

1 **RULE 10A NCAC 28A .0102 IS AMENDED UNDER PERMANENT PROCEDURES AS FOLLOWS.**

2
3 **10A NCAC 28A .0102 DEFINITIONS**

4 (a) In addition to the definitions contained in this Rule, the terms defined in G.S. 122C-3, 122C-4 and 122C-53(f) also
5 apply to all rules in Subchapters 28A, 28B, 28C, and 28D of this Chapter.

6 (b) As used in the rules in Subchapters 28A, 28B, 28C, and 28D of this Chapter, the following terms have the meanings
7 specified:

8 (1) "Abuse" means the same as defined in 42 CFR Part 488 Subpart E, which is incorporated by reference,
9 including subsequent amendments. ~~infliction of physical or mental pain or injury by other than~~
10 ~~accidental means; or unreasonable confinement; or the deprivation by an employee of services which~~
11 ~~are necessary to the mental and physical health of the client. Temporary discomfort that is part of an~~
12 ~~approved and documented treatment plan or use of a documented emergency procedure shall not be~~
13 ~~considered abuse.~~

14 (2) "Associate Professional (AP)" within the mental health, developmental disabilities and substance abuse
15 services (mh/dd/sas) system of care means an individual who is either a:

16 (A) graduate of a college or university with a Masters degree in a human service field with less
17 than one year of full-time, post-graduate degree accumulated mh/dd/sa experience with the
18 population served, or a substance abuse professional with less than one year of full-time, post-
19 graduate degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon
20 hiring, an individualized supervision plan shall be developed and supervision shall be
21 provided by a qualified professional with the population served until the individual meets one
22 year of experience; ~~or~~

23 (B) graduate of a college or university with a bachelor's degree in a human service field with less
24 than two years of full-time, post-accumulated mh/dd/sa experience with the population
25 served, or a substance abuse professional with less than two years of full-time, post-bachelor's
26 degree accumulated supervised experience in alcoholism and drug abuse counseling. Upon
27 hiring, an individualized supervision plan shall be developed and reviewed annually.
28 Supervision shall be provided by a qualified professional with the population served until the
29 individual meets two years of experience; ~~or~~

30 (C) graduate of a college or university with a bachelor's degree in a field other than human
31 services with less than four years of full-time, post bachelor's degree accumulated mh/dd/sa
32 experience with the population served, or a substance abuse professional with less than four
33 years of full-time, post-bachelor's degree accumulated supervised experience in alcoholism
34 and drug abuse counseling. Upon hiring, an individualized supervision plan shall be
35 developed and reviewed annually. Supervision shall be provided by a qualified professional
36 with the population served until the individual meets four years of experience; or

- 1 (D) registered nurse who is licensed to practice in the State of North Carolina by the North
2 Carolina Board of Nursing with less than four years of full-time accumulated experience in
3 mh/dd/sa with the population served. Upon hiring, an individualized supervision plan shall be
4 developed and reviewed annually. Supervision shall be provided by a qualified professional
5 with the population served until the individual meets four years of experience.
- 6 (3) "Basic necessities" mean the essential items or substances needed to support life and health which
7 include, but are not limited to, a nutritionally sound diet balanced during three meals per day, access to
8 water and bathroom facilities at frequent intervals, seasonable clothing, medications to control
9 seizures, diabetes and other like physical health conditions, and ~~frequent~~ access to social contacts.
- 10 (4) "Certified clinical supervisor (CCS)" means an individual who is certified as such by the North
11 Carolina Addictions Specialist Professional Practice Substance Abuse Professional Certification
12 Board.
- 13 (5) "Certified ~~substance abuse counselor (CSAC)~~ alcohol and drug counselor" means an individual who
14 is certified as such by the North Carolina Addictions Specialist Substance Abuse Professional Practice
15 Certification Board.
- 16 (6) "Client" has the same meaning assigned in G.S. § 133C-3. "Client" may also be referred to as a
17 patient or resident.
- 18 ~~(6)~~(7) "Client record" means any record made of confidential ~~information-~~ information as defined G.S. §
19 122C-3.
- 20 ~~(7)~~(8) "Clinical Director" means Medical Director, Director of Medical Services or such person acting in the
21 position of Clinical Director, or his designee.
- 22 ~~(8)~~(9) "Clinically competent" means authorization by the State Facility Director for a qualified professional
23 to provide specific ~~treatment/habilitation~~ treatment or habilitation services to clients based on the
24 professional's education, training, experience, competence and judgment.
- 25 ~~(9)~~(10) "Consent" means concurrence by a client or his legally responsible person following receipt of
26 information from the qualified professional who will administer the proposed treatment or procedure.
27 Informed consent implies that the client or his legally responsible person was provided with
28 information concerning proposed treatment, including both benefits and risks, in order to make an
29 educated decision with regard to such treatment.
- 30 ~~(10)~~(11) "Dangerous articles or substances" mean, but are not limited to, any weapon or potential weapon,
31 heavy blunt object, sharp objects, potentially harmful chemicals, or drugs of any sort, including
32 alcohol.
- 33 (12) "Division" means the Division of State Operated Healthcare Facilities.
- 34 ~~(11)~~(13) "Division Director" means the Director of the Division or his designee.
- 35 ~~(12)~~(14) "Emergency" means a situation in a state facility in which a client is in imminent danger of causing
36 abuse or injury to self or others, or when substantial property damage is occurring as a result of

1 unexpected and severe forms of inappropriate behavior, and rapid intervention by the staff is needed.

2 ~~[See Subparagraph (b)(25) of this Rule for definition of medical emergency].~~

3 ~~(13)~~(15) "Emergency surgery" means an operation or surgery performed in a medical ~~emergency~~ emergency ~~[as~~
4 emergency, as defined in Subparagraph (b)(25) of this Rule ~~Rule,~~ where informed consent cannot be
5 obtained from an authorized person, as specified in G.S. 90-21.13, because the delay would ~~seriously~~
6 worsen the physical condition or endanger the life of the client.

7 ~~(14)~~(16) "Exclusionary time-out" means the removal of a client to a separate area or room from which exit is
8 not barred for the purpose of modifying behavior.

9 ~~(15)~~(17) "Exploitation" means the same as defined in 42 CFR Part 483 Subpart B, which is incorporated by
10 reference, including subsequent amendments. ~~use of a client or her/his resources, including borrowing,~~
11 ~~taking or using personal property with or without her/his permission for another person's profit,~~
12 ~~business or advantage.~~

13 ~~(16)~~(18) "Forensic Division" means the ~~units~~ units at Dorothea Dix Hospital any State hospital designated in
14 accordance with G.S. § 122C-252 which serves clients who are:

15 (A) admitted for the purpose of evaluation for capacity to proceed to trial;

16 (B) found not guilty by reason of insanity;

17 (C) determined incapable of proceeding to ~~trial, or~~ trial.

18 ~~(D) — deemed to require a more secure environment to protect the health, safety and welfare of~~
19 ~~clients, staff and the general public.~~

20 ~~(17)~~(19) "Grievance" means a verbal or written complaint by or on behalf of a client concerning a situation that
21 occurred within the ~~jurisdiction of the~~ state facility. A grievance does not include complaints that can
22 be resolved without delay by staff present. A complaint that is not resolved shall be filed and processed
23 in accordance with the requirements of 10A NCAC 28B .0203.

24 ~~(18)~~(20) "Human Rights Committee" means a committee, appointed by the Secretary, to act in a capacity
25 regarding the protection of client rights.

26 ~~(19)~~(21) "Independent psychiatric consultant" means a licensed psychiatrist not on the staff of the state facility
27 in which the client is being treated. The psychiatrist may be in private practice, ~~or~~ be employed by
28 another state facility, or be employed by a facility other than a state facility as defined in G.S.
29 122C-3(14).

30 ~~(20)~~(22) "Interpreter services" means specialized communication services provided for the hearing impaired by
31 interpreters certified by the National Registry of Interpreters for the Deaf or the National Association
32 of the Deaf.

33 ~~(21)~~(23) "Involuntary client" means a person admitted to any regional psychiatric hospital or ~~alcoholic~~
34 ~~rehabilitation center~~ alcohol and drug abuse treatment center under the provisions of Article 5, Parts 7,
35 8 or 9 of G.S. 122C and ~~includes~~ includes, but it is not limited ~~to~~ to, clients detained pending a district
36 court hearing and clients involuntarily committed after a district court hearing. This term shall also
37 include individuals who are defendants in criminal actions and are being evaluated in a state facility for

1 mental responsibility or mental competency as a part of such criminal proceedings as specified in G.S.
2 ~~15A-1002~~ 15A-1002, unless a valid order providing otherwise is issued from a court of competent
3 ~~jurisdiction~~ jurisdiction, and the civil commitment of defendants found not guilty by reason of insanity
4 as specified in G.S. 15A-1321.

5 ~~(22)~~(24) "Isolation time-out" means the removal of a client to a separate room from which exit is barred ~~but~~
6 ~~which is not locked~~ and where there is ~~continuous~~ direct, uninterrupted supervision by staff for the
7 purpose of modifying behavior. "Isolation time-out" does not include precautions intended to prevent
8 transmission of a communicable disease.

9 (25) "Licensed Clinical Addiction Specialist (LCAS)" means an individual who is certified as such by the
10 North Carolina Addictions Specialist Professional Practice Board.

11 ~~(23)~~(26) "Licensed ~~Clinical Mental health~~professional counselor (LPC)" (LCMHC)" means a counselor who is
12 licensed as such by the North Carolina Board of Licensed ~~Clinical Mental Health~~ Professional
13 Counselors.

14 ~~(24)~~(27) "Major physical injury" means damage caused to the body resulting in profuse bleeding or contusion of
15 tissues; fracture of a bone; damage to internal organs; loss of consciousness; loss of normal
16 neurological function (inability to move or coordinate movement); or any other painful condition
17 caused by such injury.

18 ~~(25)~~(28) "Medical emergency" means a situation where the client is unconscious, ill, or injured, and the
19 ~~reasonably apparent~~ circumstances require prompt immediate decisions and actions in medical or other
20 ~~health care, care related decisions and actions to prevent the worsening of the necessity of immediate~~
21 ~~health care treatment is so reasonably apparent that any delay in the rendering of the treatment would~~
22 ~~seriously worsen the physical condition~~ condition, or endanger the ~~life~~ life, of the client.

23 ~~(26)~~(29) "Minimal risk research" means that the risks of harm anticipated in the proposed research are not
24 greater, considering probability and magnitude, than those ~~ordinarily~~ encountered in daily life or
25 during the performance of routine physical or psychological examinations or tests.

26 ~~(27)~~(30) "Minor client" means a person under 18 years of age who ~~has not been married or who has not been~~
27 ~~emancipated by a decree issued by a court of competent jurisdiction or is not a member of the armed~~
28 ~~forces.~~

29 (A) has not been married; or

30 (B) has not been emancipated by a decree issued by a court of competent jurisdiction; or

31 (C) is not a member of the armed forces.

32 (31) "Misappropriation of resident property" means the same as defined by 42 CFR Part 488 Subpart E,
33 incorporated by reference, including subsequent amendments.

34 ~~(28)~~(32) "Neglect" means the same as defined by 42 CFR Part 488 Subpart E, incorporated by reference,
35 including subsequent amendments, ~~failure to provide care or services necessary to maintain the mental~~
36 ~~and physical health of the client.~~

1 ~~(29)~~(33) "Normalization" means the principle of helping the client to obtain an existence as close to normal as
2 possible, taking into consideration the client's disabilities and potential, by making available to him
3 patterns and conditions of everyday life that are as close as possible to the norms and patterns of the
4 mainstream of society.

5 ~~(30)~~(34) "Paraprofessional" within the mh/dd/sa system of care means an individual who, with the exception of
6 staff providing respite services or personal care services, has a GED or high school diploma; an
7 individual ~~or no GED or high school diploma~~, employed prior to November 1, 2001 to provide a
8 mh/dd/sa ~~service~~. service is not required to have a GED or high school diploma. Upon hiring, an
9 individualized supervision plan shall be developed and supervision shall be provided by a qualified
10 professional or associate professional with the population served.

11 ~~(31)~~(35) "Person standing in loco parentis" means one who has put himself in the place of a lawful parent by
12 assuming the rights and obligations of a parent without formal adoption.

13 ~~(32)~~(36) "Physical Restraint" means the application or use of any manual method of restraint that restricts
14 freedom of movement, or the application or use of any physical or mechanical device that restricts
15 freedom of movement or normal access to one's body, including material or equipment attached or
16 adjacent to the client's body that he or she cannot easily remove. Holding a client in a therapeutic hold
17 or any other manner that restricts his or her movement constitutes manual restraint for that client.
18 Mechanical devices may restrain a client to a bed or chair, or may be used as ambulatory restraints.
19 Examples of mechanical devices include cuffs, ankle straps, sheets or restraining shirts, arm splints,
20 mittens and helmets. Excluded from this definition of physical restraint are physical guidance, gentle
21 physical prompting techniques, escorting and therapeutic holds used solely for the purpose of escorting
22 a client who is walking, soft ties used solely to prevent a medically ill client from removing
23 intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar medical devices, and
24 prosthetic devices or assistive technology which are designed and used to increase client adaptive
25 skills. Escorting means the temporary touching or holding of the hand, wrist, arm, shoulder or back for
26 the purpose of inducing a client to walk to a safe location.

27 ~~(33)~~(37) "Protective devices" means an intervention ~~which that~~ provides support for ~~weak and feeble~~ clients or
28 enhances the safety of clients with specific medical or behavioral needs. ~~behaviorally disordered~~
29 ~~clients~~. Such devices may include posey vests, geri-chairs or table top chairs to provide support and
30 safety for clients with physical ~~handicaps; disabilities~~; devices such as helmets and mittens for
31 self-injurious behaviors; or devices such as soft ties used to prevent medically ill clients from
32 removing intravenous tubes, indwelling catheters, cardiac monitor electrodes or similar medical
33 devices. As provided in Rule .0207 of Subchapter 28D, the use of a protective device for behavioral
34 control shall comply with the requirements specified in Rule .0203 of Subchapter 28D.

35 ~~(34)~~(38) "Psychotropic medication" means medication with the primary function of treating mental illness,
36 personality or behavior disorders. It includes, but is not limited to, antipsychotics, antidepressants,
37 antianxiety agents and mood stabilizers.

- 1 ~~(35)~~(39) "Qualified professional" means, within the mh/dd/sas system of care, an individual who ~~is~~ is either:
- 2 (A) an individual who holds a license, provisional license, ~~or certificate~~ certificate, registration or
- 3 ~~permit~~ issued by the governing board regulating a human service profession, ~~except~~ including
- 4 a registered nurse who is licensed to practice in the State of North Carolina by the North
- 5 Carolina Board of Nursing who also has four years of full-time accumulated experience in
- 6 mh/dd/sa with the population served; ~~or~~
- 7 (B) a graduate of a college or university with a Masters degree in a human service field and has
- 8 one year of full-time, pre- or post-graduate degree accumulated supervised mh/dd/sa
- 9 experience with the population served, or a substance abuse professional who has one-year of
- 10 full-time, pre- or post-graduate degree accumulated supervised experience in alcoholism and
- 11 drug abuse counseling; ~~or~~
- 12 (C) a graduate of a college or university with a bachelor's degree in a human service field and has
- 13 two years of full-time, pre- or post-bachelor's degree accumulated supervised mh/dd/sa
- 14 experience with the population served, or a substance abuse professional who has two years of
- 15 full-time, pre- or post-bachelor's degree accumulated supervised experience in alcoholism and
- 16 drug abuse counseling; or
- 17 (D) a graduate of a college or university with a bachelor's degree in a field other than human
- 18 services and has four years of full-time, pre- or post-bachelor's degree accumulated mh/dd/sa
- 19 experience with the population served, or a substance abuse professional who has four years
- 20 of full-time, pre- or post-bachelor's degree accumulated supervised experience in alcoholism
- 21 and drug abuse counseling.
- 22 ~~(36)~~(40) "Regional alcohol and drug abuse treatment center" means a state facility for persons with a substance
- 23 abuse disorder ~~substance abusers~~ as specified in G.S. 122C-181(a)(3).
- 24 ~~(37)~~(41) "Regional ~~mental retardation~~ developmental disability center" means a state facility for the ~~mentally~~
- 25 ~~retarded~~ developmentally disabled as specified in G.S. 122C-181(a)(2).
- 26 ~~(38)~~(42) "Regional psychiatric hospital" means a state facility for the mentally ill as specified in G.S.
- 27 122C-181(a)(1).
- 28 ~~(39)~~(43) "Representative payee" means the person, group, or facility designated by a funding source, such as
- 29 Supplemental Security Income (SSI), to receive and handle funds according to the guidelines of the
- 30 source on behalf of a client.
- 31 ~~(40)~~(44) "Research" means inquiry involving a trial or ~~special~~ observation made under conditions determined
- 32 by the investigator to confirm or disprove an hypothesis or to explicate some principle or effect.
- 33 ~~(41)~~(45) "Respite client" means a client admitted to a ~~mental retardation~~ developmental disability center or a
- 34 neuromedical treatment center for a short-term period, ~~normally~~ not to exceed 30 days. The primary
- 35 purpose of such admission is to provide a temporary interval of rest or relief for the client's regular
- 36 caretaker.

1 ~~(42)~~(46) "Responsible professional" shall have the meaning as specified in G.S. ~~122C-3~~ 122C-3; ~~except the~~
2 "responsible professional" shall also be a qualified professional as defined in Subparagraph (b)(35) of
3 this Rule.

4 ~~(43)~~(47) "Seclusion" means isolating a client in a separate locked room for the purpose of ~~controlling~~managing
5 a client's behavior. "Seclusion" does not include precautions intended to prevent transmission of a
6 communicable disease. In the Forensic Service, Pretrial Evaluation Unit and the Forensic Treatment
7 Program Maximum Security Ward in the ~~Spruill Building at Dorothea Dix~~ Central Regional Hospital,
8 the use of locked rooms is not considered seclusion for clients with criminal charges who are:

- 9 (A) undergoing pretrial evaluations ordered by a criminal court;
10 (B) in treatment for restoration of capacity to proceed;
11 (C) in treatment to reduce violence risk; or
12 (D) considered to be an escape risk.

13 ~~(44)~~(48) "State Facility Director" means the chief administrative officer or manager of a state facility or his
14 designee.

15 ~~(45)~~(49) "Strike" means, but is not limited to, hitting, kicking, slapping or beating whether done with a part of
16 one's body or with an object.

17 ~~(46)~~(50) "Timeout" means the removal of a client from other clients to another space within the same activity
18 area for the purpose of modifying behavior.

19 ~~(47)~~(51) "Treatment" means the act, method, or manner of habilitating or rehabilitating, caring for or managing
20 a client's physical or mental problems.

21 ~~(48)~~(52) "Treatment plan" means a written individual plan of treatment or habilitation for each client to be
22 undertaken by the treatment team and includes any documentation of restriction of client's rights.

23 ~~(49)~~(53) "Treatment team" means an interdisciplinary group of qualified professionals sufficient in number and
24 variety by discipline to ~~adequately~~ assess and address the identified needs of the client.

25 ~~(50)~~(54) "Unit" means an integral component of a state facility ~~distinctly~~ established for the delivery of one or
26 more elements of service to which specific staff and space are assigned, and for which responsibility
27 has been assigned to a director, supervisor, administrator, or manager.

28 ~~(51)~~(55) "Voluntary client" means a person admitted to a state facility under the provisions of Article 5, Parts 2,
29 3, 4 or 5 of G.S. 122C.

31 *History Note:* Authority G.S. 122C-3; 122C-4; 122C-51; 122C-53(f); 143B-147; S.L. 2017-32; 2019-240;

32 *Eff. October 1, 1984;*

33 *Amended Eff. June 1, 1990; April 1, 1990; July 1, 1989;*

34 *Temporary Amendment Eff. January 1, 1998;*

35 *Amended Eff. April 1, 1999;*

36 *Temporary Amendment Eff. January 1, 2001;*

37 *Temporary Amendment Expired October 13, 2001;*

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*Temporary Amendment Eff. ~~January 27, 2019~~; November 1, 2001;
Amended Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest
Eff. June 24, ~~2017~~. 2017;
Temporary Amendment Eff. March 1, 2019;
Temporary Amendment Expired Eff. December 10, ~~2019~~.2019;
Amended Eff. January 1, 2024.*