

DHSR Adult Care Licensure Section
Fiscal Impact Analysis
Permanent Rule Readoption and Amendment with Substantial Economic Impact

Agency: North Carolina Medical Care Commission

Contact Persons: Nadine Pfeiffer, DHSR Rules Review Manager, (919) 855-3811
Megan Lamphere, Adult Care Licensure Section Chief, (919) 855-3784
Shalisa Jones, Regulatory Analyst, (704) 589-6214

Impact:

Federal Government: No
State Government: No
Local Government: No
Private Entities: Yes
Substantial Impact: Yes

Titles of Rule Changes and N.C. Administrative Code Citation

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

10A NCAC 13F .0904 Nutrition and Food Service

10A NCAC 13G .0904 Nutrition and Food Service

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

Introduction and Background

The agency is proposing to increase dairy serving requirements for adult and family care homes from 2 to 3 per day and expand the definition of dairy to include yogurt, cheese, low-lactose or lactose-free dairy products, fortified soy beverages, and soy yogurt. These proposed changes will align the rules with current United States Department of Agriculture (USDA) nutritional standards and provide facilities and residents with more dietary choices. Increasing the dairy requirements is expected to bring additional costs to the facilities that are not already offering dairy 3 times per day using the expanded definition of dairy.

The agency also proposes to reference applicable sanitation rules enforced by the Division of Public Health and make technical changes for clarity and consistency. These proposed changes do not affect current operations and have no economic impact. The agency does not anticipate any additional impact on state government or local government (i.e. county Departments of Social Services who monitor and conduct complaint investigations in adult care homes and family care homes) beyond their current job requirements to implement, monitor, or regulate the proposed amendments.

Under the authority of G.S. 150B-21.3A, Periodic review of existing rules, the North Carolina Medical Care Commission and Rules Review Commission approved the Subchapter reports with classifications for the rules under 10A NCAC 13F Licensing of Adult Care Homes of Seven or More Beds and 10 NCAC 13G Licensing of Family Care Homes. The rules were classified in the reports as

necessary with substantive public interest. Rules 13F .0904 and 13G .0904 are being presented for readoption with substantive changes. Most of the rules for both types of assisted living residences, adult care homes of seven beds or more and family care homes, are the same with the primary exception of staffing and physical plant requirements since they serve the same population based on need for care and services. Therefore, the 13F rules corresponding to the 13G rules being proposed for readoption with substantive changes are being amended concurrently to assure this traditional consistency.

Purpose and Benefits of Proposed Changes

The proposed changes update the language to include dietary options and serving requirements that align with the current USDA nutritional standards. The standards provide additional options for dairy, including dairy alternatives. The proposed language now includes yogurt, cheese, low-lactose/lactose-free dairy products, fortified soy beverages and soy yogurt. The USDA dietary guidelines provide a framework for dairy recommendations to include personal preferences, cultural inclusion, and budget-conscious options. Dairy foods are important to nutrition as it provides calcium and vitamin D needed for strong teeth and bones¹.

The USDA revised the dietary guidelines in December 2020 and the agency proposes to adopt those guidelines because the benefits of increased dairy intake have been proven to reduce falls and fractures among older adults residing in residential care. In an article published by BMJ today, “researchers in Australia, the Netherlands, and the United States completed a two-year trial that included a total of 7,195 residents with the mean age of 86 years old, thirty facilities were randomized to provide residents with additional milk, yogurt, and cheese, ultimately increasing the amount of calcium each day. Data from the trial confirmed risk reductions of 33% for all fractures, 46% of hip fractures, and 11% of falls”³. It was concluded, improving calcium and protein intakes by using dairy foods is a readily accessible intervention that reduces risk of falls and fractures commonly occurring in institutionalized older adults.

Estimated Costs to Facilities

The rule as written requires two 8-ounce servings of dairy daily shall be included in the daily menu for regular diets to include homogenized whole milk, low fat milk, skim milk, or buttermilk. While the proposed rules increase servings requirements from two to three 8-ounce servings per day, the expanded dairy options provide additional flexibility to operators.

The agency created and distributed surveys to providers in August 2021 and March 2022 to gather data regarding their current dairy serving frequency to determine how many of the 556 adult care homes and 537 family care homes may incur costs to comply with the proposed new dietary rules. The response rate for facilities answering dairy-related questions in the August survey was 19% for adult care homes and 12% for family care homes (15% total). The survey was refined and re-issued in March in an effort to improve the data available to estimate the impact of the proposed rules. The response rate from this survey was 30% for adult care homes and 11% for family care homes (16% total). Due to the low response rate, there is a high level of uncertainty about the number of facilities that will need to offer additional dairy servings under the new rules. The estimates in this analysis are based on the best data available to the agency.

Responses to the March 2022 survey indicate that 43% of adult care homes and 54% of family care homes (47% of all facilities) will need to increase the number of servings of dairy offered per day to comply with the proposed rules. The remaining 57% of the adult care home respondents and 46% of family care respondents are already serving 3 or more servings of dairy per day when considering the new, expanded definition of dairy (Tables 1 and 2).

Table 1. Number of Dairy Servings by Facility Type: Total Responses March 2022

Current Servings Per Day	Facility Type		Combined total
	Adult Care Home	Family Care Home	
1	4	6	10
2	46	26	72
3 or more	66	27	93
Total Respondents	166	59	175

Table 2. Number of Dairy Servings by Facility Type: Percentage of Total Responses

Current Servings Per Day	Facility Type		Combined total
	Adult Care Home	Family Care Home	
1	3%	10%	6%
2	40%	44%	41%
3 or more	57%	46%	53%
Total	100%	100%	100%

The Section estimated the average cost of compliance per facility for those that do not already serve dairy 3 or more times per day using the expanded definition (Table 3). The estimates are based on three components:

- Survey responses on the number of servings of dairy per day, used to estimate the proportion of facilities that would need to offer one or two additional servings of dairy
- The average number of residents in each facility that currently offers dairy less than 3 times per day, as reported in the survey, and
- USDA data on retail dairy prices in the Southeast as reported on March 25, 2022.¹

This analysis presents the average annual costs for adult and family care homes, taking into account the proportion of facilities who would need to add one additional serving and facilities who would need to add two additional servings to comply with the proposed rules. There was a small amount of facilities who would need to offer two additional servings and a greater number of facilities who would need to offer only one additional serving (See Table 3). The agency recognizes that currently facilities are required to offer 2 servings of dairy per day, however the estimated average annual cost for adult and family care homes reflect data collected from facilities who currently offer one, two, and three or more servings per day to be inclusive of the current trends and obtain the most accurate estimated cost possible. The survey indicates that the proposed rule changes would incur costs for 47% of facilities. The remaining 53% of facilities are already offering the proposed 3 servings of dairy based on the new definition.

The agency’s estimated an average cost for an 8oz serving of dairy of \$1.28. This estimate was calculated by averaging the retail prices for the dairy products reported by the USDA, converted into costs per 8oz serving. USDA reports regional prices for several forms of cheese, ice cream, sour cream, and several forms of milk and yogurt by region. Butter was excluded from the calculation because butter is treated as a fat rather than dairy in the dietary rules. The agency chose to use the USDA data for the sake of consistency across providers and because requesting actual costs per serving of dairy from providers would likely be unsuccessful and unverifiable. It would be challenging for providers to develop an accurate calculation

¹ USDA [Weekly Advertised Retail Prices](#).

based on the new definition and it would require a significant time investment for providers to obtain receipts for each dairy product purchased and report the information to the agency.

Estimated costs for adult care homes that do not already offer 3 servings of dairy under the expanded definition is \$24,506 per facility, annually. For family care homes, estimated costs per facility would be \$3,326 per facility, annually. See details in table 3.

Table 3. Estimated Average Annual Cost Per Facility by Type: Not Already Offering 3 Servings

Facility Type	Additional serving needed	Average annual cost
	Percent of facilities	
Adult Care Homes	43%	\$24,506
Family Care Homes	54%	\$3,326

Due to the low survey response rate, there is a high level of uncertainty about the number of facilities that will need to offer additional dairy servings under the new rules. Similarly, there is variability in the per-serving cost of dairy depending on the chosen products and price fluctuations. Thus, total costs are uncertain. **However, this analysis suggests that the proposed rules will have a substantial economic impact² on facilities of approximately \$5.9 million dollars per year for adult care homes and \$1 million per year for family care homes statewide.** These costs were calculated by multiplying the estimated number of affected facilities (43% of the 556 adult care homes and 54% of the 537 family care homes) by the average annual cost per facility not already offering three servings of dairy under the expanded definition.

Alternatives

An alternate to the current proposed rules would be to keep the rules the same, making only technical changes that include no fiscal impact. However, keeping the rules the same would limit residents from potentially receiving additional servings of dairy which would not align with the current USDA standards. The current proposed rules are a better alternative as they align with current USDA standards offering more variety and increase in necessary vitamins which promote the health and well-being of residents.

A second alternative that could be considered in lieu of the proposed rules would include a further expanded definition of dairy alternatives based on the resident’s preference which could include calcium and vitamin D fortified plant-based milk alternatives such as rice milk, oat milk, coconut milk, or almond milk to meet the preferences of residents. By proposing a more expanded definition of dairy, it would be challenging for providers and their staff when purchasing these additional plant-based alternatives as they would need to ensure that they contain the proper amounts of vitamin D and calcium to meet the dairy recommendations. The current proposed rules are a better alternative as they meet the minimum current USDA standards. The current proposed rules are clear, concise, and give providers a variety of options to increase dairy serving requirements with dairy alternatives, without the need to pay special attention to the nutritional labels. The current proposed rules include soy milk and soy yogurt as an alternative plant-based option to meet the calcium and vitamin D nutrient requirements for residents who require or prefer a plant-based alternative.

² Defined as greater than \$1 million in costs and benefits in a 12-month period per G.S. 150B 21.4(b1)

Summary of Technical Changes: No Impact

1. The rule as written required the kitchen, dining, and food storage area to be clean, orderly, and protected from contamination. The proposed changes update the rules to include references to applicable sanitation rules enforced by the Division of Public Health. There is no fiscal impact as adherence to these rules are already mandated by the Commission for Public Health.

Rationale: Sanitation requirements are necessary to ensure cleanliness of the kitchen, dining, and food storage areas. Adult and family care home facilities are required to implement effective sanitation procedures to protect residents' food which helps to prevent foodborne illness. The sanitation rules as outlined in 15A NCAC 18A provide clear guidelines for food service equipment, utensils, food supplies, and food protection for adult care homes. Family Care homes will now have clear guidelines by complying with the Rules governing the Sanitation of Residential Care Facilities as promulgated by the Commission for Public Health. Inclusion of the sanitation rules for adult and family care homes will provide explicit regulations for how to ensure the kitchen, dining, and food storage areas are to be cleaned, orderly, and protected from contamination.

2. Additional technical changes were made to the rule to clarify the wording used to identify who is responsible for reviewing therapeutic diets. The language as written refers to the individuals as a "registered dietician". The proposed language was modified to match their practice act in Article 25 of Chapter 90 of the General Statutes.

3. The rule as written provides vague instruction with the use of the phrase "nutritionally adequate". The language was updated to provide clarity for how "adequate" will be defined in Subparagraph (d)(3) of the Rule. Subparagraph (d)(3) of the rule indicated the requirements of daily menus. The current rule as written also requires that meals shall be served during "regular hours." The rule language was updated to clarify meals should be provided during the hours that are normal for the community to give facilities the ability to create meal times that honor residents' choice and the culture of the community.

1 USDA Dietary Guidelines for Americans, 2020-2025

2 Data from the Adult Care Homes 2020 Facility License Renewal Applications

3(BMJ, 2021) "Effect of dietary sources of calcium and protein on hip fractures and falls in older adults in residential care: cluster randomized controlled trial"

Appendix

10A NCAC 13F .0904 is proposed for readoption with substantive changes as follows:

10A NCAC 13F .0904 NUTRITION AND FOOD SERVICE

(a) Food Procurement and Safety in Adult Care Homes:

- (1) ~~The kitchen, dining and food storage areas shall be clean, orderly and protected from contamination.~~ Facilities with a licensed capacity of 7 to 12 residents shall ensure food services comply with Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600 which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving food and beverage under sanitary conditions.
- (2) ~~All food and beverage being procured, stored, prepared or served by the facility shall be protected from contamination.~~ Facilities with a licensed capacity of 13 or more residents shall ensure food services comply with Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments set forth in 15A NCAC 18A .1300 which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving of food and beverage under sanitary conditions.
- (3) All meat processing shall occur at a USDA-approved processing plant.
- (4) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the ~~menus,~~ menus established in Paragraph (c) of this Rule for both regular and therapeutic diets.

(b) Food Preparation and Service in Adult Care Homes:

- (1) Sufficient staff, ~~space~~ space, and equipment shall be provided for safe and sanitary food storage, ~~preparation~~ preparation, and service.
- (2) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, ~~plate~~ plate, and beverage containers. ~~Exceptions may be made on an individual basis and shall be based on documented needs or preferences of the resident.~~
- (3) Hot foods shall be served hot and cold foods shall be served cold.
- (4) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

(c) Menus in Adult Care Homes:

- (1) Menus shall be prepared at least one week in advance with serving quantities specified and in accordance with the ~~Daily Food Requirements~~ daily food requirements in Paragraph (d) of this Rule.
- (2) Menus shall be maintained in the kitchen and identified as to the current menu day and cycle for any given day for guidance of food service staff.
- (3) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic ~~diets~~ diets, and documented and maintained in the kitchen to indicate the foods actually served to residents.
- (4) Menus shall be planned to take into account the food preferences ~~and customs~~ of the residents.
- (5) Menus as served and invoices or other receipts of purchases shall be maintained in the facility for 30 days.
- (6) Menus for all therapeutic diets shall be planned or reviewed by a ~~registered dietitian.~~ licensed dietitian/nutritionist. The facility shall maintain verification of the ~~registered dietitian's~~ licensed

dietitian/nutritionist's approval of the therapeutic diets which shall include an original signature by the registered dietitian and the registration number of the dietitian. diets.

- (7) The facility shall have a matching therapeutic diet menu for all physician-ordered therapeutic diets for guidance of food service staff.

(d) Food Requirements in Adult Care Homes:

- (1) Each resident shall be served a minimum of three nutritionally ~~adequate~~, adequate based on the requirements in Subparagraph (d)(3) of this Rule, palatable meals to the residents. Meals shall be served a day at regular ~~hours~~ times comparable to normal meal times in the community. There shall be ~~with~~ at least 10 hours between the breakfast and evening meals.
- (2) Foods and beverages ~~that are appropriate to residents' diets~~ shall be offered in accordance with residents' prescribed diet or made available to all residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.
- (3) Daily menus for regular diets shall be based on the U.S. Department of Agriculture Dietary guidelines for Americans 2020-2025, which are hereby incorporated by reference including subsequent amendments and editions. These guidelines can be found at https://dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf for no cost and include the following:
- (A) ~~Homogenized whole milk, low fat milk, skim milk or buttermilk;~~ Dairy and dairy alternatives: milk, yogurt, cheese, low-lactose or lactose-free dairy products, fortified soy beverages, and soy yogurt. One cup (8 ounces) of ~~pasteurized milk dairy or dairy alternatives~~ at least twice three times a day. Milk served shall be pasteurized. Reconstituted dry milk or diluted evaporated milk may be used in cooking ~~only and not for drinking purposes due to risk of bacterial contamination during mixing and the lower nutritional value of the product if too much water is used.~~ only.
- (B) Fruit: Two servings of ~~fruit (one serving equals 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium size whole fruit; or ¼ cup dried fruit).~~ fruit; examples of one serving are as follows: 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit. One serving shall be a citrus fruit or a single strength juice in which there is 100% of the recommended dietary allowance of vitamin C in each six ounces of juice. The second fruit serving shall be of another variety of fresh, ~~dried~~ dried, or canned fruit.
- (C) Vegetables: Three servings of ~~vegetables (one serving equals ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable).~~ vegetables; examples of one serving are as follows: ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable. One of these shall be a dark green, ~~leafy~~ leafy, or deep yellow vegetables three times a week.
- (D) Eggs: One whole egg or substitute (~~e.g., 2 egg whites or ¼ cup of pasteurized egg product~~) such as 2 egg whites or ¼ cup of pasteurized egg product at least three times a week at breakfast.
- (E) Protein: Two to three ounces of pure cooked meat at least two times a day for a minimum of 4 ounces. A substitute (~~e.g.,~~ such as 4 tablespoons of peanut butter, 1 cup of cooked dried peas or ~~beans~~ beans, or 2 ounces of pure cheese) may be served three times a week but not more than once a day, unless requested by the resident.

Note: For the purposes of this Rule, Bacon is considered to be fat and ~~not meat for the purposes of this Rule.~~ does not meet the protein requirement for meat.

- (F) Cereals and Breads: At least six servings of whole grain or enriched cereal and bread or grain products a day. Examples of one serving are as follows: 1 slice of bread; ½ of a bagel, ~~English muffin~~ English muffin, or hamburger bun; one 1 ½ -ounce muffin, 1- ounce roll, 2-ounce biscuit or 2-ounce piece of cornbread; ½ cup cooked rice or cereal (~~e.g., (such as~~ oatmeal or grits); ¾ cup ready-to-eat cereal; or one waffle, ~~pancake~~ pancake, or tortilla that is six inches in diameter. Cereals and breads offered as snacks may be included in meeting this requirement.
- (G) Fats: Include butter, oil, ~~margarine~~ margarine, or items consisting primarily of one of ~~these (e.g., such as icing or gravy)~~ these, such as icing or gravy.
- (H) Water and Other Beverages: Water shall be served to each resident at each meal, in addition to other beverages.

(e) Therapeutic Diets in Adult Care Homes:

- (1) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician. Where applicable, the therapeutic diet order shall be specific to calorie, ~~gram~~ gram, or consistency, such as for ~~calorie controlled~~ calorie-controlled ADA diets, low sodium ~~diets~~ diets, or thickened liquids, unless there are written orders ~~which~~ that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a ~~registered dietitian.~~ licensed dietitian/nutritionist. For the purpose of this Rule “therapeutic diet” is a diet ordered by a physician or other delegated provider that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.
- (2) Physician orders for nutritional supplements shall be in writing from the resident's physician and be ~~brand specific,~~ brand-specific, unless the facility has defined a house supplement in its communication to the physician, and shall specify quantity and frequency.
- (3) The facility shall maintain ~~an accurate and~~ a current listing of residents with physician-ordered therapeutic diets for guidance of food service staff.
- (4) All therapeutic diets, including nutritional supplements and thickened liquids, shall be served as ordered by the resident's physician.

(f) Individual Feeding Assistance in Adult Care Homes:

- (1) ~~Sufficient~~ The facility shall provide staff ~~shall be available~~ for individual feeding assistance ~~as needed.~~ in accordance to residents’ needs.
- (2) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

(g) Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the resident's record.

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

Amended Eff. April 1, 1984;

Temporary Amendment Eff. July 1, 2003;

Amended Eff. June 1, 2004, 2004;

Readopted Eff. January 1, 2023.

10A NCAC 13G .0904 is proposed for readoption with substantive changes as follows:

10A NCAC 13G .0904 NUTRITION AND FOOD SERVICE

(a) Food Procurement and Safety in Family Care Homes:

- (1) ~~The kitchen, dining and food storage areas shall be clean, orderly and protected from contamination. Food services shall comply with Rules Governing the Sanitation of Residential Care Facilities as promulgated by the Commission for Public Health which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving food under sanitary conditions. Copies of these Rules can be accessed online at <https://ehs.ncpublichealth.com/rules.htm>, at no cost.~~ Food services shall comply with Rules Governing the Sanitation of Residential Care Facilities as promulgated by the Commission for Public Health which are hereby incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving food under sanitary conditions. Copies of these Rules can be accessed online at <https://ehs.ncpublichealth.com/rules.htm>, at no cost.
- (2) ~~All food and beverage being procured, stored, prepared or served by the facility shall be protected from contamination.~~
- ~~(3)~~(2) All meat processing shall occur at a USDA-approved processing plant.
- ~~(4)~~(3) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food in the facility based on the ~~menus~~, menus established in Paragraph (c) of this Rule, for both regular and therapeutic diets.

(b) Food Preparation and Service in Family Care Homes:

- (1) Sufficient staff, ~~space~~ space, and equipment shall be provided for safe and sanitary food storage, ~~preparation~~ preparation, and service.
- (2) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, ~~plate~~ plate, and beverage containers. ~~Exceptions may be made on an individual basis and shall be based on documented needs or preferences of the resident.~~
- (3) Hot foods shall be served hot and cold foods shall be served cold.
- (4) If residents require feeding assistance, food shall be maintained at serving temperature until assistance is provided.

(c) Menus in Family Care Homes:

- (1) Menus shall be prepared at least one week in advance with serving quantities specified and in accordance with the ~~Daily Food Requirements~~ daily food requirements in Paragraph (d) of this Rule.
- (2) Menus shall be maintained in the kitchen and identified as to the current menu day and cycle for any given day for guidance of food service staff.
- (3) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic ~~diets~~ diets, and documented and maintained in the kitchen to indicate the foods actually served to residents.
- (4) Menus shall be planned to take into account the food preferences ~~and customs~~ of the residents.
- (5) Menus as served and invoices or other receipts of purchases shall be maintained in the facility for 30 days.

- (6) Menus for all therapeutic diets shall be planned or reviewed by a ~~registered dietitian.~~ licensed dietitian/nutritionist. The facility shall maintain verification of the ~~registered dietitian's licensed dietitian/nutritionist's~~ approval of the therapeutic ~~diets which shall include an original signature by the registered dietitian and the registration number of the dietitian.~~ diets.
- (7) The facility shall have a matching therapeutic diet menu for all physician-ordered therapeutic diets for guidance of food service staff.

(d) Food Requirements in Family Care Homes:

- (1) Each resident shall be served a minimum of three nutritionally ~~adequate,~~ adequate based on the requirements in Subparagraph (d)(3) of this Rule, palatable meals to the residents. Meals shall be served ~~a day~~ at regular ~~hours~~ times comparable to normal meal times in the community. There shall be ~~with~~ at least 10 hours between the breakfast and evening meals.
- (2) Foods and beverages ~~that are appropriate to residents' diets~~ shall be offered in accordance with residents' prescribed diet or made available to all residents as snacks between each meal for a total of three snacks per day and shown on the menu as snacks.
- (3) Daily menus for regular diets shall be based on the U.S. Department of Agriculture Dietary Guidelines for Americans 2020-2025, which are hereby incorporated by reference, including subsequent amendments and editions. These guidelines can be found at https://dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf, at no cost and include the following:

- (A) ~~Homogenized whole milk, low fat milk, skim milk or buttermilk;~~ Dairy and dairy alternatives: milk, yogurt, cheese, low-lactose or lactose-free dairy products, fortified soy beverages, and soy yogurt. One cup (8 ounces) of ~~pasteurized milk~~ dairy or dairy alternatives at least ~~twice~~ three times a day. Milk served shall be pasteurized. Reconstituted dry milk or diluted evaporated milk may be used in cooking ~~only and not for drinking purposes due to risk of bacterial contamination during mixing and the lower nutritional value of the product if too much water is used.~~ only.
- (B) Fruit: Two servings of ~~fruit (one serving equals 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium size whole fruit; or ¼ cup dried fruit).~~ fruit; examples of one serving are as follows: 6 ounces of juice; ½ cup of raw, canned or cooked fruit; 1 medium-size whole fruit; or ¼ cup dried fruit. One serving shall be a citrus fruit or a single strength juice in which there is 100% of the recommended dietary allowance of vitamin C in each six ounces of juice. The second fruit serving shall be of another variety of fresh, ~~dried~~ dried, or canned fruit.
- (C) Vegetables: Three servings of ~~vegetables (one serving equals ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable).~~ vegetables; examples of one serving are as follows: ½ cup of cooked or canned vegetable; 6 ounces of vegetable juice; or 1 cup of raw vegetable. One of these shall be a dark green, ~~leafy~~ leafy, or deep yellow vegetables three times a week.
- (D) Eggs: One whole egg or substitute (~~e.g., 2 egg whites or ¼ cup of pasteurized egg product~~) such as 2 egg whites or ¼ cup of pasteurized egg product at least three times a week at breakfast.
- (E) Protein: Two to three ounces of ~~pure~~ cooked meat at least two times a day for a minimum of 4 ounces. A substitute (~~e.g.,~~ such as 4 tablespoons of peanut butter, 1 cup of cooked dried peas or beans or 2

ounces of pure cheese) may be served three times a week but not more than once a day, unless requested by the resident.

Note: For the purposes of this Rule, Bacon is considered to be fat and ~~not meat for the purposes of this Rule.~~ does not meet the protein requirement for meat.

- (F) Cereals and Breads: At least six servings of whole grain or enriched cereal and bread or grain products a day. Examples of one serving are as follows: 1 slice of bread; ½ of a bagel, English muffin or hamburger bun; one 1 ½ -ounce muffin, 1- ounce roll, 2-ounce biscuit or 2-ounce piece of cornbread; ½ cup cooked rice or cereal (~~e.g.,~~ (such as oatmeal or grits)); ¾ cup ready-to-eat cereal; or one waffle, ~~pancake~~ pancake, or tortilla that is six inches in diameter. Cereals and breads offered as snacks may be included in meeting this requirement.
- (G) Fats: Include butter, oil, ~~margarine~~ margarine, or items consisting primarily of one of ~~these (e.g., icing or gravy)~~ these, such as icing or gravy.
- (H) Water and Other Beverages: Water shall be served to each resident at each meal, in addition to other beverages.

(e) Therapeutic Diets in Family Care Homes:

- (1) All therapeutic diet orders including thickened liquids shall be in writing from the resident's physician. Where applicable, the therapeutic diet order shall be specific to calorie, ~~gram~~ gram, or consistency, such as for ~~calorie controlled~~ calorie-controlled ADA diets, low sodium ~~diets~~ diets, or thickened liquids, unless there are written orders ~~which that~~ that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a ~~registered dietitian.~~ licensed dietitian/nutritionist. For the purpose of this Rule "therapeutic diet" is a diet ordered by a physician or other delegated provider that is part of the treatment for a disease or clinical condition, to eliminate, decrease, or increase certain substances in the diet (e.g., sodium or potassium), or to provide mechanically altered food when indicated.
- (2) Physician orders for nutritional supplements shall be in writing from the resident's physician and be ~~brand specific,~~ brand-specific, unless the facility has defined a house supplement in its communication to the physician, and shall specify quantity and frequency.
- (3) The facility shall maintain ~~an accurate and~~ a current listing of residents with physician-ordered therapeutic diets for guidance of food service staff.
- (4) All therapeutic diets, including nutritional supplements and thickened liquids, shall be served as ordered by the resident's physician.

(f) Individual Feeding Assistance in Family Care Homes:

- (1) ~~Sufficient~~ The facility shall provide staff ~~shall be available~~ for individual feeding assistance as ~~needed.~~ in accordance with residents' needs.
- (2) Residents needing help in eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each resident's dignity and respect.

(g) Variations from the required three meals or time intervals between meals to meet individualized needs or preferences of residents shall be documented in the resident's record.

History Note: Authority G.S. 131D-2.16; 143B-165;

Eff. January 1, 1977;

Amended Eff. October 1, 1977; April 22, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. August 3, 1992; July 1, 1990; September 1, 1987; April 1, 1987;

Temporary Amendment Eff. July 1, 2003;

Amended Eff. June 1, ~~2004~~ 2004;

Readopted Eff. January 1, 2023.