

CHANGE NOTICE: 03-2013

March 4, 2012

VI. SECTION .1000 | CAPACITY

A. [10A NCAC 70E .1001](#) FOSTER HOME

There are two types of foster care in North Carolina: family foster care and therapeutic foster care. Children are typically placed in family foster care due to abuse, neglect, or dependency. These children need out-of-home care until their birth parents are able to provide a safe and stable home or, if this is not possible, until another permanent plan is achieved. Although children in family foster care may have mental health needs, this is not the primary reason for out-of-home placement. Children are placed in therapeutic foster care due to behavioral mental health or substance abuse needs. Therapeutic foster care is a more intense level of care that is guided by the treatment needs of the children.

The subsections of this rule read:

(a) No more than five children shall reside in any family foster home at any time. These five children include the foster parent's own children, children placed for family foster care, licensed capacity for in-home day care children, children kept for babysitting or any other children residing in the home. Children kept for in-home day care and babysitting are considered residents of the home.

No more than five (5) children may reside in a family foster home. This includes the family's own children, relative children, in-home day care children, babysitting children, or any other children who reside or stay in the home either on a permanent or temporary basis. If a child is under the supervision of the foster parent on a regular basis, the child is included in the capacity count. This includes children who primarily live with one parent but visit the other parent on a regular basis. This rule does not mean that friends of children in foster care or other children in the home cannot come over to play or occasionally spend the night. When an applicant for family foster care has an in-home day care a copy of the in-home day care license must be submitted to the Licensing Authority. The capacity on the in-home day care license is counted in determining the total number of children in the home.

(b) No more than four children including no more than two foster children shall reside in any therapeutic foster home at any time. The four children include the foster parent's own children, children placed for therapeutic foster care, children placed for family foster care or any other children living in the home. Therapeutic foster parents shall not provide in-home day care or baby-sitting services in the therapeutic foster home.

No more than four children may reside in a therapeutic foster home. Therapeutic foster families may provide foster care for no more than two children. They are limited to only two additional children in the home, including their own children, relative children, other children, etc. For example, if a therapeutic foster family has three children of their own,

North Carolina Department of Health and Human Services | Division of Social Services
Child Welfare Services Section
Foster Home Licensing

Change # 03-2013

Foster Home Licensing

March 4, 2013

the capacity of the therapeutic foster home is one. Therapeutic foster families may not provide in-home daycare or babysitting services.

(c) Exceptions to the capacity standards in Paragraphs (a) and (b) of this Rule may be made:

It is important that siblings requiring out-of-home care remain together. Rather than break up groups of brothers or sisters, this rule provides a means to modify capacity requirements. The purpose of capacity exceptions is to accommodate the needs of sibling groups, not the placement needs of the supervising agency. Since exceeding capacity puts a strain on the foster family, documentation requirements must also be met before the Licensing Authority will grant a waiver for capacity.

(1) If written documentation is submitted to the licensing authority for family foster care that siblings will be placed together and the foster home complies with Subparagraphs (3) and (4) of this Paragraph. The out-of-home family services agreement for each sibling shall specify that siblings will be placed together and shall also address the foster parents' skill, stamina, and ability to care for the children;

The rule refers to increasing capacity to keep siblings together for family foster care; this means all of the foster children in the home must be siblings. For example, a family foster home is licensed for three children. There are three non-related foster children in the home and the family has one child of their own. The supervising agency needs to place a sibling group of two. These two children cannot be placed in this home because they are not siblings of the three foster children already placed in the home.

All children placed in family foster care are required to have an out-of-home family services agreement. To place a sibling group in a licensed family foster home beyond the capacity limits set above, the out-of-home agreement for each child must clearly state siblings will be placed together and it is in their best interests to be placed together.

Secondly, the agreement must have a statement about the skill, stamina, and ability of the foster parents to care for the additional children. A statement may read,

"The Smith home can handle the demands of Josh, Jim, and John. Their three children are teenagers, ages 14, 16, and 17. The 17-year-old is in college and home infrequently. The home is spacious, with a large bedroom with three separate beds for the three boys. The foster parents are in very good health. This home has been used before for young children with attachment issues. The family has discussed this placement and is ready to care for this set of siblings."

Make sure the revised agreement has the requisite signatures.

(2) If written documentation is submitted to the licensing authority for therapeutic foster care that siblings will be placed together and the foster home complies with Subparagraphs (3) and (4) of this Paragraph. The person-centered plan or out-

North Carolina Department of Health and Human Services | Division of Social Services
Child Welfare Services Section
Foster Home Licensing

Change # 03-2013

Foster Home Licensing

March 4, 2013

of-home family services agreement for each sibling shall specify that siblings shall be placed together and shall also address the foster parents' skill, stamina, and ability to care for the children;

The rule refers to increasing capacity to keep siblings together for therapeutic foster care; this means all of the foster children in the home must be siblings. For example, Johnny and Tommy who are not siblings are placed in a therapeutic foster home. At a later time Tommy's brother and sister need to be placed in foster care. However, they cannot be placed in the same home with Tommy because Johnny is not their sibling.

Children in the custody of a county department of social services must have both a person-centered-plan (PCP) and an out-of-home family services agreement. To place a sibling group in a therapeutic foster home beyond the capacity limits set above, the PCP for each child must clearly state siblings will be placed together and it is in their best interests to be placed together. Similarly, the out-of-home family services agreement for siblings placed together in therapeutic foster care must state that placement together is in their best interests.

To be granted a capacity waiver for the placement of sibling groups in therapeutic foster care, you must document that the foster family has the skill, stamina, and ability to care for children in excess of the prescribed capacity for a therapeutic home. You must also describe the evidence that the family can handle the additional needs of each child. When siblings are placed together in a therapeutic foster home, some siblings may receive therapeutic foster care while others receive family foster care.

There is a reason that capacity is set at two therapeutic foster children. Sometimes foster parents overestimate their endurance. Therapeutic foster care often requires that an adult be with the child at all times. A careful and objective social work assessment can help the foster parents understand the additional demands of accepting a sibling group into therapeutic care.

(3) If written documentation is submitted to the licensing authority that the foster home complies with [10A NCAC 70E .1108](#); and

Any home accepting a sibling group that exceeds capacity should be revisited to make sure all safety requirements are met. It is recommended that the licensing social worker review the requirements in rules section 10A NCAC 70E .1108. Inspect the home to ensure it continues to meet the requirements detailed on the Foster Home Fire Inspection Report ([DSS-1515](#)) and the Foster Home Environmental Conditions Report ([DSS-5150](#)). Make sure that the home has the space for the extra children. Remember, placing a sibling group under these rules means exceeding the normal capacity and safeguards covered by these rules overall. There is less room for error, so be extra diligent on all requirements, especially safety issues.

(4) If written documentation is submitted to the licensing authority that the foster home complies with [10A NCAC 70L .0102](#).

North Carolina Department of Health and Human Services | Division of Social Services
Child Welfare Services Section
Foster Home Licensing

Change # 03-2013

Foster Home Licensing

March 4, 2013

This rule covers the basic criteria of waiving any Health and Human Services rules. Waivers are not granted for any rules based on a standard adopted by the Building Code Council and subject to the general supervision of the Commissioner of Insurance, the rules of the Commission of Public Health, or the rules of fire safety. The waiver remains in effect for the term of the current license and may be renewed if needed. Waivers are requested on the Foster Home Request for Waiver form ([DSS-5199](#)).

(d) Family foster homes and therapeutic foster homes shall not provide Community Alternative Programs services for Disabled Adults (CAP/DA) as defined in Section 1915(c) of the Social Security Act, unless the disabled adult was placed in the foster home as a Community Alternatives Programs for Children (CAP C) client as defined in Section 1915(c) of the Social Security Act prior to his/her 18th birthday. The disabled adult shall be included in the capacity for the foster home. Family foster homes and therapeutic foster homes shall not provide supervised living services as defined by [10A NCAC 27G .5601](#).

Foster homes are not permitted to provide CAP/DA (Community Alternatives Programs for Disabled Adults) services, CAP-I/DD (Community Alternatives Program for Individuals with Intellectual/Developmental Disabilities) services, AFL (Alternative Family Living), supervised living services or any services or programs governed by [10A NCAC 27G](#). However, foster homes can provide CAP/C (Community Alternatives Programs for Children) services. CAP/C clients are counted toward the capacity of the foster home. If a CAP/C client turns 18 while in care and begins receiving CAP/DA services the client can remain in the foster home. However, the client is counted toward the total capacity for the home.

(e) Members of the household 18 years old and over and not receiving foster care services are not included in capacity, but there shall be physical accommodations in the home to provide them room and board.

Adult household members are not included in the capacity of the foster home. These individuals cannot share bedrooms with children in foster care and must meet all safety and health requirements specified in [10A NCAC 70E](#).