

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

AGENCY: N.C. Department of Health and Human Services

RULE CITATION: All Rules

**DEADLINE FOR RECEIPT: Friday, August 9, 2024.**

***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 your History Note for each rule, you cite to G.S. 131E-153. This is a purpose and scope rule, and does not confer rulemaking authority on DHHS. Please delete from all rules.*

*Similarly, in many rules, you cite to SL 2023-14, s. 2.4. While that does confer rulemaking authority on the Department, it has a cutoff of October 1, 2023. As that deadline has passed, I do not think you can cite to it now. Please delete.*

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: July 26, 2024

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

AGENCY: N.C. Department of Health and Human Services

RULE CITATION: 10A NCAC 14E .0101

**DEADLINE FOR RECEIPT: Friday, August 9, 2024.**

***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 your History Note, you cite to 131E-153.5 and 143B-165. Neither of these confer rulemaking authority on DHHS. Please delete and substitute a statute that provides the Department with relevant rulemaking authority.*

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: July 26, 2024

1 10A NCAC 14E .0101 is proposed for adoption as follows:

2  
3 **SUBCHAPTER 14E - LICENSURE OF SUITABLE FACILITIES FOR THE PERFORMANCE OF**  
4 **SURGICAL ABORTIONS**

5  
6 **SECTION .0100 – LICENSURE PROCEDURE**

7  
8 **10A NCAC 14E .0101 DEFINITIONS**

9 The following definitions will apply throughout this Subchapter:

- 10 (1) "Abortion" means the termination of a pregnancy as defined in G.S 90-21.81(1c).  
11 (2) "Clinic" means a freestanding facility neither physically attached nor operated by a licensed hospital  
12 for the performance of abortions completed during the first 12 weeks of pregnancy.  
13 (3) "Division" means the Division of Health Service Regulation of the North Carolina Department of  
14 Health and Human Services.  
15 (4) "Gestational age" means the length of pregnancy as indicated by the date of the first day of the last  
16 normal monthly menstrual period, if known, or as determined by ultrasound.  
17 (5) "Governing authority" means the individual, agency, group, or corporation appointed, elected or  
18 otherwise designated, in which the ultimate responsibility and authority for the conduct of the  
19 abortion clinic is vested pursuant to Rule .0318 of this Subchapter.  
20 (6) "Health Screening" means an evaluation of an employee or contractual employee, including  
21 tuberculosis testing, to identify any underlying conditions that may affect the person's ability to  
22 work in the clinic.  
23 (7) "New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, 2023,  
24 and has not been certified or licensed within the previous six months of the application for licensure.  
25 (8) "Registered Nurse" means a person who holds a valid license issued by the North Carolina Board  
26 of Nursing to practice professional nursing in accordance with the Nursing Practice Act, G.S. 90,  
27 Article 9A.

28  
29 History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.

30 Eff. February 1, 1976;

31 Readopted Eff. December 19, 1977;

32 Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989; June 30, 1980;

33 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24,  
34 2019;

35 Codifier determined that agency's findings of need did not meet criteria for emergency rule on June  
36 22, 2023;

37 Emergency Rule Eff. June 30, 2023;

- 1 Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7;
- 2 Temporary Adoption Eff. October 27, 2023;
- 3 Amended Eff. September 1, 2024.

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

AGENCY: N.C. Department of Health and Human Services

RULE CITATION: 10A NCAC 14E .0106

**DEADLINE FOR RECEIPT: Friday, August 9, 2024.**

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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, add "an" prior to "applicant."*

*On line 29, delete the extra space.*

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: July 26, 2024

1 10A NCAC 14E .0106 is proposed for adoption as follows:

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3 **10A NCAC 14E .0106 APPLICATION**

4 (a) Prior to the admission of patients, applicant for a new clinic shall submit an application for licensure and receive  
5 approval from the Division.

6 (b) Application forms may be obtained by contacting the Division at 2712 Mail Service Center Raleigh, NC 27699-  
7 2712.

8 (c) The application form shall set forth:

9 (1) Legal identity of the applicant;

10 (2) The name or names under which the facility or services are advertised or presented to the public;

11 (3) The facility's mailing address;

12 (4) The facility's physical address;

13 (5) The ownership of the facility, including a description of the legal character of the operating  
14 ownership;

15 (6) The owner of the premises from which services are offered including the name and address of the  
16 owner of the premises if different from the owner of the facility;

17 (7) If the facility is operated under a management contract, the name and address of the building's  
18 management company;

19 (8) A description of the arrangements that have been made for the disposal of pathological waste,  
20 products of conception, and sharps, and the name and address of the provider of such services if not  
21 performed by the facility;

22 (9) The name, specialty, board certifications, and medical license number of the Medical Director;

23 (10) The name, specialty, board certifications, and medical license number of each member of the  
24 medical staff;

25 (11) The name, nursing certificate number, and renewal number of the Director of Nursing;

26 (12) The name, nursing certificate number, and renewal number of each nursing staff member; and

27 (13) The name of the consulting pathologist, the name of the consulting pathologist's laboratory, and the  
28 address of the laboratory.

29  
30 (d) After construction requirements in Section .0200 of Subchapter 13S of Title 10A of the North Carolina  
31 Administrative Code have been met and the application for licensure has been received and approved, the Division  
32 shall conduct an on-site, licensure survey.

33  
34 *History Note: Authority G.S. 131E-153;131E-153.2; S.L. 2023-14, s. 2.4;*

35 *Eff. February 1, 1976;*

36 *Readopted Eff. December 19, 1977;*

37 *Amended Eff. July 1, 1994;*

1 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24,  
2 2019;  
3 Codifier determined that agency's findings of need did not meet criteria for emergency rule on June  
4 22, 2023;  
5 Emergency Rule Eff. June 30, 2023;  
6 Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7;  
7 Temporary Amendment Eff. December 22, 2023;  
8 Amended Eff. September 1, 2024.  
9

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

AGENCY: N.C. Department of Health and Human Services

RULE CITATION: 10A NCAC 14E .0107

**DEADLINE FOR RECEIPT: Friday, August 9, 2024.**

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

*In (d), line 11, I believe it should say "...prevent a ~~service~~ facility from providing . . ."*

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: July 26, 2024



1 10A NCAC 14E .0107 is proposed for adoption as follows:

2

3 **10A NCAC 14E .0107 ISSUANCE OF LICENSE**

4 (a) The Division shall issue a license if it finds the facility can comply with all requirements described in this  
5 Subchapter and Subchapter 13S of Title 10A of the North Carolina Administrative Code.

6 (b) Each license shall be issued only for the premises and persons or organizations named in the application and shall  
7 not be transferable.

8 (c) The governing authority shall notify the Division in writing, within 10 working days, of any change in the name  
9 of the facility or change in the name of the administrator.

10 (d) The facility shall report to the Division all incidents, within 10 working days, of vandalism to the facility such as  
11 fires, explosions, or other action that prevent a service from providing abortion services.

12

13 History Note: Authority G.S. 131E-153; 131E-153.2; S.L. 2023-14, s. 2.4;

14 Eff. February 1, 1976;

15 Readopted Eff. December 19, 1977;

16 Amended Eff. July 1, 1994;

17 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24,  
18 2019;

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22 Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7;

23 Temporary Amendment Eff. December 22, 2023.

24 Amended Eff. September 1, 2024.

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

AGENCY: N.C. Department of Health and Human Services

RULE CITATION: 10A NCAC 14E .0109

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

*In (a), line 4, add "shall be" before "renewed".*

*Also in (a), where and how can an applicant obtain an application form?*

*In your History Note, please explain the citation to 143B-10. I'm not sure what's being delegated here.*

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: July 26, 2024

1 10A NCAC 14E .0109 is proposed for adoption as follows:

2  
3 **10A NCAC 14E .0109 RENEWAL**

4 (a) Each license, renewed at the beginning of each calendar year.

5 (b) The renewal application form shall set forth:

6 (1) Legal identity of the applicant;

7 (2) The name or names under which the facility or services are advertised or presented to the public;

8 (3) The facility's mailing address;

9 (4) The facility's physical address;

10 (5) The ownership of the facility, including a description of the legal character of the operating  
11 ownership;

12 (6) The owner of the premises from which services are offered including the name and address of the  
13 owner of the premises if different from the owner of the facility;

14 (7) If the facility is operated under a management contract, the name and address of the building's  
15 management company;

16 (8) A description of the arrangements that have been made for the disposal of pathological waste,  
17 products of conception, and sharps, and the name and address of the provider of such services if not  
18 performed by the facility;

19 (9) The name, specialty, board certifications, and medical license number of the Medical Director;

20 (10) The name, specialty, board certifications, and medical license number of each member of the  
21 medical staff;

22 (11) The name, nursing certificate number, and renewal number of the Director of Nursing;

23 (12) The name, nursing certificate number, and renewal number of each nursing staff member;

24 (13) The name of the consulting pathologist, the name of the consulting pathologist's laboratory, and the  
25 address of the laboratory,

26 (14) The number of abortion procedures performed since initial licensure or the most recent licensure  
27 renewal, whichever is later; and

28 (15) The number of patients that were transferred to a hospital since initial licensure or the most recent  
29 licensure renewal, whichever is later.

30 (c) Upon the filing of a renewal application, the clinic must pay a non-refundable renewal fee as defined in G.S. 131E-  
31 153.2.

32 (d) An application for renewal of licensure must be filed with the Division at least 30 days prior to the date of  
33 expiration. Renewal application forms shall be furnished by the Division.

34 (e) Failure to file a renewal application shall result in expiration of the license to operate.

36 *History Note: Authority G.S. 131E-153; 131E-153.2; 143B-10; S.L. 2023-14, s. 2.4;*

37 *Eff. February 1, 1976;*

1 Readopted Eff. December 19, 1977;  
2 Amended Eff. October 1, 2015;  
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