

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0206

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 4, do you mean that family care homes “shall” have a capacity from two to six residents?

In (a), line 4, isn't “family care home” defined at G.S. 131D-2.1(9)?

In (b), line 8, what do you mean when you say the license “shall indicate the facility’s capacity according to the number of ambulatory and non-ambulatory individuals...” Do you mean the license shall say how many ambulatory and non-ambulatory individuals live there?

In (c), line 18, do both plans have to show where the addition ties into the existing building, or just the second set? If the latter, consider changing “plans” to “the second plan”.

In (d), line 21, what fire safety regulations are you requiring compliance with? Specifically state them in the rule.

In (e), line 23, I think you meant to say “...no longer complies...”.

In (d), line 25, consider a revision to “...non-resident that will be residing...” as “residing” indicates being a resident. Also, consider “who” instead of “that” when referring to a person.

In (f), line 31, under what criteria does the DHSR’s Construction Section approve or disapprove the request for a resident to remain at the facility? Is this in another rule? If so, please cross-reference.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0206 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0206 CAPACITY**

4 (a) Pursuant to G.S. ~~131D-2(a)(5)~~, 131D-2.1(5), family care homes may have a capacity of two to six residents. For
5 the purposes of this Rule, "capacity" means the maximum number of residents permitted to live in a licensed family
6 care home in accordance with the North Carolina Building Code and the evacuation capability of each resident.

7 (b) The total number of residents shall not exceed the number shown on the license. The license shall indicate the
8 facility's capacity according to the number of ambulatory and non-ambulatory individuals permitted to live in the
9 home. For the purposes of this Rule, "ambulatory" means the individual is able to respond and evacuate from the
10 facility without verbal or physical assistance from others in the event of an emergency. "Non-ambulatory" means the
11 individual is not able to respond and evacuate from the facility without verbal or physical assistance from others in
12 the event of an emergency.

13 (c) A request for an increase in capacity by adding rooms, ~~remodeling~~ remodeling, or without ~~any~~ building
14 modifications shall be made to the county department of social services and submitted to the Division of Health
15 Service Regulation, Regulation Construction Section and shall include ~~accompanied by~~ two copies of blueprints or
16 floor plans. One plan shall show ~~showing~~ the existing building with the current use of ~~rooms~~ rooms, and the second
17 plan indicating ~~showing~~ the addition, ~~remodeling~~ remodeling, or change in use of ~~spaces~~ spaces, and showing the use
18 of ~~each~~ every room. If new construction, plans shall show how the addition will be tied into the existing building and
19 all proposed changes in the structure.

20 (d) When licensed ~~homes~~ facilities increase their designed capacity by the addition to or remodeling of the existing
21 physical plant, the entire ~~home~~ facility shall meet all current fire safety regulations.

22 (e) The licensee or the licensee's designee shall notify the Division of Health Service Regulation Adult Care Licensure
23 Section if the ~~overall~~ evacuation capability capabilities of the residents changes ~~from~~ and the facility no longer complies
24 with the evacuation capability facility's licensed capacity as listed on the ~~homes~~ facility's license, ~~license~~ or of the
25 addition of any non-resident that will be residing within the ~~home~~ facility. ~~This information shall be submitted through~~
26 ~~the county department of social services and forwarded to the Construction Section of the Division of Health Service~~
27 ~~Regulation for review of any possible changes that may be required to the building.~~

28 (f) If there is a temporary change in the capacity of the facility due to a resident's short term illness or condition that
29 renders the resident temporarily non-ambulatory, such as end of life condition, the licensee or the licensee's designee
30 shall immediately notify the Division of Health Service Regulation Construction Section upon the knowledge of the
31 change in the resident's ambulatory status to request approval for the resident to temporarily remain in the facility.

32
33 *History Note: Authority G.S. 131D-2.4; 131D-2.16; 143B-165;*

34 *Eff. January 1, 1977;*

35 *Readopted Eff. October 31, 1977;*

36 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984; January 1, ~~1983~~ 1983.*

37 *Readopted Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0301

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (1), line 6, is there significance to the deletion of “existing” from “existing buildings”? I wouldn’t ordinarily ask about a deletion, but the term “existing building” is the term used throughout the Building Code, which you’re incorporating by reference elsewhere in these rules.

In (2), line 10, is there a difference between “capacity” and “bed count”?

Also on line 10, what does “service” mean in this context?

In (3), line 18, why is “for” left out of the title of “Minimum and Desired Standards and Regulations” for “Family Care Homes”? Was that intentional?

Also, in (3), are you incorporating “Minimum and Desired Standards” by reference? If so, you haven’t said that. See 150B-21.6 for the requirements of incorporating something by reference.

In (5)(a)(ii), line 35, please define “extraordinary circumstances” in your rule.

In (5)(a)(iv), line 37, please define “unusual conditions” in your rule, and pay particular attention to how an “unusual condition” is different from an “extraordinary circumstance”, as it seems to me they would encompass similar if not identical events.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0301 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

4 ~~The physical plant requirements for each A family care home shall be applied as follows~~ meet the following physical
5 plant requirements:

6 (1) New construction and ~~existing~~ buildings proposed for use as a Family Care Home shall comply with
7 the requirements of this ~~Section;~~ Section.

8 (2) Except where otherwise specified, ~~existing~~ licensed homes or portions of ~~existing~~ licensed homes
9 shall meet the licensure and code requirements in effect at the time of licensure, construction, change
10 in ~~service or service, change in~~ bed count, addition, modification, renovation or alteration;
11 renovation, or alteration. however, in no case shall the requirements for any licensed home, where
12 no addition or renovation has been made, be less than those requirements found in the 1971
13 "Minimum and Desired Standards and Regulations" for "Family Care Homes", copies of which are
14 available at the Division of Health Service Regulation, 701 Barbour Drive, Raleigh, North Carolina
15 27603 at no cost;

16 ~~(3)~~ In no case shall the requirements for a licensed home, where no addition or renovation has been
17 made, be less than those requirements found in the 1971 "Minimum and Desired Standards and
18 Regulations" for "Family Care Homes", copies of which are available at no cost at the Division of
19 Health Service Regulation, 1800 Umstead Drive, Raleigh, North Carolina 27603.

20 ~~(3)(4)~~ New additions, alterations, ~~modifications~~ modifications, and repairs shall meet the requirements of
21 this Section; Section.

22 ~~(4)~~ Rules contained in this Section are minimum requirements and are not intended to prohibit
23 buildings, systems or operational conditions that exceed minimum requirements;

24 ~~(5)~~ Equivalency: Alternate methods, procedures, design criteria and functional variations from the
25 physical plant requirements shall be approved by the Division when the home can effectively
26 demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met
27 and that the variation does not reduce the safety or operational effectiveness of the home; and The
28 Division may grant an equivalency to allow alternate methods, procedures, design criteria, or
29 functional variation from the requirements of this Rule and the rules contained in this Section. The
30 equivalency may be granted by the Division when a facility submits a written equivalency request
31 to the Division that states the following:

32 (a) the rule citation and the rule requirement that will not be met because strict conformance
33 with current requirements would be:

34 (i) impractical;

35 (ii) unable to be met due to extraordinary circumstances;

36 (iii) unable to be met due to new programs; or

37 (iv) unable to be met due to unusual conditions;

1 **(b) the justification for the equivalency; and**

2 **(c) how the proposed equivalency meets the intent of the corresponding rule requirement.**

3 **(6) Where rules, codes or standards have any conflict, the most stringent requirement shall apply. In**
4 **determining whether to grant an equivalency request, the Division shall consider whether the request**
5 **will reduce the safety and operational effectiveness of the facility. The facility shall maintain a copy**
6 **of the approved equivalency issued by the Division, and**

7 **(7) Where rules, codes or standards have any conflict, the more stringent requirement shall apply.**

8
9 *History Note: Authority G.S. 131D-2.16; 143B -165;*

10 *Eff. July 1, ~~2005~~-2005;*

11 *Readopted Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0302

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Throughout the rule, it appears you use "home" and "facility" interchangeably. Please pick one term and use it consistently.

In (a), line 11, is "Licensed Residential Care Facilities" a part of the Residential Code, or a separate document? If separate, please use separate incorporations for each.

In (a), line 11, when would either of these documents be "applicable"? Please state specifically in your rule when one applies over the other.

In (a), line 12, what are the "applicable" volumes of the Building Code? State them in your rule with specificity. This is necessary for clarity in a general sense, but is particularly necessary here because you are incorporating these volumes by reference.

In (e), line 28, under what criteria will DHSR review and approve the proposed work? Is this in another rule? If so, please cross-reference.

In (f)(2), line 33, please define "aged" and "disabled."

In (f)(4), p.2, lines 5-7, is the definition of a "complete fire alarm system" in compliance with the Fire Code or the Residential Code? I know both have extremely comprehensive requirements for fire alarm systems.

In (i), lines 17-18, are elevators permitted?

In (k), line 26, does this conflict with requirements elsewhere to have operable windows in bedrooms, living rooms, and kitchens? It appears to me that this provision can be read to require windows to be operable only up until they break, and then they don't need to be maintained in operable condition anymore.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (m), line 29, specify the sanitation requirements you are referencing, and incorporate by reference if necessary.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0302 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0302 DESIGN AND CONSTRUCTION**

4 (a) ~~Any~~ A building licensed for the first time as a family care ~~home~~ home, or a licensed family care home relicensed
5 after the license is terminated for more than 60 days, shall meet the applicable requirements of the North Carolina
6 State Building Code. ~~All new construction, additions and renovations to existing buildings shall meet the requirements~~
7 ~~of the North Carolina State Building Code for One and Two Family Dwellings and Residential Care Facilities if~~
8 ~~applicable. All applicable volumes of The North Carolina State Building Codes, which is incorporated by reference,~~
9 ~~including all subsequent amendments, may be purchased from the Department of Insurance Engineering Division~~
10 ~~located at 322 Chapanoke Road, Suite 200, Raleigh, North Carolina 27603 at a cost of three hundred eighty dollars~~
11 ~~(\$380.00). Code: Residential Code, and Licensed Residential Care Facilities, if applicable, in effect at the time of~~
12 ~~licensure or relicensure. Applicable volumes of The North Carolina State Building Codes, which are hereby~~
13 ~~incorporated by reference, including all subsequent amendments and editions, may be purchased from the International~~
14 ~~Code Council online at <https://shop.iccsafe.org/> at a cost of eight hundred fifty-eight dollars (\$858.00) or accessed~~
15 ~~electronically free of charge at <https://codes.iccsafe.org/codes/north-carolina>.~~

16 (b) New construction, additions, alterations, modifications, and renovations to buildings shall meet the requirements
17 of the North Carolina State Building Code: Residential Code, and Licensed Residential Care Facilities, if applicable,
18 at the time of construction, alteration, modifications, and renovations.

19 ~~(b) Each home shall be planned, constructed, equipped and maintained to provide the services offered in the home.~~

20 ~~(c) A family care home shall not offer services for which the home was not planned, constructed, equipped, or~~
21 ~~maintained.~~

22 ~~(e)(d) Any existing~~ A building converted from another use to a family care home shall meet all the requirements of a
23 new facility. Paragraph (a) of this Rule.

24 ~~(d) Any existing licensed home when the license is terminated for more than 60 days shall meet all requirements of a~~
25 ~~new home prior to being relicensed.~~

26 ~~(e) Any existing~~ A licensed home that plans to have new construction, remodeling or physical changes done to the
27 facility shall have drawings submitted by the owner or his appointed representative to the Division of Health Service
28 Regulation for review and approval prior to commencement of the work.

29 (f) If the building is two stories in height, it shall meet the following requirements:

30 (1) ~~Each~~ each floor shall be less than 2500 square feet in area if existing construction or, if new
31 construction, shall not exceed the allowable area for Group R-4 occupancy in the North Carolina
32 State Building Code; Codes;

33 (2) ~~Aged~~ aged or disabled persons are not to be housed on any floor above or below grade level;

34 (3) ~~Required~~ required resident facilities are not to be located on any floor above or below grade level;
35 and

36 (4) ~~A~~ a complete fire alarm ~~system with pull~~ system meeting the requirements of the National Fire
37 Protection Association 72, NFPA 72: National Fire Alarm and Signaling Code, which is hereby

1 incorporated by reference, including all subsequent amendments and editions. Copies of this code
 2 may be obtained from the National Fire Protection Association online at
 3 http://www.nfpa.org/catalog/ or accessed electronically free of charge at
 4 https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-
 5 standards/detail?code=72. For the purpose of this Rule, a “complete fire alarm system” is a system
 6 that consists of components and circuits arranged to monitor and annunciate the status of fire alarm
 7 and supervisory signal-initiating devices and to initiate the appropriate response to those signals.
 8 Pull stations shall be installed on each floor at each exit, and sounding Sounding devices which that
 9 are audible throughout the building shall be provided, provided on each floor. The fire alarm system
 10 shall be able to transmit an automatic signal to the local emergency fire department dispatch center,
 11 either directly or through a central station monitoring company connection. center that is legally
 12 committed to serving the area in which the facility is located. The alarm shall be transmitted either
 13 directly to a fire department or through a third-party service that shall transmit the alarm to the fire
 14 department. The method used to transmit the alarm shall be in accordance with local ordinances.

15 (g) The basement and the attic shall not ~~to~~ be used for storage or sleeping.

16 (h) The ceiling height throughout the family care home shall be at least seven and one-half feet from the floor.

17 (i) In homes licensed on or after April 1, 1984, all required resident areas shall be on the same floor level. Steps and
 18 ramps between levels are not permitted.

19 (j) The following shall have door width widths shall be a minimum of two feet and six ~~inches in the kitchen, dining~~
 20 ~~room, living rooms, bedrooms and bathrooms. inches:~~

21 (1) the kitchen;

22 (2) dining rooms;

23 (3) living rooms;

24 (4) bedrooms; and

25 (5) bathrooms.

26 (k) All windows that are operable shall be maintained operable.

27 (l) The local code enforcement official shall be consulted before starting any construction or renovations for
 28 information on required permits and construction requirements.

29 (m) The building shall meet sanitation requirements as determined by the North Carolina Department of ~~Environment~~
 30 ~~and Natural Resources; Division of Environmental Health.~~ Health and Human Services, Division of Public Health,
 31 Environmental Health Section.

32 (n) The home shall maintain and have available for review current sanitation and fire ~~and building~~ safety inspection
 33 ~~reports which shall be maintained in the home and available for review. reports.~~

34
 35 *History Note: Authority G.S. 131D-2.16; 143B-165;*

36 *Eff. January 1, 1977;*

37 *Readopted Eff. October 31, 1977;*

1 *Amended Eff. July 1, 1990; April 1, 1984; January 1, 1983;*
2 *Temporary Amendment Eff. September 1, 2003;*
3 *Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;*
4 *Readopted Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0305

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

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In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 4, please define "living room" and "living area".

In (a), line 4, what is the difference between a "room" and an "area"?

In (b), line 6, how is it determined that a window is in an "area", as opposed to a "room"?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0305 is amended as published in 39:06 NCR 282-316 as follows:

2

3 **10A NCAC 13G .0305 LIVING ROOM**

4 (a) Family care homes licensed on or after April 1, 1984 shall have a living room ~~or area of at least a minimum of~~
5 200 square feet.

6 (b) All living rooms ~~or areas~~ shall have at least one operable window ~~to meet meeting~~ the North Carolina
7 State Building ~~Code Codes to view outdoors,~~ and be lighted to provide 30 ~~foot-candles~~ foot-candles of light at floor
8 level.

9

10 *History Note: Authority G.S. 131D-2.16; 143B-165;*

11 *Eff. January 1, 1977;*

12 *Readopted Eff. October 31, 1977;*

13 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;*

14 *Recodified from 10A NCAC 13G .0304 Eff. July 1, 2005;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February*
16 *16, ~~2019-2019~~;*

17 *Amended Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0306

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 4, please define “dining room” and “dining area”.

In (a), line 4, what is the difference between a “room” and an “area”?

In (b), line 6, does “[w]hen the dining areas is used in combination with a kitchen” refer to an eat-in kitchen? Please consider revising for clarity, because the language used here is confusing and unintuitive.

In (b), lines 6-7, I don’t know what you’re requiring with the clause “an area five feet wide in front of the kitchen, including the sink, kitchen appliances, and any kitchen island used for food preparation”. Are you saying the five foot area shall include these things? Or that these things are part of the kitchen and are not part of the five foot area? Please revise for clarity.

In (c), line 10, how is it determined that a window is in an “area”, as opposed to a “room”?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0306 is readopted as published in 39:06 NCR 282-316 as follows:

2

3 **10A NCAC 13G .0306 ~~DINING ROOM~~ DINING ROOM OR DINING AREA**

4 (a) Family care homes licensed on or after April 1, 1984 shall have a dining room or dining area of at least a minimum
5 of 120 square feet. The dining room or dining area may be used for other activities during the day.

6 (b) When the dining area is used in combination with a kitchen, an area five feet wide in front of the kitchen, including
7 the sink, kitchen appliances, and any kitchen island used for food preparation, shall be allowed as work space for the
8 kitchen, in front of the kitchen work areas. The work space shall not be used as calculations for the required minimum
9 the dining area.

10 (c) The dining room or dining area shall have at least one operable windows window meeting the North Carolina State
11 Building Codes to view the outdoors, or a door unit with a vision panel directly to the outside. The dining room or
12 dining area shall and be lighted to provide 30 foot-candles foot-candles of light at floor level.

13

14 *History Note: Authority G.S. 131D-2.16; 143B-165;*

15 *Eff. January 1, 1977;*

16 *Readopted Eff. October 31, 1977;*

17 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;*

18 *Recodified from 10A NCAC 13G .0305 Eff. July 1, 2005-2005:*

19 *Readopted Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0307

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), lines 4-5, what are you actually requiring? How is it determined that the kitchen is large enough for the preparation and preservation of food and washing dishes?

In (b), line 6, please revise for clarity. As written, the compound sentence requires the cooking unit to be mechanically ventilated or to actually be a recirculating fan. I think you mean that it should "have" an unvented, recirculating fan.

In (c), I don't have a problem with the language, but I noticed you revised identical language in .0309. Just checking that this was intentional.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0307 is readopted as published in 39:06 NCR 282-316 as follows:

2

3 **10A NCAC 13G .0307 KITCHEN**

4 (a) The kitchen in a family care home shall be large enough to provide for the preparation and preservation of food
5 and the washing of dishes.

6 (b) The cooking unit shall be mechanically ventilated to the outside or be an unvented, recirculating fan provided
7 with ~~any special filter per~~ the type of filter required by manufacturers' instructions for ventless use.

8 (c) The kitchen floor shall have a non-slippery water-resistant covering.

9

10 *History Note: Authority G.S. 131D-2.16; 143B-165;*

11 *Eff. January 1, 1977;*

12 *Amended Eff. April 22, 1977;*

13 *Readopted Eff. October 31, 1977;*

14 *Amended Eff. July 1, 2005; April 1, 1984;*

15 *Recodified from 10A NCAC 13G .0306 Eff. July 1, ~~2005-~~2005;*

16 *Readopted Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0308

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b), line 7, under what criteria will DHSR make that determination?

In (c), line 8, who specifically is giving approval, and under what criteria?

In (d) and (e), please define "private bedroom" and "semi-private bedroom" in your rule.

In (d), lines 13-14, and (e), lines 16-17, your definition of "net floor area" is largely redundant. Consider combining the sentences as follows (using (e) as an example): "Semi-private resident bedrooms shall provide not less than 80 square feet of occupiable floor area per bed, excluding accessory areas such as vestibules, closets, wardrobes, or bathrooms."

In (f), line 18, how does DHSR determine the number of residents authorized for the bedroom?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0308 is amended as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0308 BEDROOMS**

4 (a) There shall be bedrooms ~~sufficient~~ in number and size to meet the individual needs according to age and sex of
5 the residents, the administrator or supervisor-in-charge, other live-in ~~staff~~ staff, and ~~any~~ other persons living in a
6 family care home. Residents ~~are~~ shall not ~~to~~ share bedrooms with staff or other live-in non-residents.

7 (b) Only rooms authorized by the Division of Health Service Regulation as bedrooms shall be used for bedrooms.

8 (c) A room where access is through a bathroom, ~~kitchen~~ kitchen, or another bedroom shall not be approved for a
9 resident's bedroom.

10 ~~There shall be a minimum area of 100 square feet, excluding vestibule, closet or wardrobe space, in rooms~~
11 ~~occupied by one person and a minimum area of 80 square feet per bed, excluding vestibule, closet or wardrobe space,~~
12 ~~in rooms occupied by two persons. Private resident bedrooms shall provide not less than 100 square feet of net floor~~
13 ~~area excluding vestibules, closets, or wardrobes. For the purpose of this Rule, net floor area is the actual occupiable~~
14 ~~area not including unoccupied accessory areas such as vestibules, closets, wardrobes, and bathrooms.~~

15 (e) Semi-private resident bedrooms shall provide not less than 80 square feet of net floor area per bed excluding
16 vestibules, closets, or wardrobes. For the purpose of this Rule, net floor area is the actual occupiable area not including
17 unoccupied accessory areas such as vestibules, closets, wardrobes, and bathrooms.

18 ~~(e)(f)~~ The total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of
19 Health Service Regulation for that particular bedroom.

20 ~~(f)(g)~~ A bedroom shall not be occupied by more than two residents.

21 ~~(g)(h)~~ Each A resident bedroom must shall have one or more operable windows meeting the requirements of the North
22 Carolina State Building Codes for emergency egress, and be lighted to provide 30 foot-candles-foot-candles of light
23 at floor level. The window area shall be equivalent to at least not be less than eight percent of the floor ~~space.~~ space,
24 and be equipped with insect-proof screens. The windows Windows in resident bedrooms shall have a maximum of 44
25 inch sill height.

26 ~~(h)(i)~~ Bedroom closets or wardrobes shall be large enough to provide each resident with a minimum of 48 cubic feet
27 of clothing storage space (approximately two feet deep by three feet wide by eight feet high) of which at least one
28 half shall be for hanging clothes with an adjustable height hanging bar. A resident bedroom shall provide one closet
29 or wardrobe per resident. Closets or wardrobes shall have clothing storage space of not less than 48 cubic feet per bed,
30 approximately two feet deep by three feet wide by eight feet high, of which one-half of this space shall be for hanging
31 with an adjustable height hanging bar.

32
33 *History Note: Authority G.S. 131D-2.16; 143B-165;*
34 *Eff. January 1, 1977;*
35 *Readopted Eff. October 31, 1977;*
36 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;*
37 *Recodified from 10A NCAC 13G .0307 Eff. July 1, 2005;*

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February*
2 *16, ~~2019-2019~~;*
3 *Amended Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0309

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Please note this rule is improperly formatted as it does not have line numbers. Please correct this when submitting responses to these requests.

Also, throughout the rule you use the words “water closet” and “commode” to refer to toilets, if I understand correctly. I believe the term “water closet” has a specified meaning in the Building Code, which you have incorporated by reference, so please confirm that you are using that term correctly. Also, my understanding of the term “commode” particularly when used in contrast to “toilet” or “water closet” is that it refers to a device for eliminating human waste that does not connect to plumbing. See for example Rule .0315(a)(7)(C), referring to “bedside commodes”. Please define your terms and use them correctly.

In (b), you say this paragraph shall apply to new and existing facilities. As a reminder, in .0301, you deleted the word “existing”. Moreover, .0301(b) states that homes currently under license should comply with the “licensure and code requirements in effect at the time of licensure” etc. If your intention is to make exceptions to that rule, you need to say that in .0301 (i.e. “except as otherwise required by the Rules in this Section), or say here “notwithstanding the requirements of Rule .0301”.

In (d), what is a “required” bathroom? Are there unrequired bathrooms?

In (e)(2), what does “located to assist” mean?

In (e)(3), what does it mean to be “in reach”? Isn't whether something is “in reach” dependent on the individual?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

10A NCAC 13G .0309 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13G .0309 BATHROOM

- (a) ~~Adult~~ Family care homes licensed on or after April 1, 1984, shall have one full bathroom for ~~each~~ five or fewer ~~persons~~ persons, including live-in ~~staff and family~~ staff. For the purpose of this rule, a full bathroom is a room containing a sink, water closet (commode), and a bathtub, shower, spa tub, or similar bathing fixture.
- (b) ~~The bathrooms shall be designed to provide privacy. A bathroom~~ Bathrooms with two or more water closets (commodes) shall have privacy partitions or curtains for each water closet. ~~Each tub or shower~~ Bathtubs, showers, spas, or similar bathing fixtures shall have privacy partitions or curtains. The requirements of this Paragraph shall apply to new and existing facilities.
- (c) ~~Entrance~~ Entrances to the bathroom bathrooms shall not be through a kitchen, another person's bedroom, or another bathroom.
- (d) ~~The required~~ Required residents' bathrooms shall be located so that there is no more than 40 feet from ~~any residents'~~ a resident's bedroom door to a resident use bathroom door.
- (e) ~~Hand grips shall be installed at all commodes, tubs and showers used by the residents.~~ Water closets (commodes), bathtubs, showers, spas, and similar bathing fixtures shall have hand grips meeting the following requirements:
- (1) be mechanically fastened or anchored to the walls;
 - (2) be located to assist in entering and exiting bathtubs, showers, spas, or similar bathing fixtures; and
 - (3) be within reach of water closets (commodes).
- (f) ~~Nonskid surfacing or strips must be installed in showers and bath areas.~~ bathtubs, showers, spas, and similar bathing fixtures.
- (g) ~~The bathrooms~~ Bathrooms shall meet the following requirements:
- (1) be lighted to provide 30 foot-candles foot-candles of light at floor level ~~and have level;~~
 - (2) have ~~mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor area.~~ an exhaust system per the North Carolina State Building Code: Residential Code. These Exhaust vents shall vent directly to the outdoors. outdoors; and
 - (3) have floors [be] that are water-resistant and slip-resistant.
- (h) ~~The bathroom floor shall have a non-slippery water-resistant covering.~~

*History Note: Authority G.S. 131D-2.16; 143B-165;
 Eff. January 1, 1977;
 Readopted Eff. October 31, 1977;
 Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;
 Recodified from 10A NCAC 13G .0308 Eff. July 1, 2005-2005;
 Readopted Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0312

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 6, what does it mean to be “located and constructed to minimize the possibility” that the exist be blocked?

In (f), lines 22-25, I do not understand the definition of a “guard”. Can you be more specific?

In (g), line 26, to whom should it be known that the resident is disoriented or wandering? How shall this be established to that person?

In (g), line 29, what volume are you requiring? How is it determined that the alarm can be heard by staff?

In (g), you say this paragraph shall apply to new and existing facilities. As a reminder, in .0301, you deleted the word “existing”. Moreover, .0301(b) states that homes currently under license should comply with the “licensure and code requirements in effect at the time of licensure” etc. If your intention is to make exceptions to that rule, you need to say that in .0301 (i.e. “except as otherwise required by the Rules in this Section), or say here “notwithstanding the requirements of Rule .0301”.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0312 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0312 OUTSIDE ENTRANCE AND EXITS**

4 (a) In family care homes, ~~all~~ floor levels shall have at least two ~~exits. If there are only two, the exit or exit access~~
5 ~~doors shall be so located and constructed to minimize the possibility that both may be blocked by any one fire or other~~
6 ~~emergency condition.~~ outside entrances/exits that are so located and constructed to minimize the possibility that both
7 outside entrances/exits from the home may be blocked by a fire or other emergency condition. Exiting through another
8 resident's bedroom is not permitted.

9 (b) At least one outside entrance/exit door shall be a minimum width of three feet and another shall be a minimum
10 width of two feet and eight inches.

11 (c) At least one principal outside entrance/exit for the residents' use shall be at grade level or accessible by ramp with
12 a one inch rise for each 12 inches of length of the ramp. For the purposes of this Rule, a principal outside entrance/exit
13 is one that is most often used by residents for vehicular access. If the home has ~~any~~ a resident that must have physical
14 assistance with evacuation, the home shall have two outside entrances/exits at grade level or accessible by a ramp.

15 (d) All ~~exit~~ outside entrance/exit door locks shall be ~~easily operable, operable~~ by a single hand ~~motion, motion~~ from
16 the inside at all times without ~~keys, keys, tools, or special knowledge~~. Existing ~~deadbolts or deadbolts and~~ turn buttons
17 on the inside of ~~exit doors~~ outside entrances/exit doors, including screen and storm doors, shall be removed or disabled.

18 (e) All outside entrances/exits shall be free of all obstructions or impediments to allow for full instant use in case of
19 fire or other emergency.

20 (f) All ~~steps, steps, porches, stoops~~ stoops, and ramps shall ~~be provided with~~ have handrails and ~~guardrails, guards,~~
21 Handrails shall be on both sides of steps and ramps, including sides bordered by the facility wall. Handrails shall
22 extend the full length of steps and ramps. Guards shall be on open sides of steps, porches, stoops, and ramps. For the
23 purposes of this Rule, guards are building components, or a system of building components located at or near the open
24 sides of elevated walking surfaces that minimizes the possibility of a fall from a walking surface to an adjacent change
25 in elevation.

26 (g) In homes with at least one resident who is determined by a physician or is otherwise known to be ~~disoriented or a~~
27 ~~wanderer, each exit door for resident use~~ disoriented or exhibiting wandering behavior, all outside entrance/exit doors
28 shall be equipped with have a continuously sounding device that is activated when the door is opened. The sound
29 shall be ~~of sufficient~~ of such volume that it can be heard by staff. If a central system of remote sounding devices is
30 provided, the control panel for the system shall be powered by the facility's electrical system, and be located in ~~the~~
31 ~~bedroom of the person on call, the office area or in a location~~ an area accessible only to staff authorized by the
32 administrator to operate the control panel. to staff. The requirements of this Paragraph shall apply to new and existing
33 facilities.

34
35 *History Note: Authority G.S. 131D-2.16; 143B-165;*

36 *Eff. January 1, 1977;*

37 *Readopted Eff. October 31, 1977;*

1 *Amended Eff. July 1, 2005; April 1, 1987; July 1, 1984; April 1, 1984;*
2 *Recodified from 10A NCAC 13G .0311 Eff. July 1, ~~2005~~-2005;*
3 *Readopted Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0313

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Generally to the rule, what is "laundry equipment"? Is this term defined? I know this seems like an obvious point, but it seems to me that without definition, the ordinary meaning of "laundry equipment" encompasses anything from a scrub board and a wash basin to a Speed Queen washer-dryer combo. Since you're now requiring each home to have "laundry" equipment", I think you need to state with specificity what it is you want them to have.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0313 is amended as published in 39:06 NCR 282-316 as follows:

2

3 **10A NCAC 13G .0313 LAUNDRY EQUIPMENT**

4 ~~The laundry equipment in a family care home shall be located out of the living, dining, and bedroom areas.~~

5 (a) Laundry equipment shall be in family care homes.

6 (b) Laundry equipment shall be in a dedicated room or enclosure, and shall be located out of living rooms, dining
7 rooms, dining areas, bathrooms, and bedrooms.

8 (c) Laundry equipment shall be on the same floor level as required residents' facilities.

9 (d) Laundry equipment shall be accessible to all residents.

10

11 *History Note: Authority G.S. 131D-2.16; 143B-165;*

12 *Eff. January 1, 1977;*

13 *Readopted Eff. October 31, 1977;*

14 *Amended Eff. July 1, 2005; April 1, 1984;*

15 *Recodified from 10A NCAC 13G .0312 Eff. July 1, 2005;*

16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February*
17 *16, ~~2019~~, 2019;*

18 *Amended Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0315

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a)(1), line 5, please define "good repair".

In (2), line 6, how is this determined? Does the MCC speak to the residents or otherwise collect reports on chronic and unpleasant odors?

In (2), line 6, what is a "chronic" odor?

In (4), generally, please fix your incorporation by reference. What are you incorporating? The rule as written incorporates the classification, not the "Rules Governing the Sanitation of Residential Care Facilities".

In (6), line 16, are you requiring any supply? Does one bar of soap for six people comply with this Rule?

Also in (6), line 16, what does it mean to be "on hand"? Present in the home? Stored in a nearby storage unit?

In (6), line 17, what is a "cover"?

In (7), generally, what are you requiring? Please revise for better clarity.

In (11), line 30, please revise into a grammatically correct list: "...the living room, the dining room, or the dining area".

In (b)(1), lines 33-34, I do not know what you are requiring. The sentence seems to be requiring some kind of mattress and some kind of support, but it isn't clear. Please revise for clarity.

In (b)(1), line 34, define "appropriately".

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (e), you say this Rule shall apply to new and existing homes. As a reminder, in .0301, you deleted the word “existing”. Moreover, .0301(b) states that homes currently under license should comply with the “licensure and code requirements in effect at the time of licensure” etc. If your intention is to make exceptions to that rule, you need to say that in .0301 (i.e. “except as otherwise required by the Rules in this Section), or say here “notwithstanding the requirements of Rule .0301”.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0315 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0315 HOUSEKEEPING AND FURNISHINGS**

4 (a) ~~Each~~ A family care home shall:

- 5 (1) have walls, ceilings, and floors or floor coverings kept clean and in good repair;
- 6 (2) have no ~~chronic unpleasant odors~~; odors that are considered by the residents to be chronic and
7 unpleasant;
- 8 (3) have furniture ~~clean and in good repair~~; that is clean, safe, and functional.
- 9 (4) have a North Carolina ~~Division of Environmental Health~~ Department of Health and Human
10 Services, Division of Public Health, Environmental Health Section approved sanitation
11 classification at all ~~times~~; times, which is incorporated by reference including all subsequent
12 amendments. The "Rules Governing the Sanitation of Residential Care Facilities", 15A NCAC 18A
13 .1600, may be accessed electronically free of charge at <http://ehs.dph.ncddhs.gov/rules.htm>;
- 14 (5) be maintained in an uncluttered, ~~clean~~ clean, and orderly manner, free of all obstructions and
15 hazards;
- 16 (6) have a supply on hand at all times of bath soap, clean towels, washcloths, sheets, pillowcases,
17 blankets, and additional ~~coverings adequate~~ covers for resident ~~use on hand at all times~~; use;
- 18 (7) make available the following items as needed through ~~any~~ means other than charge to the personal
19 funds of recipients of State-County Special Assistance:
- 20 (A) protective ~~sheets~~ mattress covers, and clean, absorbent, ~~soft~~ soft, and smooth mattress
21 pads;
- 22 (B) ~~bedpans, urinals, hot water bottles, and ice caps~~; bedpans and urinals; and
- 23 (C) bedside commodes, walkers, and wheelchairs.
- 24 (8) have one television and one radio ~~radio~~, each in good working order;
- 25 (9) have curtains, ~~draperies~~ draperies, or blinds at windows in resident use areas to provide for resident
26 privacy;
- 27 (10) have recreational equipment, supplies for games, books, ~~magazines~~ magazines, and a ~~current~~ weekly
28 newspaper available for residents;
- 29 (11) have a clock that has numbers at least 1½ inches tall in ~~an area commonly used by the residents~~; the
30 living room or in the dining room or dining room area; and
- 31 (12) have at least one telephone that does not ~~depend on~~ require electricity or cellular service to operate.

32 (b) Each bedroom shall have the following furnishings in good repair and clean for each resident:

- 33 (1) A bed equipped with box springs and mattress or solid link springs and no-sag innerspring or foam
34 mattress. Hospital bed appropriately equipped with all accessories required for use shall be arranged
35 for as needed. A water bed is allowed if requested by a resident and permitted by the ~~home~~ facility.
36 Each bed is to have the following:
- 37 (A) at least one pillow with a clean pillow case;

- 1 (B) a clean top and bottom sheets sheet on the bed, with bed changed as often as necessary but
 2 at least once a week; and week and when soiled; and
- 3 (C) a clean bedspread and other clean coverings as needed.
- 4 (2) a bedside type table;
- 5 (3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double
 6 dresser for two residents;
- 7 (4) a wall or dresser mirror that ~~can~~ may be used by each
- 8 (5) a minimum of one ~~comfortable chair (rocker or straight, arm or without arms, as preferred by~~
 9 ~~resident), high enough from floor for easy rising;~~ chair that is comfortable as preferred by the
 10 resident, which may include a rocking or straight chair, with or without arms, that is high enough
 11 for the resident to easily rise without discomfort;
- 12 (6) additional chairs available, as needed, for use by visitors;
- 13 (7) individual clean towel, wash cloth, and towel bar within bedroom or adjoining bathroom; and
- 14 (8) a light overhead of bed with a switch ~~within reach of~~ that may be reached by a person lying on the
 15 bed; or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for
 16 reading.
- 17 (c) The living room shall have ~~functional living room furnishings for the comfort of aged and disabled persons,~~ that
 18 are in good working order and provide comfort as preferred by residents with coverings that are easily cleanable.
- 19 (d) The dining room shall have the following furnishings:
- 20 (1) tables and chairs to seat all residents eating in the dining room; and
- 21 (2) chairs that are sturdy, non-folding, without rollers unless retractable or on front legs only, and
 22 designed to minimize tilting.
- 23 (e) This Rule shall apply to new and existing homes.

24

25 *History Note: Authority G.S. 131D-2.16; 143B-165;*
 26 *Eff. January 1, 1977;*
 27 *Readopted Eff. October 31, 1977;*
 28 *Amended Eff. July 1, 2005; September 1, 1987; April 1, 1987; April 1, 1984;*
 29 *Recodified from 10A NCAC 13G .0314 Eff. July 1, ~~2005-2005~~;*
 30 *Readopted Eff. February 1, 2025.*

31

32

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0316

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a)(1), line 6, are there rooms without doors? What exactly are you requiring here?

In (b), line 13, when are these applicable? Please specify.

In (c), line 17-18, is the text “as not to create nuisance alarms” actually requiring anything? Consider deletion.

In (d), who shall meet these requirements? Please revise in the active tense.

In (e), line 25, please define “legible print.”

In (g)(3), p.2, line 35, please capitalize “state” when referring only to the State of North Carolina.

In (h), p.3, line 3, are you saying the plan shall include the documentation showing it was submitted? Please clarify.

In (j), line 14, I think you need to add “be” after the last “and” at the end of the line. “...maintained in the facility and be accessible...”

In (n), line 27, what is a “tabletop exercise”?

In (s), line 12, are you requiring that evacuation to a public shelter be the last resort? Otherwise, I’m not sure this language meets the definition of a rule.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (u), you say this Rule shall apply to new and existing homes. As a reminder, in .0301, you deleted the word “existing”. Moreover, .0301(b) states that homes currently under license should comply with the “licensure and code requirements in effect at the time of licensure” etc. If your intention is to make exceptions to that rule, you need to say that in .0301 (i.e. “except as otherwise required by the Rules in this Section), or say here “notwithstanding the requirements of Rule .0301”.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0316 is amended as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0316 FIRE SAFETY AND ~~DISASTER~~ EMERGENCY PREPAREDNESS PLAN**

4 (a) Fire extinguishers shall be provided which meet these minimum requirements in a family care home:

- 5 (1) one five pound or larger (net charge) "A-B-C" type ~~centrally located;~~ located in an area that can be
6 accessed by staff and not stored in rooms with doors or the kitchen;
7 (2) one five pound or larger "A-B-C" or CO/2 type located in the kitchen; and
8 (3) any other location as determined by the local fire code enforcement official.

9 ~~(b) The building shall be provided with smoke detectors as required by the North Carolina State Building Code and~~
10 ~~U.L. listed heat detectors connected to a dedicated sounding device located in the attic and basement. These detectors~~
11 ~~shall be interconnected and be provided with battery backup. The facility shall be provided with smoke detectors in~~
12 ~~locations as required by the North Carolina State Building Code: Residential Code and Licensed Residential Care~~
13 ~~Facilities, if applicable. All smoke detectors in the facility shall be hard-wired, interconnected, and provided with~~
14 ~~battery backup.~~

15 (c) Underwriters Laboratories, Incorporated (U.L.) listed heat detectors shall be installed in all attic spaces and in the
16 basement of the facility. Heat detectors shall be hard-wired, interconnected, and connected to a dedicated sounding
17 device located inside the living area of the facility. Heat detectors shall be of the rate of rise type as not to create
18 nuisance alarms and be provided with battery backup.

19 ~~(e)(d) Any~~ All fire safety requirements required by city ordinances or county building inspectors shall be met.

20 ~~(d)(c) A~~ The facility shall have a written fire evacuation plan plan. (including a diagrammed drawing) For the purpose
21 of this rule, a written fire evacuation plan is a written document that details the procedures and steps that facility
22 occupants shall follow in a fire or other emergency to ensure safe evacuation while minimizing the risk of injury or
23 loss of life. The written fire evacuation plan shall include a diagram of the facility floor plan which clearly marks all
24 emergency egress and escape routes from the facility. The plan shall have which has the approval of the local fire ~~code~~
25 ~~enforcement official~~ official. The approved diagram shall be prepared in large legible print and be posted in a central
26 ~~location on each floor.~~ on every floor of the facility in a location visible to staff, residents, and visitors. The fire
27 evacuation plan and diagram shall be reviewed with each resident on upon admission and shall be a part of included
28 in the orientation for all new staff.

29 ~~(e)(f) There shall be at least four rehearsals unannounced fire drills of the fire evacuation plan each year.~~ every year
30 on each shift. For the purpose of this Rule, a fire drill is the method of practicing how occupants of the facility shall
31 evacuate in the event of a fire or other emergency. Records of rehearsals Documentation of the fire drills shall be
32 maintained by the administrator or their designee in the facility and copies furnished to the county department of social
33 ~~services annually.~~ be made available upon request to the Division of Health Service Regulation, county department of
34 social services, and the local fire code enforcement official. The records documentation shall include the date and time
35 of the rehearsals, fire drill, the shift, the names of staff members present, and a short description of what the rehearsal
36 involved. drill.

1 ~~(f)(g) A written disaster plan which has the written approval of, or has been documented as submitted to, the local~~
2 ~~emergency management agency and the local agency designated to coordinate special needs sheltering during~~
3 ~~disasters, shall be prepared and updated at least annually and shall be maintained in the home. This written disaster~~
4 ~~plan requirement shall apply to new and existing homes. Each facility shall develop and implement an emergency~~
5 ~~preparedness plan to ensure resident health and safety and continuity of care and services during an emergency. The~~
6 ~~emergency preparedness plan shall include the following:~~

7 (1) Procedures to address the following threats and hazards that may create an emergency for the
8 facility:

9 (A) weather events including hurricanes, tornadoes, ice storms, and extreme heat or cold;

10 (B) fires;

11 (C) utility failures, to include power, water, and gas;

12 (D) equipment failures, to include fire alarm, automatic sprinkler systems, HVAC systems;

13 (E) interruptions in communication including phone service and the internet;

14 (F) unforeseen widespread communicable public health and emerging infectious diseases;

15 (G) intruders and active assailants; and

16 (H) other potential threats to the health and safety of residents as identified by the facility or
17 the local emergency management agency.

18 (2) The procedures outlined in Subparagraph (g)(1) shall address the following:

19 (A) provisions for the care of all residents in the facility before, during, and after an emergency
20 such as required emergency supplies including water, food, resident care items, medical
21 supplies, medical records, medications, medication records, emergency power, and
22 emergency equipment;

23 (B) provisions for the care of all residents when evacuated from the facility during an
24 emergency, such as evacuation procedures, procedures for the identification of residents,
25 evacuation transportation arrangements, and sheltering options that are safe and suitable
26 for the resident population served;

27 (C) identification of residents with Alzheimer's disease and related dementias, residents with
28 mobility limitations, and any other residents who may have specialized needs such as
29 dialysis, oxygen, tracheostomy, and gastrostomy feeding tubes, special medical equipment,
30 or accommodations either at the facility or in case of evacuation;

31 (D) strategies for staffing to meet the needs of the residents during an emergency and for
32 addressing potential staffing issues;

33 (E) Procedures for coordinating and communicating with the local emergency management
34 agency and local law enforcement;

35 (3) The emergency preparedness plan shall include contact information for state and local resources for
36 emergency response, local law enforcement, facility staff, residents and responsible parties, vendors,

1 contractors, utility companies, and local building officials such as the fire marshal and local health
2 department.

3 (h) The facility's emergency preparedness plan shall have the written approval of or documentation that the plan has
4 been submitted to the local emergency management agency and the local agency designated to coordinate and plan
5 for the provision of access to functional needs support services in shelters during disasters.

6 (i) The facility's emergency preparedness plan shall be reviewed at least annually and updated as needed by the
7 administrator and shall be submitted to the local emergency management agency and the local agency designated to
8 coordinate and plan for the provision of access to functional needs support services in shelters during disasters. Any
9 changes to the plan shall be submitted to the local emergency management agency and the local agency designated to
10 coordinate and plan for the provision of access to functional needs support services in shelters during disasters within
11 60 days of the change. For the purpose of this Rule, correction of grammatical or spelling errors do not constitute a
12 change. Documentation of submissions shall be maintained at the facility and made available for review upon request
13 to the Division of Health Service Regulation and county department of social services.

14 (j) The emergency preparedness plan outlined in Paragraph (g) of this Rule shall be maintained in the facility and
15 accessible to staff working in the facility.

16 (k) Newly licensed facilities and facilities that have changed ownership shall submit an emergency preparedness plan
17 to the local emergency management agency and the local agency designated to coordinate and plan for the provision
18 of access to functional needs support services in shelters during disasters within 30 days after obtaining the new
19 license. Documentation of submissions shall be maintained at the facility and made available for review upon request
20 to the Division of Health Service Regulation and county department of social services.

21 (l) The facility's emergency preparedness plan shall be made available upon request to the Division of Health Service
22 Regulation, county department of social services, and emergency management officials.

23 (m) The administrator shall ensure staff are trained on their roles and responsibilities related to emergencies in
24 accordance with the facility's emergency preparedness plan as outlined in Paragraph (g) of this Rule. Staff shall be
25 trained upon employment and annually in accordance with Rule .1211 of this Subchapter.

26 (n) The facility shall conduct at least one drill per year to test the facility's emergency preparedness plan. The drill
27 may be conducted as a tabletop exercise. The facility shall maintain documentation of the annual drill which shall be
28 made available upon request to the Division of Health Service Regulation, county department of social services, and
29 emergency management officials.

30 (o) If the facility evacuates residents for any reason, the administrator or their designee shall report the evacuation to
31 the local emergency management agency, the local county department of social services, and the Division of Health
32 Service Regulation Adult Care Licensure Section within four hours or as soon as practicable of the decision to
33 evacuate, and shall notify the agencies within four hours of the return of residents to the facility.

34 (p) Any damage to the facility or building systems that disrupts the normal care and services provided to residents
35 shall be reported to the Division of Health Service Regulation Construction Section within four hours or as soon as
36 practicable of the incidence occurring.

1 (q) If a facility is ordered to evacuate residents by the local emergency management or public health official due to
2 an emergency, the facility shall not re-occupy the building until local building or public health officials have given
3 approval to do so.

4 (r) In accordance with G.S. 131D-7, if a facility intends to shelter residents from an evacuating adult care home or
5 desires to temporarily increase the facility's licensed bed capacity, the facility shall request a waiver from the Division
6 of Health Service Regulation prior to accepting the additional residents into the facility or as soon as practicable but
7 no later than 48 hours after the facility has accepted the residents for sheltering. The waiver request form can be found
8 on the Division of Health Service Regulation Adult Care Licensure Section website at
9 <https://info.ncdhhs.gov/dhsr/acls/acforms.html#resident>.

10 (s) If a facility evacuates residents to a public emergency shelter, the facility remains responsible for the care,
11 supervision, and safety of each resident, including providing required staffing and supplies in accordance with the
12 Rules of this Subchapter. Evacuation to a public emergency shelter should be a last resort, and the decision shall be
13 made in consultation with the local emergency management agency, or the local agency designated to coordinate and
14 plan for the provision of access to functional needs support services in shelters during disasters. If a facility evacuates
15 residents to a public emergency shelter, the facility shall notify the Division of Health Service Regulation Adult Care
16 Licensure Section and the county department of social services within four hours of the decision to evacuate or as
17 soon as practicable.

18 (t) Where a fire alarm or automatic sprinkler system is out of service, the facility shall immediately notify the fire
19 department, the fire marshal, and the Division of Health Service Regulation Construction Section and, where required
20 by the fire marshal, a fire watch shall be conducted until the impaired system has been returned to service as approved
21 by the fire marshal. The facility will adhere to the instructions provided by the fire marshal related to the duties of
22 staff performing the fire watch. The facility will maintain documentation of fire watch activities which shall be made
23 available upon request to the DHSR Construction Section and fire marshal. The facility shall notify the DHSR
24 Construction Section when the facility is no longer conducting a fire watch as directed by the fire marshal.

25 (u) This Rule shall apply to new and existing facilities.

26
27 *History Note: Authority G.S. 131D-2.16; 131D-7; 143B-165;*

28 *Eff. January 1, 1977;*

29 *Amended Eff. April 22, 1977;*

30 *Readopted Eff. October 31, 1977;*

31 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1987; April 1, 1984;*

32 *Recodified from 10A NCAC 13G .0315 Eff. July 1, 2005;*

33 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February*
34 *16, 2019, 2019;*

35 *Amended Eff. May 1, 2025.*

36
37

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0317

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b), line 7, what hazards shall be avoided?

In (d), line 14, please revise for grammar. With the deletions and additions, the sentence reads: "The hot water temperature shall maintain a minimum of 100 degrees F..." Consider "shall be maintained at a minimum..."

In (d), lines 16-17, you say this paragraph shall apply to new and existing homes. As a reminder, in .0301, you deleted the word "existing". Moreover, .0301(b) states that homes currently under license should comply with the "licensure and code requirements in effect at the time of licensure" etc. If your intention is to make exceptions to that rule, you need to say that in .0301 (i.e. "except as otherwise required by the Rules in this Section), or say here "notwithstanding the requirements of Rule .0301".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0317 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0317 BUILDING SERVICE EQUIPMENT**

4 (a) The building and all fire safety, electrical, mechanical, and plumbing equipment in a family care home shall be
5 maintained in a safe and operating condition.

6 ~~There shall be a central heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design~~
7 ~~conditions.~~ Built-in electric heaters, if used, shall be installed or protected so as to avoid hazards to residents and
8 room furnishings. Unvented fuel burning room heaters and portable electric heaters are prohibited.

9 ~~Air conditioning or at least one fan per resident bedroom and living room and dining areas shall be provided when~~
10 ~~the temperature in the main center corridor exceeds 80 degrees F (26.7 degrees C).~~ The facility shall have heating and
11 cooling systems such that environmental temperature controls are capable of maintaining temperatures in the home at
12 75 degrees F minimum in the heating season, and not exceed 80 degrees F during the non-heating season.

13 ~~The hot~~ Hot water tank shall be ~~of such size to provide an adequate supply of hot water supplied to the kitchen,~~
14 ~~bathrooms, and laundry. The hot water temperature at all fixtures used by residents shall be maintained at~~ maintain a
15 minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C). degrees F at all
16 fixtures used by or accessible to residents. This requirements of this Paragraph shall apply to new and existing
17 facilities.

18 (e) All resident areas shall be well lighted for the safety and comfort of the residents. The minimum lighting required
19 is:

- 20 (1) ~~30 foot candle power~~ foot-candles for reading; reading; and
21 (2) ~~10 foot candle power~~ foot-candles for general lighting; and lighting.
22 (3) ~~1 foot candle power at the floor for corridors at night.~~

23 ~~Where the bedroom of the live in staff is located in a separate area from residents' bedrooms, an electrically~~
24 ~~operated call system shall be provided connecting each resident bedroom to the live in staff bedroom. The resident~~
25 ~~call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff.~~
26 ~~The call system activator shall be within reach of resident lying on his bed.~~

27 Where there is live-in staff in a family care home, a hard-wired, electrically operated call system meeting the following
28 requirements shall be provided:

- 29 (1) the call system shall connect residents' bedrooms to the live-in staff bedroom;
30 (2) when activated, the resident call shall activate a visual and audible signal in the live-in staff
31 bedroom;
32 (3) a resident call system activator shall be in residents' bedrooms at the resident's bed;
33 (4) the resident call system activator shall be within reach of a resident lying on the bed; and
34 (5) the resident call system activator shall be such that it can be activated with a single action and remain
35 on until deactivated by staff at point of origin.

36 (g) Fireplaces, fireplace ~~inserts~~ inserts, and wood stoves shall be designed ~~or~~ and installed so as to avoid a burn
37 hazard to residents. Fireplace inserts and wood stoves must be U.L. listed.

1 (h) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation
2 instructions, approved through the local building ~~department~~ department, and protected by a guard or screen to prevent
3 residents and furnishings from burns.

4 ~~(i) Alternate methods, procedures, design criteria and functional variations from the requirements of this Rule or other
5 rules in this Section because of extraordinary circumstances, new programs or unusual conditions, shall be approved
6 by the Division when the facility can effectively demonstrate to the Division's satisfaction that the intent of the
7 requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility.~~

8 ~~(j) This Rule shall apply to new and existing family care homes.~~

9
10 *History Note: Authority G.S. 131D-2.16; 143B-165;*

11 *Eff. January 1, 1977;*

12 *Readopted Eff. October 31, 1977;*

13 *Amended Eff. April 1, 1987; April 1, 1984; July 1, 1982;*

14 *Temporary Amendment Eff. December 1, 1999;*

15 *Amended Eff. July 1, 2005; July 1, 2000;*

16 *Recodified from 10A NCAC 13G .0316 Eff. July 1, ~~2005-~~2005;*

17 *Readopted Eff. February 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0318

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 4, please define "clean and safe".

In (a), line 5, please define "safety protection".

In (d), you say paragraphs (a) and (b) shall apply to new and existing homes. As a reminder, in .0301, you deleted the word "existing". Moreover, .0301(b) states that homes currently under license should comply with the "licensure and code requirements in effect at the time of licensure" etc. If your intention is to make exceptions to that rule, you need to say that in .0301 (i.e. "except as otherwise required by the Rules in this Section), or say here "notwithstanding the requirements of Rule .0301".

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0318 is readopted as published in 39:06 NCR 282-316 as follows:

2

3 **10A NCAC 13G .0318 OUTSIDE PREMISES**

4 (a) The outside grounds of new and existing family care homes shall be maintained in a clean and safe condition.

5 Creeks, ditches, ponds, pools, and other similar areas shall have safety protection.

6 (b) If the home has a fence around the premises, the fence shall not prevent residents from exiting or entering ~~freely~~
7 freely, or be hazardous have sharp edges, rusting posts, or other similar conditions that may cause injury.

8 (c) Outdoor stairways and ramps shall be illuminated by no less than five ~~foot-candles~~ foot-candles of light at grade
9 level.

10 (d) The requirements of Paragraphs (a) and (b) shall apply to new and existing facilities.

11

12 *History Note: Authority G.S. 131D-2.16; 143B-165;*

13 *Eff. April 1, 1984;*

14 *Amended Eff. July 1, 2005; July 1, 1990;*

15 *Recodified from 10A NCAC 13G .0317 Eff. July 1, ~~2005~~, 2005;*

16 *Readopted Eff. February 1, 2025.*

17

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0801

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b), line 19, rule .0508 refers to the training required for those giving the assessment, and doesn't say how to complete the assessment. Is there another rule you wanted to refer to?

In (b)(5), lines 30-31, is it necessary to repeat the ADLs that you listed in the preceding paragraph?

In (b)(7), line 33, please define "social history".

In (c), p.2, line 7, delete the second ".pdf".

In (c), lines 10-11, is the definition of "significant change" necessary? It seems to me that you already define the term in (c)(1)(A)-(M).

In (c), line 11, please define "major decline".

In (c), line 11, add "a" between "to" and "factor".

In (c), line 12, delete "is completed" as it is redundant.

In (c)(1)(A), is there a reason that all the ADLS listed in (b) are not included here?

In (c)(1)(B), line 20, please rephrase "recurrent falls overall several days to weeks" as it is unclear what you're saying here.

In (c)(1)(B), line 21, define "readily".

In (c)(1)(B), line 21, delete "or" between "cause" and "a fall".

In (c)(1)(B), line 22, what are the "findings" necessary to suggest an injury? Who shall make these findings?

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (c)(1)(C), line 23, please delete “and/or” and choose one or the other.

In (c)(1)(D), line 28, define “significant” agitation.

In (c)(1)(I), p.3, line 1, who decides that a condition is “likely” to affect the resident’s wellbeing, and under what criteria?

In (c)(1)(M), line 8, what conditions indicate that there “may” be a need to use a restraint?

In (c)(2)(A), line 11, define “slight” upward or downward movement.

In (c)(2)(C), line 13, what are “easily” reversible causes?

In (c)(2)(E), line 17, instead of “predictive”, did you mean “predictable”?

In (d), lines 23-24, what “significant changes . . . pose an immediate risk to the health and safety of the resident” etc?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

1 10A NCAC 13G .0801 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **SECTION .0800 - RESIDENT ASSESSMENT AND CARE PLAN**

4
5 **10A NCAC 13G .0801 RESIDENT ASSESSMENT**

6 ~~(a) A family care home shall assure that an initial assessment of each resident is completed within 72 hours of~~
7 ~~admission using the Resident Register.~~

8 ~~(b)(a) The facility shall assure complete an assessment of each resident is completed within 30 days following~~
9 ~~admission and at least annually thereafter thereafter, using an assessment instrument established by the Department~~
10 ~~or an instrument approved by the Department based on it containing at least the same information as required on the~~
11 ~~established instrument. The assessment to be completed within 30 days following admission and annually thereafter~~
12 ~~shall be a functional assessment to determine a resident's level of functioning to include psychosocial well-being,~~
13 ~~cognitive status and physical functioning in activities of daily living. Activities of daily living are bathing, dressing,~~
14 ~~personal hygiene, ambulation or locomotion, transferring, toileting and eating. The assessment shall indicate if the~~
15 ~~resident requires referral to the resident's physician or other licensed health care professional, provider of mental~~
16 ~~health, developmental disabilities or substance abuse services or community resource.~~

17 (b) The facility shall use the assessment instrument and instructional manual established by the Department or an
18 instrument developed by the facility that contains at least the same information as required on the instrument
19 established by the Department. The assessment shall be completed in accordance with Rule .0508 of this Subchapter.
20 If the facility develops its own assessment instrument, the facility shall ensure that the individual responsible for
21 completing the resident assessment has completed training on how to conduct the assessment using the facility's
22 assessment instrument. The assessment shall be a functional assessment to determine the resident's level of functioning
23 to include psychosocial well-being, cognitive status, and physical functioning in activities of daily living. Activities
24 of daily living are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
25 The assessment instrument established by the Department shall include the following:

26 (1) resident identification and demographic information;

27 (2) current diagnoses;

28 (3) current medications;

29 (4) the resident's ability to self-administer medications;

30 (5) the resident's ability to perform activities of daily living, including bathing, dressing, personal
31 hygiene, ambulation or locomotion, transferring, toileting, and eating;

32 (6) mental health history;

33 (7) social history;

34 (8) mood and behaviors;

35 (9) nutritional status, including specialized diet or dietary needs;

36 (10) skin integrity;

37 (11) memory, orientation and cognition;

- 1 (12) vision and hearing;
 2 (13) speech and communication;
 3 (14) assistive devices needed; and
 4 (15) a list of and contact information for health care providers or services used by the resident.

5 The assessment instrument established by the Department is available on the Division of Health Service Regulation
 6 website at <https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms/dma-3050r-adult-care-home->
 7 personal-care-physician/@@display-file/form_file/dma-3050R.pdf.pdf at no cost.

8 (c) When a facility identifies a change in a resident's baseline condition based upon the factors listed in Subparagraph
 9 (1)(A) through (M) of this Paragraph, the facility shall monitor the resident's condition for no more than 10 days to
 10 determine if a significant change in the resident's condition has occurred. For the purposes of this rule, "significant
 11 change" means a major decline or improvement in a resident's status related to factor in Subparagraph (1)(A) through
 12 (M) of this Paragraph. The facility shall assure conduct an assessment of a resident is completed within ~~10~~ three days
 13 following after the facility identifies that a significant change in the resident's baseline condition has occurred. The
 14 facility shall use using the assessment instrument required in Paragraph (b) of this Rule. For the purposes of this
 15 Subchapter, significant change in the resident's condition is determined as follows:

- 16 (1) Significant change is one or more of the following:
- 17 (A) deterioration in two or more activities of daily ~~living;~~ living including bathing, dressing,
 18 personal hygiene, toileting, or eating;
- 19 (B) change in ability to walk or ~~transfer;~~ transfer, including falls if the resident experiences
 20 repeated falls on the same day, recurrent falls overall several days to weeks, new onset of
 21 falls not attributed to a readily identifiable cause, or a fall with consequent change in
 22 neurological status, or findings suggesting a possible injury;
- 23 (C) change in the ability to use one's hands to grasp small objects; Pain worsening in severity,
 24 intensity, or duration, and/or occurring in a new location, or new onset of pain associated
 25 with trauma;
- 26 (D) deterioration in behavior or mood to the point where daily problems arise or relationships
 27 have become problematic; change in the pattern of usual behavior, new onset of resistance
 28 to care, abrupt onset or progression of significant agitation or combative behavior,
 29 deterioration in affect or mood, or violent or destructive behaviors directed at self or others.
- 30 (E) no response by the resident to the ~~treatment~~ intervention for an identified problem;
- 31 (F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-
 32 day period or 10 percent weight loss or gain within a six-month period;
- 33 (G) threat to life such as stroke, heart condition, or metastatic cancer; when a resident has been
 34 enrolled in hospice;
- 35 (H) emergence of a pressure ulcer at Stage II, which is a superficial ulcer presenting an
 36 abrasion, blister or shallow crater, or ~~higher;~~ any pressure ulcer determined to be greater
 37 than Stage II;

- 1 (I) a new diagnosis of a condition likely to affect the resident's physical, mental, or
 2 psychosocial well-being; ~~well-being such as initial diagnosis of Alzheimer's disease or~~
 3 ~~diabetes;~~
 4 (J) improved behavior, mood or functional health status to the extent that the established plan
 5 of care no longer meets the resident's needs; ~~matches what is needed;~~
 6 (K) new onset of impaired decision-making;
 7 (L) continence to incontinence or indwelling catheter; or
 8 (M) the resident's condition indicates there may be a need to use a restraint and there is no
 9 current restraint order for the resident.

10 (2) Significant change ~~is not any of~~ does not include the following:

- 11 (A) changes that suggest slight upward or downward movement in the resident's status;
 12 (B) changes that resolve with or without intervention;
 13 (C) changes that arise from easily reversible causes;
 14 (D) an acute illness or episodic ~~event~~; event. For the purposes of this Rule "acute illness" means
 15 symptoms or a condition that develops quickly and is not a part of the resident's baseline
 16 physical health or mental health status;
 17 (E) an established, predictive, cyclical pattern; or
 18 (F) steady improvement under the current course of care.

19 (d) If a resident experiences a significant change as defined in Paragraph (c) of this Rule, the facility shall refer the
 20 resident to the resident's physician or other ~~appropriate~~ licensed health professional ~~such as a mental health~~
 21 ~~professional, nurse practitioner, physician assistant or registered nurse in a timely manner consistent with the resident's~~
 22 ~~condition but~~ no longer than ~~10~~ three days from the date of the significant change, change assessment, and document
 23 the referral in the resident's record. Referral shall be made immediately when significant changes are identified that
 24 pose an immediate risk to the health and safety of the resident, other ~~residents~~ residents, or staff of the facility.

25 (e) The assessments required in Paragraphs (a) ~~(b)~~ and (c) of this Rule shall be completed and signed by the person
 26 designated by the administrator to perform resident assessments.

27
 28 *History Note: Authority G.S. 131D-2.16; 131D-4.4; 131D-4.5; 143B-165;*
 29 *Temporary Adoption Eff. January 1, 1996;*
 30 *Eff. May 1, 1997;*
 31 *Temporary Amendment Eff. December 1, 1999;*
 32 *Amended Eff. July 1, 2000;*
 33 *Temporary Amendment Eff. September 1, 2003;*
 34 *Amended Eff. July 1, 2005; June 1, 2004, 2004;*
 35 *Readopted Eff. May 1, 2025.*
 36
 37

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0802

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (b), lines 12-13, is “responsible person” defined elsewhere in these rules? I seem to remember that it was. Perhaps a cross-reference may be necessary here, if the definition isn’t in Subchapter 13G.

In (c)(6), line 23, is “physician extender” defined elsewhere in these rules? Consider a cross-reference if so.

In (c)(6), line 24, did you mean to say that the care plan should “specify” the “medical diagnoses justifying the tasks specified in the care plan”?

In (c)(6), lines 25-29, I do not understand what you’re requiring in the last two sentences of this sub-item. Can you rephrase for clarity?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13G .0802 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0802 RESIDENT CARE PLAN**

4 ~~(a) A family care home~~ The facility shall assure a care plan is developed develop and implement a care plan for each
5 resident ~~in conjunction with~~ based on the resident ~~resident's~~ assessment ~~to be completed within 30 days following~~
6 ~~admission according to~~ in accordance with Rule .0801 of this Section. The care plan shall be an individualized, written
7 ~~program of personal care for each resident.~~ resident-centered and include the resident's preferences related to the
8 provision of care and services. A copy of each resident's current care plan shall be maintained in a location in the
9 facility where it can be accessed by facility staff who are responsible for the implementation of the care plan.

10 ~~(b) The care plan shall be revised as needed based on further assessments of the resident according to Rule .0801 of~~
11 ~~this Subchapter. The resident shall be offered the opportunity to participate in the development of his or her care plan.~~
12 If the resident is unable to participate in the development of the care plan due to cognitive impairment, the responsible
13 person shall be offered the opportunity to participate in the development of the care plan.

14 (c) The care plan shall include the following:

15 (1) ~~a statement of the care or service to be provided based on the assessment or reassessment; and~~
16 description of services, supervision, tasks, and level of assistance to be provided to address the
17 resident's needs identified in the resident's assessment in Rule .0801 of this Subchapter;

18 (2) ~~frequency of the service provision;~~ services or tasks to be performed;

19 (3) ~~revisions of tasks and frequency based on reassessments in accordance with Rule .0801 of this~~
20 Subchapter;

21 (4) ~~licensed health professional tasks required according to Rule .0903 of this Subchapter;~~

22 (5) ~~a dated signature of the assessor upon completion; and~~

23 (6) ~~a dated signature of the resident's physician or physician extender within 15 days of completion of~~
24 the care plan certifying the resident as being under this physician's care with medical diagnoses
25 justifying the tasks specified in the care plan. This shall not apply to residents assessed through the
26 Medicaid State Plan Personal Care Services Assessment for the portion of the assessment covering
27 tasks needed for each activity of daily living of this Rule for which care planning and signing are
28 directed by Medicaid. The activities of daily living relevant to the Medicaid State Plan Personal
29 Care Services Assessment are bathing, dressing, mobility, toileting, and eating.

30 ~~(d) The assessor shall sign the care plan upon its completion.~~

31 ~~(e) The facility shall assure that the resident's physician authorizes personal care services and certifies the following~~
32 ~~by signing and dating the care plan within 15 calendar days of completion of the assessment:~~

33 (1) ~~the resident is under the physician's care; and~~

34 (2) ~~the resident has a medical diagnosis with associated physical or mental limitations that justify the~~
35 ~~personal care services specified in the care plan.~~

36 (d) If the resident received home health or hospice services, the facility shall communicate with the home health or
37 hospice agency to coordinate care and services to ensure the resident's needs are met.

1 ~~(c)~~ The facility shall assure that the care plan for each resident who is under the care of a provider of mental health,
2 developmental disabilities or substance ~~abuse~~ use services includes ~~resident-specific~~ instructions regarding how to
3 contact that provider, including emergency ~~contact~~ and after-hours contacts. Whenever significant behavioral changes
4 described in Rule .0801(c)(1)(D) of this Subchapter are identified, the facility shall refer the resident to a provider of
5 mental health, developmental disabilities or substance ~~abuse~~ use services in accordance with Rule .0801(d) of this
6 Subchapter.

7 (f) The care plan shall be revised as needed based on the results of a significant change assessment completed in
8 accordance with Rule .0801 of this Section.

9
10 *History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 143B-165;*
11 *Temporary Adoption Eff. January 1, 1996;*
12 *Eff. May 1, 1997;*
13 *Temporary Amendment Eff. January 1, 2001;*
14 *Temporary Amendment Expired October 13, 2001;*
15 *Temporary Amendment Eff. September 1, 2003;*
16 *Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;*
17 *Readopted Eff. May 1, 2025.*
18
19

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .1601

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a)(5), line 22, correct "scare" to "score."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

1 10A NCAC 13G .1601 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **SECTION .1600 – STAR RATED CERTIFICATES**

4
5 **10A NCAC 13G .1601 SCOPE DEFINITIONS**

6 ~~(a) This Section applies to all licensed family care homes for two to six residents that have been in operation for more~~
7 ~~than one year.~~

8 ~~(b) As used in this Section a "rated certificate" means a certificate issued to a family care home on or after January 1,~~
9 ~~2009 and based on the factors contained in G.S. 131D-10.~~

10 (a) As used in this Section, the following definitions shall apply:

11 (1) "Demerits" means points which are subtracted from a facility's star rating calculation as set forth in
12 the requirements of Rule .1604 of this Section.

13 (2) "Merits" means points which are added to a facility's star rating calculation as set forth in the
14 requirements of Rule .1604 of this Section.

15 (3) "Standard deficiency" means a citation issued by the Division of Health Service Regulation to a
16 facility for failure to comply with licensure rules and statutes governing adult care homes and the
17 non-compliance does not meet the criteria for a Type A1, Type A2 or Type B violation defined in
18 G.S. 131D-34.

19 (4) "Star rated certificate" means a certificate issued by the Division of Health Service Regulation that
20 includes a numerical score and corresponding number of stars issued to an adult care home based
21 on the factors contained in G.S. 131D-10.

22 (5) "Star rating" means the numerical score and corresponding number of stars a facility receives based
23 on the factors contained in G.S. 131D-10.

24 (6) "Star rating worksheet" means a document issued by the Division of Health Service Regulation
25 which demonstrates how a facility's star rating was calculated.

26 (7) "Type A1 violation" means the term as defined in G.S. 131D-34.

27 (8) "Type A2 violation" means the term as defined in G.S. 131D-34.

28 (9) "Type B violation" means the term as defined in G.S. 131D-34.

29
30 *History Note: Authority G.S. 131D-4.5; 131D-10;*

31 *Eff. July 3, 2008; 2008;*

32 *Readopted Eff. August 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .1602

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (a), line 6, what is a “timely request”? G.S. 131D-2.11 does not specify a timeline.

In (c), line 13, add “star” before “rated certificate”.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

1 10A NCAC 13G .1602 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .1602 ISSUANCE OF ~~RATED CERTIFICATES~~ A STAR RATING**

4 (a) A star rated certificate and worksheet shall be issued to a facility by the Division of Health Service Regulation
5 within 45 days ~~completion of a new rating calculation pursuant to Rule .1604 of this Subchapter.~~ from the date that
6 the Division mails the survey or inspection report to the facility, except when a timely request has been made by the
7 facility under G.S. 131D-2.11 for informal dispute resolution. If a facility makes a timely request for informal dispute
8 resolution, the Division of Health Service Regulation shall issue a star rating to the facility within 15 days from the
9 date the Division mails the informal dispute decision to the facility.

10 (b) If the ownership of the facility changes, the ~~rated certificate~~ star rating in effect at the time of the change of
11 ownership shall remain in effect until the next annual or biennial survey or until a new certificate is issued pursuant
12 to Rule .1604(b) of this Subchapter.

13 (c) The star rated certificate and ~~any~~ worksheet the Division used to calculate the rated certificate shall be displayed
14 in a location visible to the public.

15 (d) The star rating worksheet shall be posted on the Division of Health Service Regulation website.

16 ~~(e)~~ (c) The facility may contest the ~~rated certificate~~ star rating by requesting a contested case hearing pursuant to
17 Article 3 of G.S. 150B. The star rating ~~rated certificate~~ and any subsequent ~~certificates~~ star ratings shall remain in
18 effect during any contested case hearing process.

19
20 *History Note: Authority G.S. 131D-4.5; 131D-10;*
21 *Eff. July 3, ~~2008~~. 2008;*
22 *Readopted Eff. August 1, 2025.*