

Burgos, Alexander N

Subject: FW: 10A NCAC 14E Requests for Changes - August 2024 RRC

From: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>
Sent: Thursday, August 8, 2024 11:26 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Conley, Azzie <azzie.conley@dhhs.nc.gov>
Subject: Re: 10A NCAC 14E Requests for Changes - August 2024 RRC

Yes, will do, Brian. Thanks!

Rajeev K. Premakumar
Deputy General Counsel
Office of General Counsel
[NC Department of Health and Human Services](#)

Office: [919-855-4800](tel:919-855-4800)
Raj.Premakumar@dhhs.nc.gov

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, August 8, 2024 11:09:24 AM
To: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Conley, Azzie <azzie.conley@dhhs.nc.gov>
Subject: RE: 10A NCAC 14E Requests for Changes - August 2024 RRC

Oh, almost forgot. Can you please send the final versions of all the rules to oah.rules@oah.nc.gov, copying me and Alex, so we can get them filed and posted online?

Thanks!
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Burgos, Alexander N

Subject: FW: 10A NCAC 14E Requests for Changes - August 2024 RRC

From: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>

Sent: Thursday, August 8, 2024 10:38 AM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Conley, Azzie <azzie.conley@dhhs.nc.gov>

Subject: RE: 10A NCAC 14E Requests for Changes - August 2024 RRC

Thank you Brian! Much appreciated and hope you and yours stay safe as well.

Thanks,

Raj

Rajeev K. Premakumar

Deputy General Counsel

Office of General Counsel

[NC Department of Health and Human Services](#)

Office: 919-855-4800

Mobile: 984-800-1117 (**primary**)

Raj.Premakumar@dhhs.nc.gov

Burgos, Alexander N

Subject: FW: 10A NCAC 14E Requests for Changes - August 2024 RRC

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Thursday, August 8, 2024 10:34 AM

To: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Conley, Azzie <azzie.conley@dhhs.nc.gov>

Subject: RE: 10A NCAC 14E Requests for Changes - August 2024 RRC

Good morning, everyone,

Thanks for sending these edits, and they look good to me. I believe I can recommend approval at the August meeting.

Hope everyone stays dry!

Best,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

, health, legally privileged, or otherwise confidential information, including confidential information relating to an ongoing State procurement effort, is prohibited by law. If you have received this email in error, please notify the sender immediately and delete all records of this email.

Burgos, Alexander N

Subject: FW: 10A NCAC 14E Requests for Changes - August 2024 RRC

From: Conley, Azzie <azzie.conley@dhhs.nc.gov>

Sent: Thursday, August 8, 2024 9:28 AM

To: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: Re: 10A NCAC 14E Requests for Changes - August 2024 RRC

Raj

Thank you!

Thank you!

Azzie

Get [Outlook for iOS](#)

From: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>

Sent: Thursday, August 8, 2024 9:15:56 AM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Conley, Azzie <azzie.conley@dhhs.nc.gov>

Subject: RE: 10A NCAC 14E Requests for Changes - August 2024 RRC

Hello Brian,

We believe we've addressed the formatting issues in these attached versions of the 14E rules.

With regard to Rule .0109, thank you for noting that as it made us reconsider our approach. The website link was to the Enterprise system which is a platform developed for clinics and facilities regulated by the Division of Health Services Regulation (DHSR) to complete their licensure activities and registry verifications online. It requires that the clinics register with Enterprise and then they are given a portal through which those activities, including licensure renewal, can be completed. In other words, the renewal application is in the portal for the clinics to access, as opposed to a free standing, more specific link. In full candor, we weren't sure how to deal with that in light of your question, so we reworked the rule to simply say "as provided by the Department." Please let us know if you have any questions, concerns, or recommendations about that approach.

Thank you as always for your time and consideration.

Raj

Rajeev K. Premakumar

Deputy General Counsel

Office of General Counsel

[NC Department of Health and Human Services](#)

Office: 919-855-4800

Mobile: 984-800-1117 (primary)

Raj.Premakumar@dhhs.nc.gov

10A NCAC 14E .0101 is adopted with changes as published in 38 NCR 1339 - 40 as follows:

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

SECTION .0100 – LICENSURE PROCEDURE

10A NCAC 14E .0101 DEFINITIONS

The following definitions will apply throughout this Subchapter:

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

History Note: Authority G.S. ~~131E-153; 131E-153.5; 143B-165.~~ 131E-153.2

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

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

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

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

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.

10A NCAC 14E .0106 is adopted with changes as published in 38 NCR 1340 as follows:

10A NCAC 14E .0106 APPLICATION

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

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

(c) The application form shall set forth:

(1) Legal identity of the applicant;

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

(3) The facility's mailing address;

(4) The facility's physical address;[

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

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

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

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

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

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

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

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

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

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

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

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

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

1 10A NCAC 14E .0107 is adopted with changes as published in 38 NCR 1340 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] facility 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;

19 Codifier determined that agency's findings of need did not meet criteria for emergency rule on June
20 22, 2023;

21 Emergency Rule Eff. June 30, 2023;

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.

10A NCAC 14E .0109 is adopted with changes as published in 38 NCR 1340 - 41 as follows:

10A NCAC 14E .0109 RENEWAL

(a) Each license shall be renewed at the beginning of each calendar year on the renewal application forms provided by the Department.

(b) The renewal application form shall set forth:

(1) Legal identity of the applicant;

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

(3) The facility's mailing address;

(4) The facility's physical address;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Eff. February 1, 1976:

2 Readopted Eff. December 19, 1977:

3 Amended Eff. October 1, 2015:

4 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24,
5 2019:

6 Codifier determined that agency's findings of need did not meet criteria for emergency rule on June
7 22, 2023:

8 Emergency Rule Eff. June 30, 2023:

9 Repealed Eff. July 1, 2023 pursuant to G.S. 150B-21.7:

10 Temporary Amendment Eff. December 22, 2023:

11 Amended Eff. September 1, 2024.

12

10A NCAC 14E .0111 is adopted with changes as published in 38 NCR 1341 as follows:

10A NCAC 14E .0111 INSPECTIONS

(a) Any clinic licensed by the Division to perform abortions shall be inspected by representatives of the Division annually and as it may deem necessary as a condition of holding such license. An inspection may be conducted whenever the Division receives a complaint alleging the clinic is not in compliance with the rules of the Subchapter.

(b) Representatives of the Division shall make their identities known to the clinic staff prior to inspection of the clinic.

(c) Representatives of the Division may review any records in any medium necessary to determine compliance with the rules of this Subchapter. The Department shall maintain the confidentiality of the complainant and the patient, unless otherwise required by law.

(d) The clinic shall allow the Division to have immediate access to its premises and the records necessary to conduct an inspection and determine compliance with the rules of this Subchapter.

(e) A clinic shall file a written plan of correction for cited deficiencies within 10 business days of receipt of the report of the survey. The Division shall review and respond to a written plan of correction within 10 business days of receipt of the corrective action plan.

History Note: Authority G.S. ~~[131E-153]~~; 131E-153.6; [S.L. 2023-14, s. 2.4];

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994;

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

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

Emergency Rule Eff. June 30, 2023;

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

Temporary Amendment Eff. October 27, 2023;

Amended Eff. September 1, 2024.

Burgos, Alexander N

Subject: FW: 10A NCAC 14E Requests for Changes - August 2024 RRC

From: Liebman, Brian R <brian.liebman@oah.nc.gov>

Sent: Friday, August 2, 2024 4:42 PM

To: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>

Cc: Conley, Azzie <azzie.conley@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: 10A NCAC 14E Requests for Changes - August 2024 RRC

Hi Raj,

Substance looks good, but I would ask that you fix a few formatting issues. The main culprits I see are the introductory statements and the changes made to the text. Since you're making changes from what was published, the introductory statement should read "[Rule citation] is adopted with changes as published in [NCR cite] as follows:" Then, you'll want to highlight any text that has been added. For text that was supposed to be added, but is now being deleted, place that text in brackets, remove the underlining, strikethrough it, and highlight.

The only follow up I have is for Rule .0109. I went to the website indicated, and I do not see anything for abortion clinics. Can you provide a more specific link?

Thanks,

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984)236-1948

brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Burgos, Alexander N

Subject: FW: 10A NCAC 14E Requests for Changes - August 2024 RRC
Attachments: 2024.08 - DHHS 10A NCAC 14E Request for Technical Changes - DHHS Responses
8.2.24.docx; 10A NCAC 14E .0101 - 8.2.24.docx; 10A NCAC 14E .0106 - 8.2.24.docx; 10A
NCAC 14E .0107 - 8.2.24.docx; 10A NCAC 14E .0109 - 8.2.24.docx; 10A NCAC 14E .0111
- 8.2.24.docx

From: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>
Sent: Friday, August 2, 2024 2:30 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Conley, Azzie <azzie.conley@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: 10A NCAC 14E Requests for Changes - August 2024 RRC

Good Afternoon Brian,

Attached please find DHHS' responses and revisions to the 14E rules pursuant to your Requests for Changes.

Please let me know if you require any additional or further information.

Hope you have a nice weekend.

Thanks,
Raj

Rajeev K. Premakumar
Deputy General Counsel
Office of General Counsel
[NC Department of Health and Human Services](#)

Office: 919-855-4800
Mobile: 984-800-1117 (**primary**)
Raj.Premakumar@dhhs.nc.gov

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.

Deleted citations to G.S. 131E-153 and S.L. 2023-14, s. 2.4.

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

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. **Deleted citations and substituted.***

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

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.

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, add “an” prior to “applicant.” **Added “an” prior to “applicant.”**

On line 29, delete the extra space. **Deleted extra space on line 29.**

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

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.

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

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

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

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 (a), line 4, add “shall be” before “renewed”. Added “shall be” before “renewed”.

Also in (a), where and how can an applicant obtain an application form? Revised to add website where application may be obtained.

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

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

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

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

SECTION .0100 – LICENSURE PROCEDURE

10A NCAC 14E .0101 DEFINITIONS

The following definitions will apply throughout this Subchapter:

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

History Note: Authority G.S. ~~131E-153; 131E-153.5; 143B-165~~. 131E-153.2

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

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

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

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

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.

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

10A NCAC 14E .0106 APPLICATION

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

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

(c) The application form shall set forth:

(1) Legal identity of the applicant;

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

(3) The facility's mailing address;

(4) The facility's physical address;

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

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

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

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

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

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

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

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

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

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

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

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

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

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 facility 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;

19 Codifier determined that agency's findings of need did not meet criteria for emergency rule on June
20 22, 2023;

21 Emergency Rule Eff. June 30, 2023;

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.

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

10A NCAC 14E .0109 RENEWAL

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

(b) The renewal application form may be obtained at <https://dhsreenterprise.nc.gov/>.

~~(b)~~ (c) The renewal application form shall set forth:

(1) Legal identity of the applicant;

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

(3) The facility's mailing address;

(4) The facility's physical address;

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

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

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

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

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

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

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

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

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

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

(15) The number of patients that were transferred to a hospital since initial licensure or the most recent licensure renewal, whichever is later. (d) Upon the filing of a renewal application, the clinic must pay a non-refundable renewal fee as defined in G.S. 131E-153.2.

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

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

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

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015;

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

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

Emergency Rule Eff. June 30, 2023;

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

Temporary Amendment Eff. December 22, 2023;

Amended Eff. September 1, 2024.

1 10A NCAC 14E .0111 is proposed for adoption as follows:

2
3 **10A NCAC 14E .0111 INSPECTIONS**

4 (a) Any clinic licensed by the Division to perform abortions shall be inspected by representatives of the Division
5 annually and as it may deem necessary as a condition of holding such license. An inspection may be conducted
6 whenever the Division receives a complaint alleging the clinic is not in compliance with the rules of the Subchapter.

7 (b) Representatives of the Division shall make their identities known to the clinic staff prior to inspection of the clinic.

8 (c) Representatives of the Division may review any records in any medium necessary to determine compliance with
9 the rules of this Subchapter. The Department shall maintain the confidentiality of the complainant and the patient,
10 unless otherwise required by law.

11 (d) The clinic shall allow the Division to have immediate access to its premises and the records necessary to conduct
12 an inspection and determine compliance with the rules of this Subchapter.

13 (e) A clinic shall file a written plan of correction for cited deficiencies within 10 business days of receipt of the report
14 of the survey. The Division shall review and respond to a written plan of correction within 10 business days of receipt
15 of the corrective action plan.

16
17 History Note: Authority G.S. 131E-153; 131E-153.6; S.L. 2023-14, s. 2.4;

18 Eff. February 1, 1976;

19 Readopted Eff. December 19, 1977;

20 Amended Eff. October 1, 2015; July 1, 1994;

21 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24,
22 2019;

23 Codifier determined that agency's findings of need did not meet criteria for emergency rule on June
24 22, 2023;

25 Emergency Rule Eff. June 30, 2023;

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

27 Temporary Amendment Eff. October 27, 2023;

28 Amended Eff. September 1, 2024.

Burgos, Alexander N

From: Premakumar, Rajeev K
Sent: Friday, July 26, 2024 1:30 PM
To: Liebman, Brian R
Cc: Conley, Azzie; Burgos, Alexander N
Subject: Re: 10A NCAC 14E Requests for Changes - August 2024 RRC

Follow Up Flag: Follow up
Flag Status: Completed

Thank you, Brian. Received. We will have the revised rules to you soon.

Hope you have a nice weekend.

Raj

Rajeev K. Premakumar
Deputy General Counsel
Office of General Counsel
[NC Department of Health and Human Services](#)

Office: [919-855-4800](tel:919-855-4800)
Raj.Premakumar@dhhs.nc.gov

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, July 26, 2024 1:26:07 PM
To: Premakumar, Rajeev K <raj.premakumar@dhhs.nc.gov>
Cc: Conley, Azzie <azzie.conley@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 10A NCAC 14E Requests for Changes - August 2024 RRC

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Department for the August 2024 RRC meeting. The RRC will formally review these Rules at its meeting on Wednesday, August 28, 2024, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, August 9, 2024.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984)236-1948

brian.liebman@oah.nc.gov

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