services of any accident to a resident within 24 hours. Use form DSS-1870 to report these. The department of social services and the area mental health and mental retardation program, when applicable, needs to know how, when, and

where the accident happened and what was done about any accident to a resident, no matter how insignificant it appears.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

## **SECTION .1300 - CAPACITY**

### **10A NCAC 13H .1301 CAPACITY**

- (a) Group homes for developmentally disabled adults have a capacity of two to nine residents.
- (b) The total number of residents shall not exceed the number shown on the license.
- (c) The total number of residents assigned to a room shall not exceed the number authorized for that particular room.
- (d) Only rooms authorized shall be used for residents' bedrooms.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978;  
Amended Eff. July 1, 1990.

### **10A NCAC 13H .1302 INCREASE IN CAPACITY**

- (a) A request for an increase in capacity must be made to the county department of social services and approved by the state Division of Health Service Regulation.
- (b) A request for an increase in capacity by adding rooms or remodeling must be made to the county department of social services and submitted to the state Division of Health Service Regulation, accompanied by two copies of floor plans or blueprints and specifications, showing the existing building and the addition. Plans must show how the addition will be tied onto the old and all proposed changes in old structure.
- (c) When licensed facilities increase their designed capacity by the addition to or remodeling of the existing physical plant, the entire facility must meet all current fire safety regulations.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

## **SECTION .1400 - APPLICATION PROCEDURES**

### **10A NCAC 13H .1401 APPLICATION FOR LICENSE**

- (a) An application for a license to operate a group home for developmentally disabled adults in an existing building shall be made at the county department of social services by the group home board.
- (b) Regulation 10 NCAC 42C .3301(b), (c), (e), and (f) shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

### **10A NCAC 13H .1402 NEW CONSTRUCTION: ADDITIONS AND RENOVATIONS**

Regulation 10A NCAC 13G .0205(a) to (c) shall control for this Subchapter except for the following:

- (1) The county department of social services will contact references and determine if the manager is qualified and if the group home board's plans of operation meet present standards.
- (2) Following the review of application, references, and all forms, a pre-licensing visit will be made by a consultant or licensing specialist of the state Division of Health Service Regulation.
- (3) The consultant or licensing specialist will report his findings and recommendations and shall promptly notify, in writing, the applicant and the county department of social services of the action taken.

*History Note:* Authority G.S. 131D-2; 143B-153;  
Eff. January 1, 1978;  
Amended Eff. February 1, 1986.

## **SECTION .1500 - LICENSING INFORMATION**



**10A NCAC 13H .1501 CURRENT LICENSE**

Regulation 10A NCAC 13G .0202, "Current License," shall control for this Subchapter, except that the license shall be on file in the home, unless it is a provisional license in which case it shall be conspicuously posted in the home.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

**10A NCAC 13H .1502 RENEWAL OF LICENSE**

Regulation 10A NCAC 13G .0208 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

**10A NCAC 13H .1503 TERMINATION OF LICENSE**

(a) The license will automatically terminate when there is a change in location of the home.

(b) The license is not transferable or assignable.

(c) The unexpired license shall be returned to the state Division of Health Service Regulation by the county department of social services with the following information:

- (1) reason for closing,
- (2) date of closing,
- (3) plans made for residents.

(d) When a group home board voluntarily closes the home, a signed statement to this effect must be submitted to the Division of Health Service Regulation.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

**10A NCAC 13H .1504 DENIAL OR REVOCATION OF LICENSE**

Regulation 10A NCAC 13G .0212 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

**10A NCAC 13H .1505 PROCEDURE FOR APPEAL**

Regulation 10A NCAC 13G .0213 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 143B-153; 168-1; 168-9;  
Eff. January 1, 1978.

**10A NCAC 13H .1506 SUSPENSION OF ADMISSIONS**

10A NCAC 13G .0214 through .0215 shall control for this Section.

*History Note:* Authority G.S. 130-9.7(e);  
Eff. January 1, 1982.

**SECTION .1600 -MISCELLANEOUS RULES**

**10A NCAC 13H .1601 ADMINISTRATIVE PENALTY DETERMINATION PROCESS**

10A NCAC 13G .0216 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-34; 143B-153;  
Eff. December 1, 1993.

**10A NCAC 13H .1602 RESIDENT ASSESSMENT**

10A NCAC 13G .0801 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.3; 143B-153;  
Temporary Adoption Eff. January 1, 1996;  
Eff. May 1, 1997.

**10A NCAC 13H .1603 RESIDENT CARE PLAN**  
10A NCAC 13G .0802 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.3; 143B-153;  
Temporary Adoption Eff. January 1, 1996;  
Eff. May 1, 1997.

**10A NCAC 13H .1604 LICENSED HEALTH PROFESSIONAL SUPPORT**  
10A NCAC 13G .0903 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.3; 143B-153;  
Temporary Adoption Eff. January 1, 1996;  
Eff. May 1, 1997.

**10A NCAC 13H .1605 COOPERATION WITH CASE MANAGERS**  
10A NCAC 13G .0908 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.3; 143B-153;  
Temporary Adoption Eff. January 1, 1996;  
Eff. May 1, 1997.

**10A NCAC 13H .1606 HEALTH CARE PERSONNEL REGISTRY**  
The facility shall comply with G.S. 131E-256 and supporting Rules 10A NCAC 13O .1001 and .1002.

*History Note:* Authority G.S. 131D-2; 131D-4.5; 131E-256; 143B-165; S.L. 1999-0334;  
Temporary Adoption Eff. January 1, 2000;  
Eff. July 1, 2000.

**10A NCAC 13H .1607 RESPITE CARE**  
Respite care shall be controlled by 10 NCAC 42C .2406 and all the rules of this Subchapter except for Rules 42B .1702, .1707, .1802, .2001, .2402 and .2403.

*History Note:* Authority G.S. 131D-2; 143B-165; S.L. 2000-50;  
Temporary Adoption Eff. November 1, 2000;  
Eff. July 18, 2002.

## **SECTION .1700 – ADULT HOME CARE LICENSES**

**10A NCAC 13H .1701 DEFINITIONS**  
Rule 10A NCAC 13G .0201 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0113; S.L. 1999-0334;  
Temporary Adoption Eff. December 1, 1999;  
Eff. July 1, 2000.

**10A NCAC 13H .1702 PERSONS NOT ELIGIBLE FOR NEW ADULT CARE HOME LICENSES**  
Rule 10A NCAC 13G .0203 shall control for this Subchapter.

*History Note:* Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0113; S.L. 1999-0334;  
Temporary Adoption Eff. December 1, 1999;  
Eff. July 1, 2000.

## **10A NCAC 13H .1703 CONDITIONS FOR LICENSE RENEWAL**

Rule 10A NCAC 13G .0209 shall control for this Subchapter.

*History Note: Authority G.S. 131D-2; 131D-4.5; 143B-165; S.L. 1999-0113; S.L. 1999-0334; Temporary Adoption Eff. December 1, 1999; Eff. July 1, 2000.*

### **SECTION .1800 – RESERVED FOR FUTURE CODIFICATION**

### **SECTION .1900 – DEATH REPORTING REQUIREMENTS**

#### **10A NCAC 13H .1901 DEFINITIONS**

The following definitions shall apply throughout this Section:

- (1) "Accident" means an unexpected, unnatural or irregular event contributing to a resident's death and includes, but is not limited to, medication errors, falls, fractures, choking, elopement, exposure, poisoning, drowning, fire, burns or thermal injury, electrocution, misuse of equipment, motor vehicle accidents, and natural disasters.
- (2) "Immediately" means at once, at or near the present time, without delay.
- (3) "Violence" means physical force exerted for the purpose of violating, damaging, abusing or injuring, or abusing another person.

*History Note: Authority G.S. 131D-2; 131D-34.1; Temporary Adoption Eff. May 1, 2001; Eff. July 18, 2002.*

#### **10A NCAC 13H .1902 SCOPE**

For purposes of this Section, facilities licensed in accordance with G.S. 131D-2 shall report resident deaths to the Division of Health Service Regulation.

*History Note: Authority G.S. 131D-2; 131D-34.1; Temporary Adoption Eff. May 1, 2001; Eff. July 18, 2002.*

#### **10A NCAC 13H .1903 REPORTING REQUIREMENTS**

- (a) Upon learning of a resident death as described in Paragraphs (b) and (c) of this Rule, a facility shall file a report in accordance with this Rule. A facility shall be deemed to have learned of a resident death when any facility staff obtains information that the death occurred.
- (b) A written notice containing the information listed under Paragraph (d) of this Rule shall be made immediately for the following:
  - (1) a resident death occurring in an adult care home within seven days of the use of a physical restraint or physical hold on the resident; or
  - (2) a resident death occurring within 24 hours of the resident's transfer from the adult care home to a hospital, if the death occurred within seven days of physical restraint or physical hold of the resident.
- (c) A written notice containing the information under Paragraph (d) of this Rule shall be made within three days of any death resulting from violence, accident, suicide or homicide.
- (d) Written notice may be submitted in person or by telefacsimile or electronic mail. If the reporting facility does not have the capacity or capability to submit a written notice immediately, the information contained in the notice may be reported by telephone following the same time requirements under Subparagraphs (b) and (c) of this Rule until such time the written notice may be submitted. The notice shall include at least the following information:
  - (1) Reporting facility: Name, address, county, license number (if applicable), Medicare/Medicaid provider number (if applicable), facility administrator and telephone number, name and title of person preparing report, first person to learn of death and first staff to receive report of death, and date and time report prepared;
  - (2) Resident information: Name, Medicaid number (if applicable), date of birth, age, sex, race, primary admitting diagnoses, and date of most recent admission to an acute care hospital.

- (3) Circumstances of death: place and address where resident died, date and time death was discovered, physical location decedent was found, cause of death (if known), whether or not decedent was restrained at the time of death or within 7 days of death and if so, a description of the type of restraint and its usage, and a description of events surrounding the death; and
  - (4) Other information: list of other authorities such as law enforcement or the County Department of Social Services that have been notified, have investigated or are in the process of investigating the death or events related to the death.
- (e) The facility shall submit a written report, using a form pursuant to G.S. 131D-34.1(e). The facility shall provide, fully and accurately, all information sought on the form. If the facility is unable to obtain any information sought on the form, or if any such information is not yet available, the facility shall so explain on the form.
- (f) In addition, the facility shall:
- (1) Notify the Division of Health Service Regulation immediately whenever it has reason to believe that information provided may be erroneous, misleading, or otherwise unreliable;
  - (2) Submit to the Division of Health Service Regulation, immediately after it becomes available, any information required by this rule that was previously unavailable; and
  - (3) Provide, upon request by the Division of Health Service Regulation, other information the facility obtains regarding the death, including, but not limited to, death certificates, autopsy reports, and reports by other authorities.
- (g) With regard to any resident death under circumstances described in G.S. 130A-383, a facility shall notify the appropriate law enforcement authorities so the medical examiner of the county in which the body is found may be notified. Documentation of such notification shall be maintained by the facility and be made available for review by the Division upon request.
- (h) In deaths not under the jurisdiction of the medical examiner, the facility shall notify the decedent's next-of-kin, or other individual authorized according to G.S. 130A-398, that an autopsy may be requested as designated in G.S. 130A-389.

*History Note: Authority G.S. 131D-2; 131D-34.1;  
Temporary Adoption Eff. May 1, 2001;  
Eff. July 18, 2002.*

## **6. Adjournment**

There being no further business, the meeting was adjourned at 2:35 p.m.

Respectfully submitted,

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Christopher B. Taylor, C.P.A.  
Assistant Secretary

