

CHANGE #03-2013

March 4, 2013

II. SECTION .0600 | GENERAL PROVISIONS

A. [10A NCAC 70E .0601](#) SCOPE

The subsections of this rule read:

(a) The North Carolina Department of Health and Human Services, Division of Social Services is the licensing authority for family foster homes and therapeutic foster homes.

(b) The rules in this Subchapter apply to the licensing of family foster homes and therapeutic foster homes and those persons who receive children for the purpose of placement in family foster homes and therapeutic foster homes.

The North Carolina Division of Social Services is the Licensing Authority for family foster homes and therapeutic foster homes. Supervising agencies (county departments of social services and licensed private child-placing agencies for foster care) submit licensing applications and requests for other licensing actions to the Licensing Authority. When these materials are received, the Licensing Authority reviews them for compliance with rules, policies, standards, and procedures for licensing. It is the responsibility of the Licensing Authority to approve or deny these requests. The Regulatory and Licensing Services Office within the Division of Social Services completes all reviews and grants all licensing actions. Contact information for the Licensing Authority is:

N. C. Division of Social Services
Regulatory and Licensing Services
952 Old U. S. 70 Highway
Black Mountain, N. C. 28711
Phone: 828-669-3388
Fax: 828-669-3365

1. Relevant Statutes

[G.S. § 131D, Article 1A](#)

It is important that foster home licensing social workers know the legal basis for foster home licensing so they can help the foster families that they supervise understand the system. The statutory basis for foster care and other licensing functions is found in G.S. §131D, Article 1A.

[G.S. § 131D-10.5](#)

This statute also delegates authority to the North Carolina Social Services Commission to establish administrative rules for family foster homes, therapeutic foster homes, residential child-care, and child-placing agencies. Foster Home licensing rules established by the North Carolina Social Services Commission can be found in North Carolina Administrative code, [10A NCAC 70E](#).

[G.S. § 131D, Article 1A](#)

This statute reads:

It is the policy of this State to strengthen and preserve the family as a unit consistent with a high priority of protecting children's welfare. When a child requires care outside the family unit, it is the duty of the State to assure that the quality of substitute care is as close as possible to the care and nurturing that society expects of a family. However, the State recognizes there are instances when protecting a child's welfare outweighs reunifying the family unit, and as such, the care of residential care facilities providing high quality services that include meeting the children's educational needs as determined by the Department of Health and Human Services, Division of Social Services can satisfy the standard of protecting a child's welfare, regardless of the child's age, particularly when the sibling groups can be kept intact.

The purpose of this Article is to assign the authority to protect the health, safety and well-being of children separated from or being cared for away from their families. (1983, c. 637, s. 2; 2009-408, s. 1.)

This statute establishes the state's authority for the placing of children in out-of-home care. This statute clearly specifies the state's duty to assure that the quality of substitute care is as close as possible to the care and nurturing that society expects families to provide to their children. To provide foster care, a license is required. To obtain and maintain a license the family must meet minimum standards. Licensing standards exist to protect the child, the child's parents, foster parents, and the agency providing child-placing services. An interpretation of this general statute in conjunction with the rules, [10A NCAC 70E](#) for foster home licensing, will show which rules are specified in law and which rules are derived from law.

For example, [G.S. § 131D-10.3A](#) (Mandatory criminal checks) clearly requires criminal history checks for each applicant. Other rules are derived from the language of the law. Another requirement is that all licensing application materials shall be submitted at one time to the Licensing Authority ([G.S. § 131D-10.6](#), Powers and duties of the Department). In addition to other powers and duties prescribed by law, the Department shall exercise the following powers and duties: [G.S. § 131D-10.6.\(5\)](#) "prescribe the form in which the applications for licensure or a request for waiver of Commission rules shall be submitted."

B. [10A NCAC 70E. 0602](#) DEFINITIONS

Except when the context of the Rule indicates that the term has a different meaning the following definitions shall apply to the rules in Subchapter 70E:

(1) "Agency" means a child placing agency as defined in [G.S. § 131D-10.2](#) that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes.

This term is used to indicate both private agencies licensed by the NC DSS to provide foster care and public county department of social services authorized by

law to provide foster care. Public and private agencies are held to the same licensing standards.

- (2) "Family Foster Home" has the meaning as defined in [G.S. § 131D-10.2\(8\)](#).

The private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child(ren) who are placed there by a child-placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship, or adoption.

- (3) "Family Foster Care" means a planned, goal-directed service in which the temporary protection and care of children take place in a family foster home. Family foster care is a child welfare service for children and their parents who must live apart from each other for a period of time due to abuse, neglect, dependency, or other circumstances necessitating out-of-home care.

- (4) "Licensing Authority" means the North Carolina Division of Social Services.

- (5) "Owner" means any person who holds an ownership interest of five percent or more of the applicant. A person includes a sole proprietor, co-owner, partner or shareholder, principal or affiliate, or any person who is the applicant or any owner of the applicant.

- (6) "Supervising Agency" means a county department of social services or a private child-placing agency that is authorized by law to receive children for purposes of placement in foster homes or adoptive homes. Supervising agencies are responsible for recruiting, training, and supporting foster parents. Supervising agencies recommend the licensure of foster homes to the licensing authority.

- (7) "Therapeutic Foster Care" means a foster home where the foster parent has received additional training in providing care to children with behavioral mental health or substance abuse problems.

C. OTHER DEFINITIONS

- "Child" as defined in [G.S. § 131D-10.2](#) means
 - (1) an individual less than 18 years of age who has not been emancipated under the provisions of Article 35 of Chapter 7B of the North Carolina General Statutes or
 - (2) any individual from 18 to 21 years of age who meets the requirement to voluntarily receive child welfare services. (Refer to [Chapter IV: Section 1201; VII - Adolescent Services: NC LINKS](#) for more information).
- Foster Parent" means any individual 21 years of age or older who is currently licensed by the State to provide foster care.
- "Foster Home Licensing Social Worker" means a social worker assigned the specific duties of recruiting, selecting, training, and recommending applicants to be licensed as family foster care parents or therapeutic foster care parents. Additional duties may include counseling, organizing, and

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advocating for foster parents as well as providing assistance sufficient for foster parents to be relicensed as decided by the supervising agency.

- Administrative Rule [10A NCAC 70G .0501](#) defines the qualifications for a Foster Home Licensing Social Worker and caseload standards. A Foster Home Licensing Social Worker must meet the requirements of a Social Worker II as defined by the North Carolina [Office of State Personnel](#).