

1 **10A NCAC 27G .6702 is proposed for amendment as follows:**

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3 **10A NCAC 27G .6702 OPERATIONS**

4 (a) ~~Forensic Screening And Evaluation.~~ Forensic screening and evaluation to assess capacity to proceed to trial shall be
5 provided by evaluators trained and ~~registered~~ certified in accordance with the provisions of 10A NCAC 27H .0201 through
6 ~~.0207, TRAINING AND REGISTRATION OF FORENSIC EVALUATORS (DMH/DD/SAS publication APSR 100 3).~~
7 .0207.

8 (b) ~~Consultation To Law Enforcement Officials.~~ Consultation ~~to~~ with law enforcement officials, including consultation prior
9 to the commitment of an offender or alleged offender to any state psychiatric hospital, shall be provided.

10 (c) Justice Treatment Services:

11 (1) Each ~~area program~~ Local Management Entity-Managed Care Organization (LME-MCO) shall develop and
12 implement a written justice treatment services plan which shall provide for the coordination of ~~area~~
13 ~~program~~ LME-MCO court related activities with the criminal justice system.

14 (2) ~~An~~ Each LME-MCO shall designate an individual ~~shall be designated~~ who has responsibility for
15 developing and implementing the justice treatment services plan.

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17 *History Note:* Authority G.S. 15A-1002; 143B-147;
18 Eff. May 1, 1996-1996;
19 Amended Eff. November 1, 2016.

1 **10A NCAC 27H .0201 is proposed for amendment as follows:**

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3 **SECTION .0200 – TRAINING AND ~~REGISTRATION~~ CERTIFICATION OF FORENSIC EVALUATORS**

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5 **10A NCAC 27H .0201 SCOPE**

6 (a) The purpose of Rules .0201 through .0207 of this Section is to specify the requirements that shall be met to be
7 ~~registered~~ certified as a local forensic evaluator by the Division of Mental Health, Developmental Disabilities and
8 Substance Abuse Services.

9 (b) The provisions of Rules .0201 through .0207 of this Section apply to any ~~qualified mental health professional or~~
10 ~~qualified substance abuse professional~~ Licensed Clinician, as defined in Rule 10A NCAC 27G .0104, seeking ~~registration~~
11 certification as a local forensic evaluator by the Division.

12 (c) Individuals who are not Licensed Clinicians but were registered under these Rules prior to November 1, 2016 shall
13 be eligible for certification provided they meet all other requirements.

14
15 *History Note: Authority G.S. 15A-1002; 143B-147;*
16 *Eff. July 1, 1982;*
17 *Amended Eff. November 1, 2016; January 1, 1996; May 1, 1990.*

1 **10A NCAC 27H .0202 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0202 DEFINITIONS**

4 For the purposes of Rules .0201 through .0207 of this ~~Section~~ Section, the following terms shall have the meanings
5 indicated:

- 6 (1) "Forensic Evaluation" means ~~an~~ a local examination ordered by the court to determine if the defendant
7 has the capacity to proceed to trial, does not have the capacity to proceed to trial, or needs further
8 ~~treatment at an inpatient facility or~~ further evaluation at the Pre-Trial Evaluation Center.
- 9 (2) ~~"Pre-Trial Evaluation Center" means the forensic unit at Dorothea Dix Hospital.~~ "Licensed Clinician"
10 means the same as defined in Rule 10A NCAC 27G .0104.
- 11 (3) ~~"Qualified Mental Health Professional" means the same as defined in 10A NCAC 27G .0104(e)~~
12 ~~contained in Division publication, Rules for Mental Health, Developmental Disabilities and Substance~~
13 ~~Abuse Facilities and Services, APSM 40-2.~~ "Local Certified Forensic Evaluator" means a Licensed
14 Clinician who:
15 (a) has completed the training for certification and annual training seminars described in
16 Rule .0204 of this Section; and
17 (b) is employed by, or under contract with, an LME-MCO as a Certified Forensic
18 Evaluator.
- 19 (4) ~~"Qualified Substance Abuse Professional" means the same as defined in 10A NCAC 27G .0104(e)~~
20 ~~contained in Division publication, Rules for Mental Health, Developmental Disabilities and Substance~~
21 ~~Abuse Facilities and Services, APSM 40-2.~~ "Pre-Trial Evaluation Center" means the Forensic
22 Services Unit so designated by the Secretary of the North Carolina Department of Health and Human
23 Services.

24
25 *History Note:* Authority G.S. 15A-1002; 143B-147;
26 Eff. July 1, 1982;
27 Amended Eff. November 1, 2016; January 1, 1996; May 1, 1990.

1 **10A NCAC 27H .0203 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0203 ELIGIBILITY FOR TRAINING**

4 (a) To be eligible for training as a local certified forensic evaluator the applicant shall:

- 5 (1) be a ~~qualified mental health professional or a qualified substance abuse professional;~~ Licensed
6 Clinician;
7 (2) be an employee of, or work under contract with, an ~~area program;~~ LME-MCO; and
8 (3) have his name submitted as an applicant for the training and ~~registration~~ certification program by the
9 ~~area~~ LME-MCO director.

10 (b) The ~~area program~~ LME-MCO shall verify that the applicant is a Licensed Clinician, or meets the requirements of
11 Rule .0201(c) of this Section, and has expertise with the mental health, developmental disabilities, or substance abuse
12 (mh/dd/sa) population for whom the applicant will provide forensic evaluations. meets the appropriate standards for a
13 qualified mental health professional that are referenced in Rule .0202 of this Section.

14
15 *History Note:* Authority *G.S. 15A-1002; 143B-147;*
16 *Eff. July 1, 1982;*
17 *Amended Eff. November 1, 2016; January 1, 1996; May 1, 1990.*

1 **10A NCAC 27H .0204 is proposed for amendment as follows:**
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3 **10A NCAC 27H .0204 TRAINING AND REGISTRATION CERTIFICATION**

4 ~~(a) The applicant shall successfully complete a minimum of six hours of initial training covering procedure, techniques,~~
5 ~~and reporting that is provided by the Mental Health Section of the Division in order to be registered certified as a local~~
6 ~~forensic evaluator. The initial training shall include:~~

- 7 (1) current laws and practices including the role of the local forensic evaluator in the capacity to proceed
8 evaluation process;
9 (2) procedures for conducting interviews including evaluation for the presence of mh/dd/sa disorders, or
10 other relevant conditions;
11 (3) components of reports to be submitted to the court;
12 (4) process for reporting findings to the court; and
13 (5) an examination at the conclusion of the training which assesses comprehension of the training material
14 and an understanding of the duties of a local forensic evaluator.

15 (b) Each local forensic evaluator is required to complete a minimum of four hours of required annual continuing
16 education modules provided by the Pre-Trial Evaluation Center by December 31 of each calendar year.

17 (c) Local forensic evaluators shall be exempt from the continuing education requirement in the calendar year in which
18 they are first certified and shall complete the annual continuing education requirement by December 31 of the following
19 year and each calendar year thereafter.

20 (d) Continuing education module topics may include:

- 21 (1) evaluation skills training to enhance skills acquired through the initial local forensic evaluator training;
22 (2) changes in existing laws and current practices; and
23 (3) evaluation of mh/dd/sa populations.
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26 *History Note: Authority G.S. 15A-1002; 143B-147;*
27 *Eff. July 1, 1982;*
28 *Amended Eff. November 1, 2016; May 1, 1990.*

1 **10A NCAC 27H .0205 is proposed for amendment as follow:**
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3 **10A NCAC 27H .0205 PERIOD OF REGISTRATION LME-MCO OVERSIGHT OF FORENSIC**
4 **EVALUATOR PROGRAM**

5 ~~Registration shall continue to be valid unless registration is terminated as specified in Rule .0206 of this Section.~~

6 (a) The LME-MCO shall ensure there is a sufficient number of local certified forensic evaluators to conduct
7 forensic evaluations in its catchment area.

8 (b) Each LME-MCO shall maintain a list of local certified forensic evaluators who are currently employed or
9 contracted by the LME-MCO that includes the mh/dd/sa populations for which each evaluator has reported
10 having expertise to conduct forensic evaluations.

11 (c) The LME-MCO shall verify that each local forensic evaluator meets the requirements set forth in Rules .0203
12 and .0204 of this Section.

13 (d) The LME-MCO shall notify the Pre-Trial Evaluation Center of any changes which would result in termination
14 of certification per Rule .0206 of this Section.

15 (e) The LME-MCO shall maintain a log of local forensic evaluations done in each county within its catchment area
16 and provide that log to the Pre-Trial Evaluation Center on a monthly basis.

17 (f) The LME-MCO shall identify potentially qualified individuals to enroll in training for certification to replace
18 any evaluator whose certification has been terminated or to increase the number of evaluators due to increased
19 numbers of evaluations logged.

20 (g) The LME-MCO shall establish a mechanism to ensure a quality management process is included in the LME-
21 MCO's Quality Improvement System for oversight of the local certified forensic evaluators in its catchment area that
22 includes:

23 (1) identifying an individual who is a local certified forensic evaluator who will monitor the overall
24 quality and outcomes of the reports of forensic evaluations completed by other local forensic
25 evaluators; and

26 (2) establishing a procedure for responding to questions or concerns related to the quality of reports of
27 forensic evaluations completed by local certified forensic evaluators in its catchment area.
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29 *History Note: Authority G.S. 15A-1002; 143B-147;*
30 *Eff. July 1, 1982;*
31 *Amended Eff. November 1, 2016; May 1, 1990.*

1 **10A NCAC 27H .0206 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0206 TERMINATION OF REGISTRATION-CERTIFICATION**

4 ~~A Forensic Evaluator Registration will be declared~~ The LME-MCO shall declare a forensic evaluator certification void
5 when:

- 6 (1) the evaluator notifies the LME-MCO in writing that he no longer ~~desires~~ wishes to be ~~registered~~
7 certified; and perform the duties required by an evaluator;
8 (2) the evaluator is no longer employed by, or under contract with, an ~~area program; or~~ LME-MCO;
9 (3) the evaluator no longer meets the ~~registration requirements.~~ eligibility requirements set forth in Rule
10 .0203 of this Section;
11 (4) the evaluator fails to complete annual continuing education modules as set forth in Rule .0204 of this
12 Section; or
13 (5) the evaluator fails to perform any of the duties described in Rule .0207 of this Section.
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15 *History Note:* Authority G.S. 15A-1002; 143B-147;
16 Eff. July 1, 1982;
17 Amended Eff. November 1, 2016; May 1, 1990.

1 **10A NCAC 27H .0207 is proposed for amendment as follows:**

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3 **10A NCAC 27H .0207 DUTIES OF REGISTERED ~~CERTIFIED~~ FORENSIC EVALUATOR**

4 When ordered by the court, the local certified forensic evaluator shall conduct a forensic evaluation or a screening
5 examination of the defendant and ~~report to the court~~ in accordance with G.S. 15A-1002 ~~whether:~~ shall submit a report
6 that:

- 7 (1) ~~there is sufficient question of mental or emotional disorder to recommend inpatient evaluation or~~
8 ~~treatment; or is limited to evaluation of capacity to proceed to trial and does not address criminal~~
9 ~~responsibility, legal insanity, or diminished capacity;~~
10 (2) ~~there is sufficient information to recommend that the defendant does have capacity to proceed and~~
11 ~~further evaluation is not indicated. indicates the opinion of the evaluator that the defendant clearly has~~
12 ~~the capacity to proceed, that the defendant clearly lacks the capacity to proceed, or that the evaluator is~~
13 ~~unable to form a clear opinion;~~
14 (3) addresses the likelihood that the defendant will gain capacity if, in the opinion of the evaluator, the
15 defendant clearly lacks the capacity to proceed; and
16 (4) recommends a full evaluation at the Pre-Trial Evaluation Center if the evaluator is unable to form a
17 clear opinion and the defendant is charged with a felony.

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19 *History Note:* Authority G.S. 15A-1002; 143B-147;
20 Eff. July 1, 1982;
21 Amended Eff. November 1, 2016; May 1, 1990.
22