

SECTION .0100 – GENERAL INFORMATION

10A NCAC 22P .0101 PURPOSE AND SCOPE

(a) The purpose of the rules in this Subchapter is to set forth the certification requirements for a Critical Access Behavioral Health Agency (CABHA) and to specify the procedures for CABHA providers to appeal decisions of the Division of Medical Assistance (DMA) or its designee to deny, suspend or terminate CABHA certification.

(b) The CABHA requirements of this Subchapter do not apply to Medicaid-reimbursable intellectual and developmental disability services provided under the Community Alternatives Program for Persons with Intellectual / Development Disabilities (CAP-I/DD) Waiver.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

SECTION .0200 – DEFINITIONS

10A NCAC 22P .0201 DEFINITIONS

The following definitions apply throughout this Subchapter:

- (1) "ABAM" means the American Board of Addiction Medicine (from 2009-continuing to the present).
- (2) "Applicant" means the individual or entity seeking Critical Access Behavioral Health Agency (CABHA) certification.
- (3) "ASAM" means the American Society of Addiction Medicine (from 1986-2008).
- (4) "Attestation Letter" means the document submitted by a provider attesting to the fact that the provider meets the qualifications to be certified as a Critical Access Behavioral Health Agency (CABHA).
- (5) "CABHA" means a Critical Access Behavioral Health Agency that has been certified by DMA or its designee as meeting all requirements of this Subchapter.
- (6) "Certified CABHA Site" or "Core Service Site" means the site location designated by the applicant where the CABHA administrative headquarters are located and from which the three core services must be provided. The two continuum services must be within 35 miles of the Core Service Site.
- (7) "CMS" means the federal Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services.
- (8) "Consumer" means an individual referred for, or receiving, behavioral health, mental health or substance abuse (MH/SA) services.
- (9) "Continuum of care" means the coordinated delivery, management and organization of age and diagnosis specific MH/SA services selected by the CABHA related to treatment, care, rehabilitation and health promotion in a manner that allows the consumer to access different levels of care depending upon treatment needs and medical necessity.
- (10) "Core Services" mean Medication Management, Outpatient Therapy and Comprehensive Clinical Assessment, as described in clinical coverage policies.
- (11) "Crisis" means a high level of mental or emotional distress, or an episode, which without immediate intervention will foreseeably result in the person's condition worsening, environmental instability or could result in harm to self or others.
- (12) "Decertification" means a decision of DMA or its designee to revoke a provider's CABHA certification in accordance with Section .0602 of this Subchapter.
- (13) "Default" means the CABHA has failed to reimburse DMA or its designee for an overpayment, penalty or fine within 30 days of the final agency decision or is delinquent on a payment plan approved by DMA or its designee and agreed to by the provider. A provider is in delinquent status when the payment is 14 days past due.
- (14) "Desk Review" means the initial review performed by DMA or its designee after submission of the attestation letter and supporting documentation.
- (15) "DHHS" or "Department" means the North Carolina Department of Health and Human Services.
- (16) "DMA" means the North Carolina Division of Medical Assistance

- (17) "Evidence-based practices" means prevention or treatment practices that are based in theory and have undergone scientific evaluation, in contrast to practices based on tradition, convention, belief, or anecdotal evidence.
- (18) "First Responder" means the CABHA shall be accessible twenty-four hours a day, seven days a week, 365 days a year to respond directly to consumers and to collaborate with and provide guidance to other crisis responders regarding coordination of treatment for CABHA consumers in crisis.
- (19) "FTE" means Full Time Equivalent as follows:
 - (a) One hundred percent FTE is 40 hours per week.
 - (b) Fifty percent FTE is 20 hours per week.
 - (c) Twenty percent FTE is 8 hours per week.
- (20) "Good standing" means the provider meets all the conditions set forth in Section .0402 of this Subchapter.
- (21) "Interview" means the review conference conducted in accordance with .0502 of this Subchapter.
- (22) Local Management Entity (LME) as that term is defined in G.S. 122C-3(20b).
- (23) Managed Care Organization (MCO) or Prepaid Inpatient Health Plan (PIHP) as defined in 42 CFR Part 438 and approved by CMS under 42 USC 1915 (b) or (c)
- (24) "Managing Employee" means as defined in 42 CFR 455.101.
- (25) "Performance Bond" means a third party's agreement to guarantee the fulfillment of the monetary obligations of a Medicaid provider (the CABHA) upon default. A Medicaid provider (the CABHA) is obligated to reimburse DMA or its designee the full amount due upon issuance of written notice of an overpayment. An overpayment includes any funds paid to a provider which are subsequently determined by DMA or its designee to have been paid in violation of federal or state law, regulations, North Carolina Medicaid rules, or policy.
- (26) "Owner" means a person with ownership or control interest as defined in 42 CFR 455.101.
- (27) "Sanctions" may include decertification, suspension, or Plan of Correction (POC) in accordance with Section .0602 of this Subchapter
- (28) "Suspension" means a time period, not to exceed twelve (12) months, determined by DMA or its designee, during which the CABHA may not be reimbursed by Medicaid for services that require CABHA certification.
- (29) "Vacant" or "Vacancy" means that no individual is employed or contracted to fill a designated position or that the minimum FTE percentage rate required for the position is not met.
- (30) "Verification Review" means the review performed by staff from DMA or designee to confirm an applicant's compliance with the provisions of this Subchapter.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

SECTION .0300 – MEDICAL SERVICE REQUIREMENTS

10A NCAC 22P .0301 SERVICE DELIVERY

- (a) Each CABHA shall provide the following core services:
 - (1) Comprehensive Clinical Assessment as covered under Medicaid Clinical Coverage Policy Nos. 8A and 8C;
 - (2) Outpatient Therapy as covered under Medicaid Clinical Coverage Policy No. 8C; and
 - (3) Medication Management as covered under Medicaid Clinical Coverage Policy No. 8C.
- (b) Each CABHA shall provide two additional MH/SA services within the continuum of care, as authorized in the N.C. State Plan for Medical Assistance, from the following list for which the agency has received site and service specific endorsement or credentialing if required by clinical coverage policy, from the LME/MCO where it provides the services listed in Paragraph (a) of this Rule:
 - (1) Intensive In-Home (IIH);
 - (2) Community Support Team (CST);
 - (3) Child and Adolescent Day Treatment (DT);
 - (4) Substance Abuse Intensive Outpatient Program (SAIOP);
 - (5) Substance Abuse Comprehensive Outpatient Treatment (SACOT);

- (6) Child and Adolescent Residential Treatment Level II—Family and Program Type, Level III, or Level IV (provision of multiple residential service levels counts as one service);
- (7) Psychosocial Rehabilitation (PSR);
- (8) Assertive Community Treatment Team (ACTT);
- (9) Multi-Systemic Therapy (MST);
- (10) Partial Hospitalization (PH);
- (11) Substance Abuse Medically Monitored Community Residential Treatment;
- (12) Substance Abuse Non-Medical Community Residential Treatment;
- (13) Outpatient Opioid Treatment (OOT); and
- (14) Any other MH/SA service required to be delivered by a CABHA as set forth in the NC State Plan for Medical Assistance as approved by CMS or in a waiver approved by CMS pursuant to 42 USC § 1915(b) or (c).

(c) All MH/SA Community Intervention Services (CIS), Residential Services and Core Services must be provided by staff employed by or under an individual, independent contract with the CABHA. The contracted staff must be individually named in the contract. Although individual staff providing the services may be contracted, entire services may not be contracted or subcontracted.

(d) The two additional services specified in Paragraph (b) of this Rule must be age, and either MH or SA specific and each must be provided within 35 miles of the core service site designated by the applicant.

(e) The required services must be used to provide an age, and either MH or SA specific continuum of care.

(f) Only certified CABHAs can bill DMA or its designee and receive Medicaid reimbursement for Intensive In-Home (IIH), Community Support Team (CST), Day Treatment (DT), and any other MH/SA service required to be delivered by a CABHA as set forth in the NC State Plan for Medical Assistance as approved by CMS or in a waiver approved by CMS pursuant to 42 USC § 1915(b) or (c) provided on or after January 1, 2011. Providers enrolled in the NC Medicaid program to deliver IIH, DT, CST or other CABHA-only service that did not achieve certification as a CABHA by December 31, 2010 shall not be eligible for Medicaid reimbursement for IIH, DT, CST or other CABHA-only service after December 31, 2010 until such time as the provider attains CABHA certification.

(g) To ensure coordination of care, a CABHA shall:

- (1) Participate in team meetings, share clinical and service record information as allowed by law, collaborate, communicate, and coordinate supports and services with primary care physicians, public health departments, Federally Qualified Health Clinics, Community Care of North Carolina/Carolina ACCESS (CCNC/CA), LME/MCOs, other CABHAs, and other programs that contract with DMA or its designee to provide primary care case management for recipients of publicly-funded health and related services, in order to ensure that consumers being served are treated in a holistic manner that addresses both their behavioral and physical health care needs;
- (2) Maintain a Memorandum of Agreement or a contract with any Independent Practitioner the CABHA engages to deliver services to consumers;
- (3) Provide timely copies of consumer medical records when transferring or referring the care for a consumer to another provider for any reason. "Timely" means within five business days of notification that the consumer is transferring to another provider. Failure to provide copies of consumer medical records in accordance with this Rule shall result in suspension or termination of CABHA certification;
- (4) Begin the transition to adult services for a child consumer at least six months before the child's 21st birthday for Medicaid; and
- (5) Comply with all LME/MCO consumer transfer requirements.

(h) A CABHA must maintain and make available and accessible records that demonstrate a pattern of consumer transfers and referrals to medically necessary services, whether those services are offered by the CABHA or not, based on:

- (1) The choice of service provider by the consumer or consumer's family;
- (2) A Comprehensive Clinical Assessment recommendation for services;
- (3) The recommendation for services resulting from a person-centered plan or other treatment plan review;
- (4) The denial of eligibility for service(s) by the Medicaid utilization review contractor;
- (5) Any other source of determinations of medically necessary service(s).

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0302 ACCESS TO CARE

(a) Critical Access Behavioral Health Agency (CABHA) certification shall be for the Core Service Site location identified during the certification process. After attaining certification, a CABHA may provide MH/SA services in any part of the state provided that each service required to be endorsed or credentialed by the applicable LME/MCO is endorsed or credentialed.

(b) CABHAs shall be monitored for performance concerning timely and effective consumer access to care, including screening, triage, and referral, appointment scheduling, initiation, engagement and retention in treatment, and service transition, including review of consumer wait times for initial agency contact, comprehensive clinical assessment or diagnostic evaluation, psychiatric evaluation, medication management, and initial delivery of treatment services.

(c) CABHAs shall provide service(s) for persons in need of emergent, urgent, and routine MH/SA services through the delivery of emergency care, assessment, treatment or referral services by a Qualified Professional as defined in 10A NCAC 27G .0104(19). These services shall be delivered for all consumers in accordance with CMS-approved Healthcare Effectiveness Data and Information Set (HEDIS) timeframes for emergent, urgent and routine consumers.

(d) CABHAs shall ensure availability of emergent, urgent and routine care and appointments as required by MH/SA provider contracts with LME/MCOs.

(e) CABHAs shall serve as a first responder when any consumer who has been assessed by the CABHA and is receiving services from the CABHA undergoes a crisis. . The CABHA shall use the crisis plan developed with the consumer to coordinate and communicate with all other crisis responders (in accordance with HIPAA and 42 CFR Part 2) to ensure that the crisis plan is implemented. All CABHAs shall have written policies and procedures in place that will be made available to all consumers, and shall include contact information for the consumer to first contact the CABHA rather than other crisis responders, such as hospital emergency departments and mobile crisis management teams. Each CABHA shall provide all consumers with a phone number to contact a live person twenty four hours a day, seven days a week, 365 days a year for use when crises occur. First responder activities may be telephonic, but face to face intervention shall be attempted prior to referral, or if necessary, in conjunction with other crisis responders. If a CABHA refers the consumer to an emergency facility or other crisis responder, the CABHA shall communicate with the crisis responder in order to facilitate coordination of care.

(f) CABHAs who accept the referral and responsibility for care of consumers being discharged from a state-operated facility shall ensure the delivery of community-based service(s) to the consumer within seven days of such discharge.

(g) Nothing in this Subchapter shall be construed to deny the right of consumers to choose from among certified CABHAs for one or more services. Consumers may voluntarily transfer at any time to a different certified CABHA provider for any reason and for any individual service. Consumers may receive services from more than one CABHA certified agency.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0303 COORDINATION OF BENEFITS

(a) Critical Access Behavioral Health Agencies (CABHAs) shall utilize Federal, State and local funding only if and when other sources of first and third party payment have been exhausted.

(b) CABHAs shall verify all insurance and other third party benefit plan details during its first contact with a consumer.

(c) CABHAs shall bill private insurance plans, Medicare, and NC Health Choice, when available and applicable, before billing the NC Medicaid program. Medicaid is the payor of last resort.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

SECTION .0400 – CERTIFICATION AND STAFFING REQUIREMENTS

10A NCAC 22P .0401 CERTIFICATION REQUIREMENTS

(a) All statutory and rule requirements for Medicaid-reimbursable MH/SA service provision and monitoring apply to Critical Access Behavioral Health Agencies (CABHAs), including clinical coverage policies, and requirements

for endorsement, credentialing, licensure, accreditation, incident reporting, standardized outcomes and perception of care reporting, quality of care reporting, Medicaid billing, client rights and confidentiality, and client data service records.

(b) A CABHA applicant must have an accreditation that is valid for a minimum period of three years from the Council on Accreditation [COA], the Commission on Accreditation and Rehabilitation Facilities [CARF], the Council on Quality and Leadership [CQL], The Joint Commission [JC], formerly known as the Joint Commission on Accreditation of Healthcare Organizations [TJC], or any other accreditation organization or accrediting body approved by DMA or designee. Copies of surveys, reviews, audits or plans of correction performed by accrediting agencies or any non-State regulatory agencies shall be provided to the LME/MCO upon receipt by the CABHA.

(c) A CABHA applicant must employ or contract with a Medical Director and must employ a Clinical Director, Quality Management Director and Training Director who meet the requirements of this Subchapter at least 15 days prior to the clinical interview appointment.

- (1) The Clinical Director, Quality Management Director and Training Director must be employees of the agency.
- (2) The Medical Director may be an independent contractor, as defined by federal and state law, of the agency. The contracted staff must be individually named in the contract.
- (3) Nothing in this Subchapter shall prevent a physician or psychiatrist approved pursuant to Section .0403 from serving as Medical Director on a pro bono basis.

(d) A CABHA applicant must be in good standing with the following:

- (1) All Divisions of the Department as set forth in Rule .0402 of this Subchapter;
- (2) The North Carolina Secretary of State's Office;
- (3) The Internal Revenue Service; and
- (4) The North Carolina Departments of Labor and Revenue.

(e) To obtain CABHA certification, an applicant must successfully complete the desk review, interview, and verification review performed by DMA or designee or LME/MCO staff.

(f) Within 12 months of certification or, if already certified, within 12 months of the adoption of this Subchapter, all certified CABHAs must obtain and submit evidence to the Division of Medical Assistance of a performance bond or executed letter of credit in an amount equal to 10 percent of the provider's annual Medicaid payments for all MH/SA services delivered by CABHA, as determined from Medicaid claims data, or fifty thousand dollars (\$50,000.00), whichever is greater, per SL2008-107. The performance bond must be obtained from a surety company that has been issued a Certificate of Authority by the United States Department of Treasury. The bond or letter of credit must name the provider as "principal," the Division of Medical Assistance as "beneficiary" and the surety company as "surety." Upon default by a CABHA, DMA or its designee will seek payment of any balance due from the performance bond or executed letter of credit. Execution on the bond or letter of credit does not void the payment plan to the extent a balance remains. A surety's payment to DMA or its designee under a performance bond or the payment by a financial institution to DMA or its designee from an executed letter of credit constitutes a basis for termination of CABHA certification.

(g) CABHA certification is valid for a maximum period of three years from the certification effective date. Each CABHA shall be re-certified at least every three years by DMA or its designee. The recertification process includes a review of CABHA specific performance data and monitoring results collected over the previous three years and a review of internal quality improvement activities to address patterns of outcomes, complaints, incidents, and clinical issues. CABHA recertification may include a desk review, on-site review, interview, or any combination thereof as determined by DMA or designee. Change in continuum of care or services require the CABHA to submit a new attestation packet and undergo recertification.

(h) CABHAs must be certified prior to delivering services required to be delivered by a CABHA under a contract with any Prepaid Inpatient Health Plan (PIHP) or Managed Care Organization (MCO) as those terms are defined in 42 CFR Part 438 or any other entity operating pursuant to a waiver approved by CMS under 42 USC 1915 (b) or (c). DMA or its designee may delegate the CABHA certification process to a PIHP or MCO and such entities shall be required to comply with these rules.

(i) Any changes to the ownership or control interest or managing employees of the CABHA shall be reported to the DMA Provider Enrollment section or LME/MCO if applicable within thirty (30) business days of such changes. Ownership changes, mergers or acquisitions shall require recertification and submission of a new enrollment application with DMA or LME/MCO if applicable in accordance with federal law.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0402 GOOD STANDING AND CONFLICTS OF INTEREST

(a) A provider is in good standing with the Division of Medical Assistance when all of the following conditions are met, regardless of any appeal filed by the provider or any stay of such action entered by the Office of Administrative Hearings:

- (1) The provider or any entities which share the same Employee Identification Number (EIN) as the provider do not owe any outstanding (more than 30 days past due) accounts receivable to DMA or its designee, including Medicaid overpayments, recoupments, program reimbursements, cost settlements, cost assessments, penalties and interest. A provider that entered into an approved payment plan in accordance with Subchapter 22F and Chapter 108C of the North Carolina General Statutes is considered to be in good standing if the provider has not defaulted on the payment plan;
- (2) The provider or any entities which share the same Employee Identification Number (EIN) as the provider have not been terminated, suspended, had its Medicaid payments withheld, or been placed on probation in the previous 12 month period;
- (3) The provider or any entities which share the same Employee Identification Number (EIN) as the provider is not undergoing prepayment claims review;
- (4) The owner(s) or managing employee(s) of the provider agency were not previously the owners or managing employee(s) of a provider agency which had its participation in the N.C. Medicaid program involuntarily terminated for any reason or owes an outstanding accounts receivable to DMA or its designee, irrespective of whether the provider agency is currently enrolled in the N.C. Medicaid program;
- (5) The provider and its owners and managing employee(s) are not listed on the U.S. Health and Human Services Office of Inspector General Exclusion list;
- (6) The provider, any entities which share the same Employee Identification Number (EIN) as the provider, or its corporate parent, have no unresolved tax or payroll liabilities owed to the U.S. or North Carolina Department of Revenue;
- (7) The provider and its owner(s) or managing employee(s) or any entity sharing the same EIN as the provider have no unresolved payroll liabilities owed to the U.S. or North Carolina Department of Labor. Unresolved payroll liabilities owed to the N.C. Department of Labor is defined as:
 - (A) The provider or its owner(s) or managing employee(s) or any entity sharing the same EIN as the provider having one or more unpaid judgments for wages owed under Chapter 95, Article 2A, the North Carolina Wage & Hour Act, in which the N.C. Department of Labor or Commissioner of Labor is the Plaintiff; or
 - (B) If one or more of the owner(s) or managing employee(s) of the entity requesting good standing was the owner or managing employee of any other organization against whom the North Carolina Department of Labor has one or more unpaid judgments for wages owed under Chapter 95, Article 2A, the North Carolina Wage & Hour Act, in which the N.C. Department of Labor or Commissioner of Labor is the Plaintiff.
- (8) The provider or any entities which share the same Employee Identification Number (EIN) as the provider have not abandoned or destroyed patient medical records or staff records in violation of federal or state law, rule or regulation;
- (9) The owner(s) or managing employee(s) of the provider agency were not previously the owners or managing employee(s) of a provider agency which abandoned or destroyed patient medical records or staff records in violation of federal or state law, rule or regulation; and
- (10) If incorporated or otherwise applicable, the provider has a current Certificate of Existence issued by the N.C. Secretary of State's Office.

(b) A provider is in good standing with DMH/DD/SAS when all of the following conditions are met, regardless of any appeal filed by the provider or any stay of such action entered by the Office of Administrative Hearings:

- (1) Any approved Plan(s) of Correction (POC) pending with the DMH/DD/SAS Accountability Team has been implemented by the provider and the action has been closed by DMH/DD/SAS. A POC is implemented when the POC is being followed and all out of compliance findings have been minimized or eliminated as determined by a maximum of two DMH/DD/SAS follow-up reviews. The POC action is closed when the provider receives the official notification from the DMH/DD/SAS Accountability Team stating the action is closed; and
- (2) The provider has not had any endorsement or credentialing to provide an enhanced or child/adolescent residential treatment service involuntarily withdrawn by any Local Management

Entity/Managed Care Organization, and upheld by the DMH/DD/SAS Appeals Panel, in the previous 12 month period.

(c) A provider is in good standing with the Division of Health Service Regulation if it meets the requirements for enrollment and licensure set forth in G.S. 122C-23 (e1), regardless of any appeal filed by the provider or any stay of such action entered by the Office of Administrative Hearings.

(d) The owners, operators, and managing employees of a CABHA may not be employed by, or on the Board of, any Local Management Entity (LME), Prepaid Inpatient Health Plan (PIHP), Managed Care Organization (MCO), accreditation agency, or for-profit hospital.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0403 MEDICAL DIRECTOR REQUIREMENTS

(a) The Medical Director shall be enrolled as a provider and in good standing with the Division of Medical Assistance and either:

- (1) An American Board of Psychiatry and Neurology-certified or American Board of Psychiatry and Neurology-eligible psychiatrist (MD or DO) licensed in North Carolina; or
- (2) A physician licensed in North Carolina who has ASAM or ABAM certification if the CABHA delivers substance abuse services only. If the CABHA delivers services other than substance abuse services, the physician must meet the exception criteria outlined in Subparagraph (a)(3) of this Rule; or
- (3) Upon approval by the Director of DMA or his designee in an exception process as set out in Rule .0407 of this Subchapter, a physician (MD or DO) licensed in NC who is board certified or eligible by the American Board of Family Physicians in General Family Practice or the American Board of Internal Medicine in Internal Medicine or the American Board of Pediatrics in Pediatrics.

(b) The Medical Director shall have two or more years of post-residency training and experience diagnosing, treating and evaluating the effectiveness of treatment of the age and diagnosis specific population to be served by the Critical Access Behavioral Health Agency (CABHA), which shall include face to face treatment and interventions as demonstrated by a caseload of consumers with primary mental health or substance abuse disorder diagnoses, and the purpose of the treatment by the physician is related to the mental health or substance abuse diagnosis. Documentation reflecting the individual's training and experience must be submitted to DMA or designee as part of the attestation packet or submission of qualifications to fill a vacancy. Experience attesting to the medical necessity of MH/SA services does not constitute direct service.

(c) The Medical Director shall maintain an office and have a documented presence at the CABHA Certified Site location and shall be employed by, or have an independent contractor with the CABHA as follows:

- (1) A CABHA that serves 750 or more consumers statewide must have a 100 percent FTE Medical Director, such position to be filled by no more than two physicians. A 100 percent FTE Medical Director may provide up to 24 hours of direct billable services per week for the CABHA and may not serve as a Medical Director for another CABHA.
- (2) A CABHA that serves between 376 to 749 consumers statewide must have at least a 50 percent FTE Medical Director, such position to be filled by no more than one physician. A 50 percent FTE Medical Director may provide up to 12 hours of direct billable services per week for the CABHA.
- (3) A CABHA that serves 375 or fewer consumers statewide must have at least a 20 percent FTE Medical Director, such position to be filled by no more than one physician. A 20 percent FTE Medical Director may not provide direct billable services for the CABHA, unless additional hours of direct billable services are stipulated in a contract with the CABHA.
- (4) A physician may serve as a 50 percent or less FTE Medical Director for no more than two separate CABHAs.
- (5) The number of consumers served is based on the most recent quarter for which complete Medicaid and Integrated Payment and Reporting System (IPRS) claims data for MH/SA services billed by the CABHA is available. For initial CABHA certification, the number is based on the 30 day period preceding the Verification Review.

(d) A CABHA may have a contract with a group practice or locum tenens agency for the services of an individual Medical Director, provided the contract and the named individual meet all other requirements of this rule. Only the

CABHA can submit claims for payment to NC Medicaid for services delivered by the Medical Director in accordance with these rules.

(e) A CABHA that serves 750 or more consumers at any site other than the CABHA certification site must designate a Lead Physician for that site. The Lead Physician must meet the same qualifications as the Medical Director, provide management and oversight of the outlying service site, and be directly supervised by the CABHA Medical Director.

(f) The CABHA shall develop a job description and policies and procedures for the Medical Director position which require the Medical Director to perform and document the following activities:

- (1) Provide direct medical, clinical, and quality management oversight of the entire CABHA agency including direct responsibility for the agency's compliance and practice improvement efforts consistent with all standards imposed by any accrediting body from which the CABHA achieved national accreditation pursuant to G.S. 122C-81 and all federal and state laws, rules and regulations pertaining to medical, nursing and clinical behavioral health care.
- (2) Comply with DMA Clinical Coverage Policy 1H regarding telemedicine.
- (3) Develop and implement internal policies and procedures for consumer admission, reevaluation, transfer and discharge, and the delivery of high-quality, medically necessary services and treatments that are clinically appropriate, current, are not experimental in nature, and are in compliance with North Carolina Medical Board requirements and American Psychiatric Association Treatment Guidelines.
- (4) Identify and implement models of care for the age and diagnosis specific populations served that are person and family centered, evidence-based, and provide a continuum of care approach for consumers.
- (5) Require staff to complete quality, comprehensive psychiatric evaluations and clinical assessments, including age and diagnosis specific level of care determinations.
- (6) Supervise, monitor and direct agency clinical staff, including physicians, nurse practitioners, and physician's assistants who may be serving the CABHA in other locations, through a regular physical presence in the agency, or through the use of secure videoconferencing, including participation in peer review and quality of care audits.
- (7) Participate in staffing, consultation, and clinical case review of complex or high risk consumers and coordinate clinical team meetings with the Clinical Director and other CABHA staff.
- (8) Review all consumer, staff, and stakeholder health and safety concerns, including individual consumer and aggregate agency incidents, seclusions, restraints, elopements, medication errors, consumer and staff injuries, and assume primary review, remediation, monitoring, and related reporting responsibilities to local, state, and national regulatory and accreditation agencies in cases involving the following:
 - (A) Medication diversion;
 - (B) Any allegation or suspicion of physical or sexual assault, abuse, or neglect;
 - (C) Any injury or potential for injury of a consumer, or staff member;
 - (D) Any death of a consumer who received services from the CABHA within the previous 120 calendar days;
 - (E) Any sudden, unexpected, or suspicious death of a consumer's minor child or dependent adult;
- (9) Develop communication and referral practices and collaborative relationships with the LME/MCO Medical Director(s), consumers' primary care physicians, Community Care of North Carolina (CCNC) network(s), community psychiatrists, and other providers regarding issues related to consumers/families and the local system of care.
- (10) Provide supervision and oversight of CABHA medication evaluation and administration, including review of laboratory medical tests, dosing regimes and effectiveness, adverse drug reactions and side effects, patient, family, and staff medication education, and appropriate utilization of the NC Controlled Substance Reporting System (CSRS) as established by the North Carolina Controlled Substances Reporting Act, Article 5E of Chapter 90 of the North Carolina General Statutes.
- (11) Serve as an active member of the agency's leadership team and participate in the Quality Management Committee and on subcommittees as designated by the agency.

- (12) Participate in the identification, review, and response to individual consumer and aggregate services data, including monitoring of trend data related to agency patterns and effectiveness in consumer care.
 - (13) Evaluate consumer services access, engagement and retention, service quality, appropriateness, and effectiveness including crisis services and inpatient hospital utilization, service costs, efficiency, accountability, and standardized consumer outcomes and perception of care.
- (g) The primary responsibility of the Medical Director is to comply with established principles of medical ethics and well-established peer review clinical principles and to follow the laws and rules of the North Carolina Medical Board. CABHA owners, officers and managing employees shall not direct a Medical Director to violate the foregoing or take any action contrary to the medical opinion of the Medical Director with respect to a particular consumer.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0404 CLINICAL DIRECTOR

(a) The Clinical Director shall:

- (1) Be an American Board of Psychiatry and Neurology-certified or American Board of Psychiatry and Neurology-eligible psychiatrist (MD or DO) licensed in North Carolina, a physician (MD or DO) licensed in NC who has ASAM/ABAM certification if the CABHA delivers substance abuse services only, or be:
 - (A) a NC Licensed Clinical Social Worker;
 - (B) a NC Licensed Psychologist;
 - (C) a NC Licensed Psychological Associate;
 - (D) a NC Licensed Professional Counselor;
 - (E) a NC Licensed Marriage and Family Therapist;
 - (F) a NC Licensed Nurse Practitioner;
 - (G) a NC Licensed Clinical Addiction Specialist; or
 - (H) a NC Certified Clinical Supervisor.
 - (2) Have two or more years of full time, post-graduate direct service experience to include face to face treatment and interventions as demonstrated by having provided services for a caseload of consumers with a primary mental health disorder diagnosis or substance abuse disorder diagnosis, depending upon the continuum of care offered by the CABHA. Experience attesting to the medical necessity of MH/SA services does not meet this requirement. The treatment and interventions provided by the Clinical Director shall relate to the mental health or substance abuse diagnosis of the consumers served. Documentation reflecting the individual's training and experience must be submitted to DMA or designee as part of the attestation packet or submission of qualifications to fill a vacancy.
 - (3) Be directly employed by the CABHA and the position shall be shared by no more than two individuals, who shall each work at least 20 hours per week for the CABHA.
 - (4) Not serve as a 50 percent FTE Clinical Director for more than one CABHA.
- (b) Individuals with provisional licenses may not serve as the Clinical Director.
- (c) A CABHA that is required to employ a 100 percent FTE Medical Director and who fills this position with a psychiatrist or ASAM or ABAM certified physician may have one individual fill both the Medical Director and Clinical Director positions. An individual who serves as both Medical Director and Clinical Director shall not provide services directly to consumers, or bill Medicaid for such services, for the CABHA. A Medical Director approved pursuant to .0403(a)(3) of this Section may not serve as the Clinical Director.
- (d) If the Medical Director and Clinical Director positions are filled by one individual and the position becomes vacant, the CABHA must fill the Clinical Director vacancy within 45 days or contract on a temporary basis for a Clinical Director, such contract to be in effect no longer than 180 days. An individual who serves as Clinical Director on a temporary basis must meet all qualifications set forth in this Rule.
- (e) A 100 percent FTE Clinical Director may not provide direct, billable services to consumers receiving services from the CABHA. If the Clinical Director position is filled by two 50 percent FTE staff, these individuals may provide direct, billable services to any consumers separate and apart from the 20 hours per week each operates as the Clinical Director.

(f) The CABHA shall develop a job description and policies and procedures for the Clinical Director position which require the Clinical Director to perform and document the following activities:

- (1) Oversee supervision of all non-medical clinical staff in accordance with clinical coverage policies promulgated pursuant to N.C.G.S. § 108-54.2 and maintain documentation evidencing that supervision is occurring in accordance with such policies;
- (2) Design and support implementation of treatment and best practice protocols in collaboration with the Medical Director;
- (3) Collaborate with the Quality Management Director and Training Director to develop plans and protocols for new clinical and program staff training and supervision;
- (4) Develop collaborative relationships with the LME/MCO, consumers' primary care physicians, Community Care of North Carolina (CCNC) network(s), community psychiatrists, and other providers regarding issues related to consumers/families and the local system of care; and
- (5) Monitor and track data regarding delivery and quality of treatment services, including data on core services, emergency department admissions, crisis admissions, psychiatric hospitalization admissions, and operational, service and personal outcomes and recovery goals.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0405 QUALITY MANAGEMENT DIRECTOR

(a) The Critical Access Behavioral Health Agency (CABHA) shall have a 50 percent FTE Quality Management Director.

(b) The Quality Management Director must have training or education in performance improvement techniques as demonstrated by either:

- (1) A Bachelors Degree from an institution of higher learning accredited by an accrediting body recognized by the U.S. Department of Education in a field of health, behavioral health, rehabilitation, human services, human development, education, social sciences, criminal justice, administration, management, organizational development, information management, business, or a related field or discipline and three years of experience gathering and analyzing data for quality management, quality assurance or quality improvement for a health or human services provider agency, or an equivalent combination of training and experience; or
- (2) A Masters Degree from an institution of higher learning accredited by an accrediting body recognized by the U.S. Department of Education, in a field of health, behavioral health, rehabilitation, human services, human development, education, social sciences, criminal justice, administration, management, organizational development, information management, business, or a related field or discipline and one year of experience gathering and analyzing data for quality management, quality assurance or quality improvement for a health or human services agency or an equivalent combination of training and experience.

(c) The CABHA shall develop a job description and policies and procedures for the Quality Management Director which requires the Quality Management Director to perform and document the following activities:

- (1) Design, implement, supervise and monitor quality assurance and quality improvement for the CABHA;
- (2) Develop, implement, and at least quarterly evaluate the agency's annual quality improvement/quality assurance plan. Revise the plan as needed.
- (3) Develop agency-wide quality assurance and quality improvement processes with continuous staff, consumer, family, stakeholder, and management involvement including client satisfaction survey(s);
- (4) Supervise and staff the quality management committee and subcommittees to establish and review agency data and performance indicators;
- (5) Develop and monitor actions to address individual and aggregate trends, including incidents, adverse events, complaints, grievances, and quality of care measures including consumer access, referral, transition, engagement, retention, and individual and aggregate outcomes; and
- (6) Supervise and direct staff to comply with all consumer data and records documentation requirements, staff qualifications, evidence-based practices training, implementation, supervision, evaluation and fidelity monitoring, accreditation standards, reaccreditation requirements and reporting, auditing, and regulatory review requirements of federal, state, and local agencies.

- (d) The Quality Management Director and the Training Director positions may be filled by the same person or by no more than two individuals.
- (e) An individual who serves as both the Quality Management Director and Training Director for a CABHA agency may not provide direct, billable services to consumers. This individual must spend 50 percent of his or her time in Quality Management activities and 50 percent of his or her time in Training Director activities. If the Quality Management Director and Training Director positions are filled by two 50 percent FTE staff, these individuals may provide direct, billable services separate and apart from the 20 hours per week each operates as the Quality Management Director and as the Training Director.
- (f) An individual who serves as both Quality Management and Training Director for a CABHA agency must meet education and minimum experience requirements for both positions, as demonstrated by documentation submitted with the application and maintained by the CABHA.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0406 TRAINING DIRECTOR

- (a) The Critical Access Behavioral Health Agency (CABHA) shall have a 50 percent FTE Training Director.
- (b) The Training Director must have either:
- (1) A Bachelors Degree from an institution of higher learning accredited by an accrediting body recognized by the U.S. Department of Education in a field of health, behavioral health, rehabilitation, human services, human development, education, social sciences, criminal justice, administration, management, organizational development, information management, business, or a related field or discipline and three years of experience in planning, coordinating, delivering, or evaluating training or education related to consumer health, behavioral health, education, wellness, recovery, human development, disabilities, social services, public safety, employment, vocational education, vocational rehabilitation, housing, transportation, recreation, human rights, or justice or in training clinical staff, or an equivalent combination of training and experience; or
 - (2) A Masters Degree from an institution of higher learning accredited by an accrediting body recognized by the U.S. Department of Education in a field of health, behavioral health, rehabilitation, human services, human development, education, social sciences, criminal justice, administration, management, organizational development, information management, business, or a related field or discipline and one year of experience in planning, coordinating, delivering, or evaluating training or education related to consumer health, behavioral health, education, wellness, recovery, human development, disabilities, social services, public safety, employment, vocational education, vocational rehabilitation, housing, transportation, recreation, human rights, or justice or in training clinical staff, or an equivalent combination of training and experience.
- (c) The CABHA shall develop a job description and policies and procedures for the Training Director which require the Training Director to develop and implement an annual strategic training plan that:
- (1) Reflects the agency's vision, mission and guiding principles;
 - (2) Includes goals, objectives, methods, budget and expected outcomes for the agency;
 - (3) Indicates that evidence-based training methods will be utilized;
 - (4) Identifies instructional training system design and development principles;
 - (5) Indicates the use of technology to increase access to and the effectiveness of training;
 - (6) Identifies implementation strategies to support and sustain the use of clinical skills in supporting the continuum of care within the agency;
 - (7) Implements training required by DMH/DD/SAS and DMA Clinical Coverage Policies; and
 - (8) Ensures there is sufficient access to training and education opportunities, especially in rural areas and for culturally diverse populations.
- (d) The Training Director shall perform and document the following activities:
- (1) Maintain and produce to DMA or its designee upon request training records which demonstrate that staff has the competencies to deliver integrated behavioral health care, emphasizing evidence-based practices and quality improvement approaches, and that supervisors have competencies to mentor and supervise staff in these practices;
 - (2) Plan, organize and direct all training activities;
 - (3) Identify organizational, departmental and service training needs within the agency;
 - (4) Conduct orientation sessions and arrange on-the-job training for new employees;

- (5) Establish individualized training plans to strengthen an employee's existing skills or teach new ones;
- (6) Develop and offer supervisory training for staff in supervisory positions; and
- (7) Evaluate training effectiveness at least quarterly.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0407 EXCEPTION PROCESS

(a) A request for an exception to the Medical Director position shall be in writing and shall contain:

- (1) The name, address and telephone number of the person making the request;
- (2) The name, address and telephone number of the applicant for which the exception is requested;
- (3) A statement of the facts including:
 - (A) The reason(s) for the request;
 - (B) The reason(s) why the Medical Director position cannot be filled by a psychiatrist or physician who meets the requirements of Rule .0403(a)(1) or (a)(2) of this Subchapter including a written description of specific efforts made to hire a psychiatrist or physician who meets the requirements of Rule .0403(a)(1) or (a)(2) of this Subchapter;
 - (C) The name and curriculum vita of the physician (MD or DO) licensed in NC who is board certified or eligible by the American Board of Family Physicians in General Family Practice or the American Board of Internal Medicine in Internal Medicine or the American Board of Pediatrics in Pediatrics; and
 - (D) The reason(s) why the physician (MD or DO) licensed in NC who is board certified or eligible by the American Board of Family Physicians in General Family Practice or the American Board of Internal Medicine in Internal Medicine or the American Board of Pediatrics in Pediatrics is eligible and qualified to fill the Medical Director position.

(b) The request for an exception shall be included in the attestation packet or sent to the DMA Director or designee.

(c) The DMA Director, or designee, may interview the proposed Medical Director and waive the Medical Director professional requirements and approve an exception based upon the following:

- (1) The factual situation giving rise to the exception request;
- (2) The determination that the exception will not affect the health, safety, or welfare of consumers;
- (3) The qualifications and experience of the individual seeking to fill the Medical Director position; and
- (4) Consumer access to care.

(d) The Director, or designee, shall issue the exception decision in writing and state the reasons why the request for exception was granted or denied. The exception shall be contingent on the physician annually completing six hours of continuing medical education (CME) in the CABHA's continuum of care as described in Rule .0301(e) of this Subchapter.

(1) Documentary evidence of the completion of CME shall be submitted to the DMA Director or designee on or before June 30 of each year.

(2) Failure to complete the required amount or type of CME or to submit documentation of same shall result in sanctions of CABHA certification on or before July 31 of the calendar year in which the requirement was not met.

(e) The decision to deny the exception request may be appealed according to Rule .0603 of this Subchapter.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0408 MEDICAL SCHOOL/ TEACHING HOSPITAL EXCEPTION

The Secretary may make exceptions to the rules in this Subchapter for a teaching hospital that operates a graduate medical education (GME) program, as those terms are defined in 42 CFR 415.152, where quality of care would not be adversely impacted.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0409 VACANCY OR CHANGES OF REQUIRED STAFF POSITION

(a) The CABHA shall notify the DMA Director or designee and the applicable LME(s), PIHP, or MCO in writing by trackable mail if a Medical Director or Clinical Director position becomes vacant or changes within 10 business days of such vacancy or change and shall include a contingency plan for medical and clinical oversight during the vacancy and delegation of duties normally performed by the vacant staff position.

(b) Failure to notify DMA or designee in writing by trackable mail within 10 business days of a Medical Director or Clinical Director vacancy or change shall result in sanctions of CABHA certification, which may include decertification, suspension, or Plan of Correction.

(c) The CABHA shall notify the DMA Director or designee and the applicable LME(s), PIHP, or MCO in writing by trackable mail if a Quality Management Director or Training Director position becomes vacant or changes within 10 business days of such vacancy or change and shall include a contingency plan for quality management and training oversight during the vacancy and delegation of duties normally performed by the vacant staff position..

(d) Failure to notify DMA or designee of a Quality Management Director or Training Director vacancy or change in writing by trackable mail within 10 business days shall result in a mandatory compliance review of the CABHA by DMA or its designee. If either position remains vacant for more than ninety (90) calendar days, the CABHA may be decertified or suspended.

(e) Vacancy of the CABHA's Medical Director position for 90 consecutive calendar days or more shall result in decertification regardless of attempts made to fill the position. Vacancy for more than 45 consecutive calendar days shall result in a mandatory compliance review of the CABHA by DMA or its designee and may result in suspension.

(f) Vacancy of the CABHA's Clinical Director position for 90 consecutive calendar days or more shall result in decertification regardless of attempts made to fill the position. Vacancy for more than 45 consecutive calendar days shall result in a mandatory compliance review of the CABHA by DMA or its designee or and may result in suspension.

(g) The individual selected to fill a vacant Medical Director position must be approved by DMA or its designee in accordance with the requirements set forth at Section .0400 of this Subchapter.

(1) When the CABHA has employed or contracted with an individual to fill the vacant position, the following documentation shall be submitted to the DMA Director or designee:

(A) Copy of Medical Director license and current curriculum vitae;

(B) Copy of signed job description meeting the requirements of Rule .0403(f); and

(C) Number of hours the Medical Director works per week;

(D) Identification of Medical Director's status as either employee or independent contractor, official date of hire, and if contracted, include a copy of the contract between the Medical Director and the CABHA.

(2) If the Medical Director requires an exception request for approval, the CABHA must follow the process outlined in Rule .0407.

(3) Upon receipt of the documentation described in Subsection(f)(1) above, DMA or its designee shall determine whether the applicant meets all requirements of Rule .0403 and Rule .0407 if applicable and shall notify the CABHA of DMA or its designee's decision.

(A) If the individual meets the requirements of Rule .0403 and Rule .0407 when applicable, the individual will be approved and CABHA certification will remain active unless there are other reasons identified during monitoring that require decertification or suspension.

(B) If the individual does not meet the requirements of Rule .0403 or fails to meet the exception requirements of Rule .0407, the CABHA may resubmit information for a different hire if still within the timeframes noted in Subsection (d) above. If the CABHA fails to submit new hire documentation within the timeframes noted in Subsection (d) above, the CABHA shall be decertified.

(h) The individual(s) selected to fill a vacant Clinical Director position must be approved by DMA or its designee in accordance with the requirements set forth at Section .0400 of this Subchapter. The following documentation must be submitted:

(1) Copy of the individual's license

(2) Copy of the individual(s)' current resume

(3) Copy of signed job description meeting the requirements of Rule .0404 (f)

(i) The individual selected to fill a vacant Quality Management Director or Training Director must be approved by DMA or its designee in accordance with the requirements set forth at Section .0400 of this Subchapter. The following documentation must be submitted:

(1) Copy the individual(s) degree/credentials

(2) Copy of the individual(s)' current resume

(3) Copy of signed job description(s) meeting the requirements of Rule .0405 and Rule .0406 if applicable

(j) Contracting with or hiring an individual to fill a vacant Medical Director, Clinical Director, Quality Management Director or Training Director position who does not meet the requirements of this Subchapter may result in decertification.

10A NCAC 22P .0410 CONTINUUM OR CERTIFIED CABHA SITE LOCATION CHANGES

(a) If an agency is not certified as a CABHA and is in the application review process (desk review, interview, or verification) and it changes its continuum, it will need to resubmit a new CABHA application and the review process will start over.

(b) Certified CABHAs keeping the same continuum but changing a service within the continuum (this does not include the three core services) must submit the following:

- (1) The NEA for the service replacing the original services.
- (2) A new completed signed and dated CABHA letter of attestation which shows the continuum change, core services, FTEs, number of consumers served, and leadership staff members and positions.

(3) The map and mileage providing evidence that the new service that is being changed in the continuum is within 35 miles of the three core services.

(c) Certified CABHAs changing their continuum of age or disability must submit a full CABHA application. After the application is received and approved at the desk review stage by DMA or its designee, the agency will be scheduled for an interview, followed by an on site verification review.

(d) If a CABHA moves within 35 miles of the certified CABHA site/core service site, in addition to completing a change of address form with DMA Provider Enrollment or its designee, they will need to submit the following to DMA or its designee:

(1) Printed confirmation of the map and mileage of the distance between the three core and two continuum services.

(2) Written notice of the address change (including old address and new address)

(3) Written confirmation of key CABHA staff (Medical Director, Clinical Director, and QM/Training Director) and services delivered

(4) Copies of NEAs pertaining to endorsement or credentialing of that site/service

(e) If a CABHA moves outside of 35 miles of the certified CABHA site/core service site, they will need to submit a full CABHA application to DMA or its designee. After the application is received and approved at the desk review stage by DMA or its designee, the agency will be scheduled for an interview, followed by an on-site verification review.

SECTION .0500 – CERTIFICATION PROCEDURES

10A NCAC 22P .0501 LETTER OF ATTESTATION AND DESK REVIEW

(a) An applicant seeking Critical Access Behavioral Health Agency (CABHA) certification must submit an attestation letter and all necessary supporting documentation to the DMA Director or designee (including LME/PIHP/ MCO/ waiver entity if so designated).

(b) Necessary supporting documentation to meet CABHA requirements includes:

- (1) Evidence of national accreditation in accordance with G.S. 122C-81;
- (2) Evidence of provision of the three Core Services and two additional endorsed or credentialed services as set forth in .0301 of this Subchapter that together create an age and diagnosis specific continuum of care.
- (3) Identification of each of the applicant's Medicaid billing numbers;
- (4) Identification of the designated core site location, list of all other CABHA site location addresses and evidence that the Core Services are provided at the designated CABHA core site location and the two required additional services are provided within 35 miles of that location;
- (5) Copies of all necessary licenses, endorsements, or credentialing documents if applicable
- (6) Copies of licenses, diplomas, curricula vitae, signed job descriptions meeting the requirements of Section .0400 of this Subchapter and any other documentation reflecting the individual's training and experience for the Medical Director, Clinical Director, Quality Management Director and Training Director. If, during the application process, the individuals identified by the CABHA as filling the Medical Director, Clinical Director, Quality Management Director or Training Director position(s) resign or are replaced, the CABHA shall have three (3) business days from such change to submit the above-listed documentation to the DMA or its designee;

- (7) Identification of the number of hours the Medical Director works per week, identification of Medical Director's status as either employee or independent contractor, and if contracted, a copy of the contract between the Medical Director and the CABHA.
 - (8) Written explanation indicating how the management structure and clinical structure of the applicant support the age and diagnosis specific MH or SA continuum of care;
 - (9) Copy of quality management plan submitted to, or current quality management plan and any quality improvement plan or plan of correction required by, any accrediting body from which the CABHA achieved national accreditation pursuant to G.S. 122C-81;
 - (10) A Certificate of Existence or Certificate of Authorization from the N.C. Secretary of State's Office in accordance with G.S. 55A-1-28 (for domestic and foreign corporations) or G.S. 57C-1-28 (for domestic and foreign limited liability companies).
- (c) Following receipt of the attestation letter and supporting documentation, DMA or its designee shall conduct a desk review to ensure that the applicant meets basic requirements for CABHA certification.
- (d) The Desk Review includes the determination of the applicant's "good standing" status in the Department.
- (e) Upon completion of the desk review, DMA or its designee shall notify the applicant that either:
- (1) The applicant passed the desk review and DMA or its designee will schedule an interview; or
 - (2) The applicant's attestation letter and supporting documentation do not meet CABHA certification requirements and the applicant did not pass the desk review.
- (f) An applicant who does not pass the desk review may appeal the determination in accordance with Rule .0603 of this Subchapter.
- (g) An applicant shall have a single opportunity to submit an attestation letter and supporting documentation for review by DMA or its designee. Failure to pass the Desk Review shall result in the applicant's inability to re-apply for a period of six months from the date of the letter notifying the applicant of failure to pass the desk review.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0502 INTERVIEW

- (a) After the applicant meets the requirements of the desk review, an interview will be conducted. The purpose of the interview is to evaluate the qualifications and experience of the Medical Director, Clinical Director, Quality Management Director and Training Director to provide and support high quality behavioral health services to the age and diagnosis specific population selected, and determine whether the agency has developed and implemented medical, clinical, quality management, and training structures, processes, and systems to promote the design, delivery, evaluation and improvement of high-quality services to consumers.
- (b) DMA or its designee shall convene Critical Access Behavioral Health Agency (CABHA) interview panels.
- (c) The applicant's Medical Director, Clinical Director, Quality Management Director, and Training Director shall be interviewed as a group, and CABHA applicant owners, Board members or managing employees may also participate.
- (d) The interview shall be completed using standardized interview questions and the interviewers may ask follow-up questions.
- (e) The interview shall be recorded and made available for transcription at the applicant's request and expense.
- (f) After completion of the interview, DMA or its designee shall refer the applicant for a verification review.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0503 VERIFICATION REVIEW

- (a) A Verification Review shall be conducted by DMA or designee after completion of the interview in order to verify or confirm information presented by the applicant in the attestation letter, supporting documentation and interview that is material to the determination of whether the applicant can perform or meet the requirements of this Subchapter.
- (b) There is only one opportunity for a Verification Review after completion of the Interview. Applicants shall not be granted multiple Verification Reviews.
- (c) After completion of the verification review, DMA or its designee shall notify the applicant that either:
 - (1) The applicant passed the verification review, and DMA or its designee will issue a notice of CABHA certification; or

- (2) DMA or its designee was unable to verify the information submitted in the attestation letter and supporting documentation and certification is denied. This action results in the applicant's inability to re-apply for a period of six months from the date of the letter notifying the applicant of failure to pass the Verification Review. The applicant may appeal this decision in accordance with Rule .0603 of this Subchapter.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

SECTION .0600 – MONITORING, DECERTIFICATION AND APPEAL PROCEDURES

10A NCAC 22P .0601 MONITORING

- (a) DMA or its designee and its contractors and the LME/MCO(s) shall conduct announced and unannounced site visits, audits, post-payment reviews, investigations, monitoring and compliance reviews of the Critical Access Behavioral Health Agency (CABHA) in order to evaluate compliance with all applicable federal and state laws, rules, regulations, medical coverage policies and provider agreements.
- (b) Monitoring includes the review of documentation and individual and aggregate data to ensure that the agency meets the requirements specified in Sections .0300 and .0400 of this Subchapter.
- (c) Other targeted monitoring may be completed in response to incidents, complaints, or deficiencies found during routine DMH/DD/SAS or DMA or LME/MCO monitoring or audits or at the request of any Division of the Department or an LME/MCO.
- (d) The CABHA shall cooperate with all DMA or designee staff, contractors and LME/MCO staff involved in the monitoring activities described in this Rule. Upon request, the CABHA shall promptly make available to DMA or its designee and its contractors and the LME/MCO(s) copies of any and all documentation needed to evaluate compliance with all applicable federal and state laws, rules, regulations, clinical coverage policies and provider agreements. For unannounced monitoring visits, "promptly" means immediately if documentation is stored on-site, and within one business day if documentation is stored off-site. For scheduled monitoring visits, "promptly" means immediately regardless of where documentation is stored.
- (e) CABHAs may be required to successfully complete and implement a Plan of Correction (POC) in response to systemic deficiencies identified as a result of monitoring visits, unless the CABHA is decertified in accordance with Rule .0602 of this Subchapter. When a POC is assigned, the requirements for submission, implementation and follow-up must comply with the DHHS Policy or Rule on Plans of Correction in effect at the time. DMA or its designee may issue a POC; however, DMA or its designee may decertify or suspend a CABHA without first requesting a POC.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0602 DECERTIFICATION AND SUSPENSION

- (a) A Critical Access Behavioral Health Agency (CABHA) shall be sanctioned by DMA or its designee under the following circumstances. Sanctions may include decertification, suspension, or Plans of Correction:
 - (1) Loss of three-year national accreditation;
 - (2) Medical or Clinical Director vacancy or failure to notify DMA or its designee of such vacancy in violation of Section .0400 of this Subchapter;
 - (3) A revocation issued by DMH/DD/SAS in accordance with Subchapter 26C against any MH/SA provider site location owned and operated by the CABHA;
 - (4) Failure to submit, revise or implement a Plan of Correction within the timeframes required pursuant to .0601 of this Section.
 - (5) The CABHA fails to meet the staffing requirements outlined in Section .0400 of this Subchapter;
 - (6) Termination of the Medicaid Administrative Participation Agreement between DMA or its designee and the CABHA under which the CABHA was enrolled to deliver a service identified as part of the CABHA's continuum of care at the Certified CABHA Site as identified in the attestation packet;
 - (7) Revocation of a license issued by the Division of Health Service Regulation (DHSR) pursuant to G.S. 122C-23;

- (8) Withdrawal of the CABHA's endorsement or credentialing pursuant to G.S. 122C-115.4(b)(2) to provide a service identified as part of the CABHA's continuum of care at the Certified CABHA Site as identified in the attestation packet;
 - (9) Failure to comply with the requirements of this Subchapter or other applicable federal and state laws, rules, regulations, clinical coverage policies and provider agreements;
 - (10) Loss of good standing with DHSR, DMA, or DMH/DD/SAS for any reason;
 - (11) Loss of good standing with the North Carolina Secretary of State's Office, the U.S. Internal Revenue Service, the U.S. Department of Labor, or the North Carolina Departments of Labor and Revenue;
 - (12) Failure to cooperate with or make available and accessible all sources of information necessary to complete monitoring;
 - (13) Failure to permit access to DMA or its designee and its contractors or the LME, PIHP, or MCO;
 - (14) Creation or altering of documents to avoid sanctions or failure to promptly make documentation available upon request in accordance with Rule .0601(d) of this Section
 - (15) Failure to deliver any of the CABHA's continuum services or core services at the Certified CABHA Site within 180 calendar days of certification; or
 - (16) Failure of the CABHA to address issues that endanger the health, safety or welfare of consumers receiving services.
- (b) The CABHA may submit a request for a suspension to be rescinded no sooner than fifteen (15) calendar days from the date of suspension if the action that caused the suspension has been rectified.
- (c) DMA or its designee may make exceptions to the circumstances listed in Paragraph (a) of this Rule in order to ensure access to care for Medicaid recipients.
- (d) DMA or its designee may decertify or suspend a CABHA without first requesting a Plan of Correction.
- (e) If a CABHA is decertified, the agency may re-apply after a period of six months when the action that caused the decertification has been rectified.
- (f) The CABHA may appeal decertification or suspension in accordance with Rule .0603 of this Subchapter.
- (g) Following decertification or suspension, the CABHA may be subject to further sanctions by DMA including termination from the Medicaid program.

History Note: Authority G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.

10A NCAC 22P .0603 APPEAL PROCEDURES

- (a) A decision of DMA or its designee to deny Critical Access Behavioral Health Agency (CABHA) certification or to suspend or decertify a CABHA may be appealed in accordance with this Rule.
- (b) The first review shall be a reconsideration review before DMA or its designee. The CABHA may continue to deliver and be reimbursed for CABHA services during the pendency of the reconsideration review unless Subsection .0602 (a)(16) was identified as the basis for the decertification or suspension.
- (c) The provider may not file a petition with the Office of Administrative Hearings without first going through the reconsideration review process, unless the reconsideration review is waived by the Secretary.
- (d) The provider must file a written notice of appeal of the decision to deny or withdraw certification within 15 calendar days of the date of the decision.
 - (1) "File or Filing" means personal delivery, delivery by certified mail, or delivery by overnight express mail to the DMA Director or designee. A document or paper is deemed filed as of the date it is delivered to the Director. Filings addressed to a person other than the Division Director, or which fail to be filed within the time periods established by this Rule, or which otherwise fail to be filed in conformity with the rules in this Section shall be considered as improper filings and be denied.
 - (2) DMA or its designee shall conduct a paper review within 45 calendar days after the notice of appeal is filed. All documents and written statements must be presented to the individual or panel assigned to conduct the review within 15 calendar days after the filing of the appeal.
- (e) The hearing decision shall be issued in writing by trackable mail within 30 calendar days of the conclusion of the reconsideration review.
- (f) The provider may appeal DMA or its designee's reconsideration review decision to the Office of Administrative Hearings in accordance with Chapter 150B of the North Carolina General Statutes within 60 calendar days of the

date of the decision. DMA or its designee shall not reimburse a provider for CABHA services during the pendency of any appeal to the Office of Administrative Hearings.

History Note: Authority *G.S. 108A-54; 42 U.S.C. 1396a; 42 C.F.R. 431.51; S.L. 2009-451, Section 10.58(d); Temporary Adoption Eff. December 28, 2010.*

10A NCAC 22P .0604 CONSUMER TRANSITION

- (a) CABHAs that are decertified or suspended shall have thirty (30) calendar days to transition all consumers receiving CABHA-only services to another certified CABHA agency, unless Subsection .0602 (a)(16) was identified as the basis for the decertification or suspension.
- (b) The thirty (30) calendar day period shall begin on the date the CABHA either fails to file a timely request for reconsideration review or the date of a reconsideration review decision upholding decertification or suspension.
- (c) If Subsection .0602 (a)(16) was identified as the basis for the decertification or suspension, the CABHA shall have fifteen (15) calendar days from the date of the decertification or suspension notice to transition consumers, regardless of any appeal filed by the CABHA of the decision.
- (d) Consumers shall be given freedom of choice from among other certified CABHA agencies during the transition process. No CABHA can require a consumer to accept services from a particular agency.
- (e) The decertified CABHA is required to provide a complete copy of each consumer's medical record maintained by the CABHA to the agency chosen by the consumer for continuation of services, or to the applicable LME/MCO if no agency was selected by the consumer.