

**Note from the Codifier:** The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email [oah.postmaster@oah.nc.gov](mailto:oah.postmaster@oah.nc.gov).

## TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

**Notice** is hereby given in accordance with G.S. 150B-21.1 that the Medical Care Commission intends to amend the rules cited as 10A NCAC 13E .0302, .0303, .0305, .0306, .0308, .0309, .0312, .0316-.0318, .0403, and .0601.

**Codifier of Rules** approved these rules as an emergency rule effective July 1, 2026 and received for publication the following notice and proposed temporary rule(s) on: June 19, 2026.

### Public Hearing:

**Date:** July 15, 2026

**Time:** 10:00 a.m.

**Location:** DHHS Headquarters, 1915 Health Services Way, Conference Rm 2210, Raleigh, NC 27607

**Reason for Proposed Temporary Action:** A serious and unforeseen threat to the public health, safety or welfare. The effective date of a recent act of the General Assembly or of the U.S. Congress, cite: HB 696, effective date: July 1, 2026. On April 30, 2026, House Bill 696 was signed into law and became S.L. 2026-1. This new law titled "Increased Bed Capacity for Facilities Licensed to Provide a Program of Overnight Respite Services" revised N.C.G.S. 131D-6.1(c) governing licensed overnight respite services in adult day programs. The changes provided in the new law become effective on July 1, 2026. S.L. 2026-1 makes significant changes to the allowable capacity and number of individuals who can be served in these overnight respite programs. S.L. 2026-1 also gives authority to the Medical Care Commission for adopting emergency and temporary rules as necessary to implement the new requirements of G.S. 131D-6.1(c). Current rules governing the licensing of overnight respite services in adult day programs are found in Subchapter 13E of Title 10A of the Administrative Code. Given the changes to the law that will become effective July 1, 2026, and the fact that temporary or permanent rulemaking cannot be accomplished by that date, the Agency is making certain amendments to the existing rules to conform with the provisions in S.L. 2026-1 that become effective July 1, 2026. Additionally, in order to implement the provisions of the new law, various existing rules need to be amended to ensure the health, safety and welfare of overnight respite participants, including changes to staffing, physical plant, and life safety requirements. Therefore, the Agency seeks to amend Subchapter 13E of Title 10A under emergency procedures.

**Comment Procedures:** Comments from the public shall be directed to: Shanah Black, 1915 Health Services Way, 2201 Mail Service Center, Raleigh, NC 27607; phone (919) 855-3481; email [DHSR.RulesCoordinator@dhhs.nc.gov](mailto:DHSR.RulesCoordinator@dhhs.nc.gov). The comment period begins June 28, 2026 and ends July 20, 2026.

## CHAPTER 13 - NC MEDICAL CARE COMMISSION

### SUBCHAPTER 13E – LICENSING OF OVERNIGHT RESPITE SERVICES

#### SECTION .0300 - PHYSICAL PLANT RULES

##### 10A NCAC 13E .0302 CAPACITY

(a) Pursuant to G.S. 131D-6.1(c)(8), the Division of Health Service Regulation shall not approve a capacity of greater than ~~six~~ twelve participants for an overnight respite services program. For the purposes of this Rule, "capacity" means the maximum number of participants that the overnight respite services program is licensed to house at any given time.

(b) An overnight respite services program shall not exceed the capacity shown on its license. The license shall indicate the overnight respite services program's capacity for ambulatory and non-ambulatory participants permitted that an overnight respite services program facility can house at any given time. For the purposes of this Rule, "ambulatory" means the participant is able to respond and evacuate from the facility without verbal or physical assistance from others in the event of an emergency. "Non-ambulatory" means the participant is not able to respond and evacuate from the facility without verbal or physical assistance from others in the event of an emergency.

(c) Prior to an increase in capacity by adding rooms, altering ~~rooms, or rooms,~~ remodeling, changing use of ~~space, space,~~ or without building modifications, the overnight respite services program shall submit a request for capacity increase and two building plans of each floor to the Construction Section. One plan shall indicate the current use of rooms in the existing building. The other plan shall indicate the proposed use of rooms in the existing building and its addition, alteration, remodeling, or change in use of space. For an addition to an existing building, the building plans shall also indicate how the addition will be tied into the existing building and any proposed changes to the building structure.

(d) When the overnight respite services program increases its capacity by the addition to or alteration of an existing building, the entire overnight respite services program shall comply with the North Carolina ~~Fire Prevention Code, State Building Codes,~~ which ~~is~~ are incorporated herein by reference including subsequent amendments and editions. Copies of ~~this code~~ these codes may be ~~purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of eighty five dollars (\$85.00)~~ or accessed electronically free of charge at [http://codes.iccsafe.org/app/book/toc/2012/North\\_Carolina/Fire/index.html](http://codes.iccsafe.org/app/book/toc/2012/North_Carolina/Fire/index.html) <https://codes.iccsafe.org/codes/united-states/north-carolina>.

**10A NCAC 13E .0303 DESIGN AND CONSTRUCTION**

(a) For the purposes of this Rule the following definitions apply:

- (1) "facility" means a building or portion of a building housing an overnight respite services program as defined in G.S. 131D-6.1(a);
- (2) "proposed facility" means the new construction of a building for a facility, an addition or alteration to an existing building for a facility, or the change in use of a building for a facility;
- (3) "existing facility" means a currently licensed facility and ~~a proposed facility that will be built according to building plans approved by the Construction Section for compliance with the standards established in this Section, built~~ prior to the effective date of this Rule; and
- (4) "new facility" means a facility that has not been licensed previously as an overnight respite services program and for which an initial license is sought. The term also includes a proposed facility that will be built according to building plans approved by the Construction Section for compliance with the standards established in this Section, on or after the effective date of this Rule.

(b) The physical plant requirements for each facility shall be applied as follows:

- (1) A new facility shall meet the standards established in this Section.
- (2) An existing facility shall meet the standards established in this Section that were in existence at the time of change in use of ~~space, space, increase in capacity,~~ construction, addition, alteration, or repair.
- (3) An existing building converted from another use that a program intends to use for an overnight respite services program shall meet all the requirements of a new facility as indicated in Subparagraph ~~(4) of this Paragraph (b)(1) of this Rule.~~

(c) All new construction, ~~additions, additions, modifications, renovations,~~ or alterations for a new facility shall meet the requirements of the North Carolina State Building Codes, Code: Residential Code for overnight respite services programs requesting licensure for less than seven participants. Additionally, overnight respite services programs requesting licensure for four to six participants shall meet the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section in effect at the time of licensure. Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

(d) All new construction, additions, modifications, renovations, or alterations for a new facility requesting licensure for seven to twelve participants shall meet the requirements of the North Carolina State Building: Building Code, Licensed Large Residential Care Facilities Section in effect at the time of licensure. Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements. The North Carolina State Building Codes, which are incorporated herein by ~~reference reference,~~ including subsequent amendments and ~~editions. Copies of these codes editions,~~ may be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty seven dollars (\$527.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>. ~~https://codes.iccsafe.org/codes/united-states/north-carolina. All new construction, additions, or repairs of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.~~

(e) All new construction, additions, modifications, renovations, or alterations of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, modification, renovation, alteration, or repair. Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

~~(d)(f)~~ A facility shall be constructed, equipped, and maintained to comply with the standards established in this Section for the capacity indicated on its license.

~~(e)(g)~~ The Construction Section may grant an equivalency to allow an alternate design or functional variation from the requirements of the rules contained in this Section. For the purposes of this Rule, an "equivalency" is a Construction Section-approved alternate design and functional variation to a requirement contained in the rules of this Section that meets the intent of the rule requirement but does not reduce the safety and operational effectiveness of the facility design and layout. If granted, the equivalency shall apply to a specific facility. A program shall be granted an equivalency if:

- (1) the overnight respite services program submits a written equivalency request to the Construction Section indicating:
  - (A) the rule requirement that will not be met;
  - (B) the justification for the equivalency; and
  - (C) how the proposed equivalency meets the intent of the corresponding rule requirement; and
- (2) the program receives a written approval of the equivalency from the Construction Section.

~~(f)(h)~~ If any of the rules, codes, or standards contained in this Section conflict, the most restrictive requirement shall apply.

~~(g)(i)~~ For an existing facility whose license is revoked or suspended by the Division of Health Service Regulation pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the facility shall meet the requirements of a new facility as required by Subparagraph (b)(1) of this Rule prior to being relicensed.

~~(h)(j)~~ Prior to commencement of construction or change in use of space, any program intending to offer overnight respite care services that is planning new construction, an ~~addition addition, modification, renovation,~~ or alteration to an existing building, or a change in use of space shall submit building plans and other documents to the Construction Section as specified in Rule .0301 of this Section.

~~(i)(k)~~ If the building to be used for a facility is two or more stories in height, it shall meet the following additional requirements:

- (1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building Code;
- (2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c) of this Section; and

(3) participant-use areas shall be located on the level of the principal exterior door.

~~(j)(l)~~ The basement and the attic shall not be used for storage or sleeping.

~~(k)(m)~~ The ceiling height throughout the facility shall be at least seven and one-half feet from the floor.

~~(l)(n)~~ Elevation changes in the floor are not permitted in participant-use ~~areas.~~ areas. Steps and ramps between levels are not permitted.

~~(m)(o)~~ The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms, and bathrooms.

~~(n)(p)~~ Windows shall be operable and All windows that are designed to be operable shall be maintained operable. For the purposes of this Rule, "operable" means a window that may be opened and shut to allow outdoor-air ventilation. ~~To inhibit participant elopement from any window, the window opening may be restricted to a six-inch opening.~~

~~(o)~~ Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

~~(p)(q)~~ The facility shall ~~comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section,~~ meet sanitation requirements set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential Care Facilities, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and editions. ~~The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27609. Copies of these Rules may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost or can be accessed electronically free of charge at <http://chs.nepublichealth.com/docs/rules/294306-4-1600.pdf>. <https://www.oah.nc.gov/>.~~

~~(q)(r)~~ The facility shall have the following inspection reports available for review upon request by the Construction Section:

(1) a ~~current~~ sanitation inspection report from the sanitation division of the county health department; department dated within the past 12 months; and

(2) a ~~current~~ fire and safety inspection report from the local fire ~~marshal.~~ marshal dated within the past 12 months.

~~(r)(s)~~ The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and sounding devices that are audible throughout the building. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72>.

~~(t)~~ Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected to the fire alarm system. These heat detectors shall be interconnected and provided with battery backup. Corridors shall be equipped with smoke detectors that are connected to the fire alarm system.

~~(s)(u)~~ A building housing an overnight respite services program or an adult day care or adult health care program shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars (\$103.00).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13>.

*Authority G.S. 131D-6.1.*

#### **10A NCAC 13E .0305 LIVING ROOM AREA**

(a) Each overnight respite care program shall have a living area with not less than 40 square feet of floor area per participant.

(b) The living area for the overnight respite care program required by Paragraph (a) of this Rule may be combined with the adult day care program or adult day health program activities and craft areas only after the Division of Aging and Adult Services of the Department of Health and Human Services determines, in writing, that the requirements of 10A NCAC 06R .0401(d) for an adult day care program and 10A NCAC 06S .0301 for an adult day health program are met.

(c) The living ~~room~~ area shall have windows with views to the outdoors. The gross window area shall not be less than eight percent of the floor area required by Paragraph (a) of this ~~Rule.~~ Rule and be equipped with insect-proof screens. To inhibit participant elopement, the window opening may be restricted to a six-inch opening.

*Authority G.S. 131D-6.1.*

#### **10A NCAC 13E .0306 DINING ROOM AREA**

(a) Each overnight respite services program shall have a dining area with not less than 20 square feet of floor area per participant. The dining area may be used for other activities during the day.

(b) The dining area for the overnight respite care program required by Paragraph (a) of this Rule may be combined with the adult day care program or adult day health program activities and craft areas only after the Division of Aging and Adult Services of the Department of Health and Human Services determines, in writing, that the requirements of 10A NCAC 06R .0401(d) for an adult day care program and 10A NCAC 06S .0301 for an adult day health program are met.

(c) When the dining area is used in combination with a kitchen, an area five feet wide shall be allowed as work space between the kitchen and dining areas. The work space shall not be used as the dining area.

(d) The dining ~~room~~ area shall have windows with views to the ~~outdoors.~~ outside, or a door unit with a vision panel directly to the outside. The gross window area shall not be less than eight percent of the floor area required by Paragraph (a) of this ~~Rule.~~ Rule and be equipped with insect-proof screens. To inhibit participant elopement, the window opening may be restricted to a six-inch opening.

### 10A NCAC 13E .0308 BEDROOMS

- (a) There shall be bedrooms sufficient in number and size to meet the individual needs of the participant according to their age and gender.
- (b) A room used as a bedroom shall meet the requirements of this Rule and be approved by the Construction Section.
- (c) A room accessed only through a bathroom, kitchen, or another bedroom shall not be approved for a participant's bedroom.
- (d) Bedrooms occupied by one participant shall be provided with not less than 100 square feet of floor area, ~~including~~ excluding accessory areas such as ~~vestibule, closet, or wardrobe space.~~ vestibules, closets, wardrobes, or bathrooms. Bedrooms occupied by two participants shall be provided with not less than 160 square feet of floor area, ~~including~~ excluding accessory areas such as ~~vestibule, closet, or wardrobe space.~~ vestibules, closets, wardrobes, or bathrooms.
- (e) The total number of participants assigned to a bedroom shall be based on the square footage requirements of Paragraph (d) of this Rule as approved by the Construction Section for that bedroom.
- (f) A bedroom shall not be occupied by more than two participants.
- (g) Each participant bedroom shall have one or more operable windows with views to the outdoors. At least one operable window shall meet the requirements of the North Carolina State Building Code: Residential Code for emergency egress for facilities with a licensed capacity of less than seven participants. For facilities with a licensed capacity of seven to twelve participants, windows shall meet the requirements of the North Carolina State Building Code. The gross window area shall be equal to at least eight percent of the floor space required by Paragraph (d) of this ~~Rule.~~ Rule, and shall be equipped with insect-proof screens. To inhibit participant elopement, the window opening may be restricted to a six-inch opening, except windows meeting the emergency egress requirements of the North Carolina State Building Code: Residential Code. The windows shall have a maximum sill height of 44 inches.
- (h) Bedroom closets or wardrobes shall be large enough to provide each participant with a minimum of 22 cubic feet of clothing storage, one-half of which shall be for hanging clothes with an adjustable-height hanging bar.

### 10A NCAC 13E .0309 BATHROOM

- (a) An overnight respite services program shall have one bathroom for each six or fewer respite participants. A bathroom shall contain a toilet, a ~~lavatory,~~ sink and one of the following:
- (1) a roll-in shower designed and equipped for unobstructed shower chair entry and use;
  - (2) a bathtub accessible on three sides; or
  - (3) a manufactured walk-in bathtub or a similar manufactured bathtub designed for transfer of participants into the bathtub that is accessible on one short side and one long side of the bathtub.
- (b) The bathroom required by Paragraph (a) of this Rule may be shared with the adult day care program or adult day health program only after the Division of Aging and Adult Services of the Department of Health and Human Services determines, in writing, that the requirements of 10A NCAC 06R .0401(g) for an adult day care facility and 10A NCAC 06S .0301 for an adult day health facility are met.
- (c) A bathroom shall be designed to provide privacy. A bathroom with two or more toilets shall have privacy partitions or curtains for each toilet. Each bathtub or shower shall have privacy partitions or curtains. The requirements of this Paragraph shall apply to new and existing facilities.
- (d) The entrance to the bathroom shall not be through a kitchen, another participant's bedroom, or another bathroom.
- (e) The bathroom shall be located so that there is no more than 40 feet between any participant's bedroom door and a participant-use bathroom door.
- (f) Hand grips shall be installed at all toilets, bathtubs, and showers used by participants. Hand grips shall be mechanically fastened or anchored to the walls, be located to help participants in entering and exiting bathtubs, showers, manufactured walk-in tubs, or similar bathing fixtures, and be on the wall adjacent to toilets.
- (g) Nonskid surfacing or strips shall be installed to the floor or bottom of ~~showers and bathtubs.~~ showers, bathtubs, or similar bathing fixtures.
- (h) A bathroom shall 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 for facilities licensed for less than seven participants, and per the North Carolina State Building Codes for facilities licensed for seven to twelve participants. The ~~mechanical ducted~~ exhaust vent shall be vented directly to the outdoors.
- (i) The bathroom floor shall have a non-slippery water-resistant covering.

### 10A NCAC 13E .0312 OUTSIDE ENTRANCE AND EXITS

- (a) Each overnight respite services program shall have at least two exit doors on all floor levels. If there are only two exit doors, the exit doors shall be located and constructed to minimize the possibility that both may be blocked by a fire or other emergency condition.
- (b) One exterior door shall have a minimum width of three feet. Another exterior door shall have a minimum width of two feet and eight inches. For the purposes of this Rule, an "exterior door" means a door used by a participant to enter and exit the building to and from the outdoors.
- (c) At least one principal exterior door for the participants' use shall be at grade level or accessible by a ramp with a one inch rise for each 12 inches of ramp length. For the purposes of this Rule, a "principal exterior door" means a door that is used by participants to

access the vehicular pick-up and drop-off area. If the overnight respite services program serves any participant who must have physical assistance with evacuation, the building shall have two exterior doors at grade level or accessible by a ramp.

(d) All exit door locks shall be easily operable, by a single hand motion, from the inside at all times without ~~keys, keys, tools, or special knowledge~~. Deadbolts or turn buttons on the inside of exit ~~doors~~ doors, including screen and storm doors, shall be disabled.

(e) Exit doors shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.

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

(g) In each overnight respite services program with at least one participant who is determined by a physician or appropriate licensed health professional or is otherwise ~~known~~ observed by staff to be disoriented or ~~who wanders~~, each exhibiting wandering behavior, all exit door doors for participant use shall be equipped with a continuously sounding device that is activated when the door is opened. The alarm shall be turned on at all times and, when activated by the door opening, the sound shall be continuous and of sufficient volume that it can be heard by staff. audible throughout the facility housing the overnight respite services program until turned off by a staff person. If a central system of remote sounding devices is provided, the control panel for the system shall be powered by the facility's electrical system, and be located in the office area or in a location an area accessible only to staff authorized by the administrator to operate the control panel. staff. The requirements of this Paragraph shall apply to new and existing facilities.

*Authority G.S. 131D-6.1.*

### **10A NCAC 13E .0316 FIRE SAFETY AND DISASTER PLAN**

(a) Fire extinguishers shall be provided that meet these requirements:

- (1) one five-pound or larger (net charge) "A-B-C" type centrally ~~located~~; located in an area that can be accessed by staff and not stored in rooms with lockable doors or the kitchen;
- (2) one five-pound or larger "A-B-C" or CO/2 type located in the kitchen; and
- (3) at any other location as required by the North Carolina State Building Code: Fire Prevention Code, which is incorporated herein by reference including subsequent amendments and editions. ~~The availability and cost of the Code is set forth in Rule .0302 of this Section. The North Carolina State Building Code: Fire Prevention Code may be accessed electronically free of charge at <https://codes.iccsafe.org/codes/united-states/north-carolina>.~~

(b) All fire safety requirements required by city or county ordinances shall be met.

(c) A written fire evacuation plan that includes a diagram and that has the approval of the local fire marshal shall be prepared and posted in a central location on each floor. The plan shall be reviewed with each participant on enrollment and shall be a part of the orientation for new staff.

(d) There shall be at least four rehearsals of the fire evacuation plan each year on each shift. Records of rehearsals shall be maintained for three years. The records shall include the date and time of the rehearsals, staff members present, and a description of what the rehearsal involved.

(e) A written disaster plan that has the written approval of, or has been documented as submitted to, the local emergency management agency and the local agency designated to coordinate special needs sheltering during disasters shall be prepared and updated annually and shall be maintained in the program offering overnight respite care services.

*Authority G.S. 131D-6.1.*

### **10A NCAC 13E .0317 BUILDING SERVICE EQUIPMENT**

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

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

(c) Air conditioning shall provide conditions not to exceed 81 degrees F (27 degrees C) under summer design conditions.

(d) The hot water tank shall be of such size to provide as much hot water as is needed by the kitchen, bathrooms, and laundry. The hot water temperature at all fixtures used by or accessible to participants shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C). The requirements of this Paragraph shall apply to new and existing overnight respite services programs.

(e) All participant-use areas shall be lighted for the safety and comfort of the participants. The minimum lighting required is:

- (1) 30 foot-candle of light at floor level in living rooms, dining rooms, bedrooms, and bathrooms;
- (2) 10 foot-candle of light for general lighting; and
- (3) one foot-candle of light at the floor for corridors at night.

(f) Fireplaces, fireplace inserts, and wood stoves shall be designed or installed so as to avoid a burn hazard to participants. Fireplace inserts and wood stoves must be Underwriters Laboratories (U.L.) listed.

(g) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved by the local building code official, and protected by a guard or screen to prevent participants and furnishings from burns.

*Authority G.S. 131D-6.1.*

### **10A NCAC 13E .0318 OUTSIDE PREMISES**

- (a) The outside grounds of the program shall be maintained in a clean and safe condition. For the purpose of this Rule, "clean and safe condition" means free from debris, trash, uneven surfaces, and similar conditions as not to attract rodents and vermin, and provide for safe movement throughout facility grounds. Creeks, ditches, ponds, pools, and other similar areas shall have safety protection. For the purpose of this Rule, "safety protection" means preventive measures, such as barriers, to block access to such areas.
- (b) If the facility has a fence around the premises, the fence shall not prevent participants from exiting or entering freely and shall not be hazardous, freely, or have sharp edges, rusting posts, or other similar conditions that may cause injury.
- (c) Outdoor stairways and ramps shall be illuminated by no less than five foot candles of light at grade level.
- (d) The requirements of Paragraphs (a) and (b) of this Rule shall apply to new and existing programs.

*Authority G.S. 131D-6.1.*

## SECTION .0400 – STAFF QUALIFICATIONS AND STAFFING

### 10A NCAC 13E .0403 STAFF AND STAFFING

- (a) Each staff person shall:
- (1) have a job description that reflects actual duties and responsibilities determined by the program and shall be signed by the administrator and the employee;
  - (2) have a tuberculin skin test within 12 months prior to hire and annually thereafter; be tested for tuberculosis disease in compliance with control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205, which is hereby incorporated by reference, including subsequent amendments;
  - (3) be able to implement all of the program's policies and procedures as defined in Rule .0501 of this Subchapter and accident, fire safety, and emergency procedures for the protection of the participants;
  - (4) be informed of the confidential nature of participant information and protect and preserve the information from unauthorized use and disclosure;
  - (5) not hinder or interfere with the exercise of the rights as defined by program policy;
  - (6) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256;
  - (7) have a statewide criminal background check, upon hire, of the past five years in accordance with G.S. 143B-932; and
  - (8) cooperate with inspectors and the monitoring and licensing agencies in complying with the rules of this Subchapter.
- (b) Any staff member left in charge of the care of participants shall be 18 years or older.
- (c) The staffing pattern shall be adequate There shall be staff on duty to meet the needs of each participant, with at least one staff person present on duty and awake at all times qualified to administer medications as defined by Rule .0702 of this Subchapter and trained to provide personal care and supervision to current participants.
- (d) In a facility with a census of seven to twelve participants, there shall be at least two staff persons on duty and awake at all times who are responsible for providing personal care and supervision to participants, with at least one of the staff persons qualified to administer medications as defined by Rule .0702 of this Subchapter. The staff persons shall be trained to provide personal care and supervision to current participants.
- (e) Staff assigned to provide personal care and supervision duties shall not provide food service and housekeeping duties, except when housekeeping duties are incidental to the rendering of care services and do not hinder the assigned staff's duties of care or immediate response to participants, nor impede the assigned staff member's ability to monitor the participants. For the purposes of this Rule, "food service duties" means tasks performed by staff related to serving meals to participants, including assisting with food preparation, arranging and setting the dining tables, serving food and beverages, and cleaning the dining room after meal service is complete, and "housekeeping duties" means tasks performed by staff such as cleaning and sanitizing facility common areas and resident rooms.
- (f) There shall be additional staff employed to provide food service and housekeeping duties.
- ~~(g)~~ (g) Services required beyond personal care and supervision shall not be provided unless staff satisfies the license requirements applicable to such services.
- (h) There shall be documentation on file in the facility of staff qualifications required by Subparagraphs (a)(1), (2), (6), and (7) of this Rule and medication administration competency evaluation as required in Rule .0702 of this Subchapter.

*Authority G.S. 131D-6.1.*

## SECTION .0600 - ENROLLMENT AND SERVICE PLANNING

### 10A NCAC 13E .0601 ENROLLMENT OF PARTICIPANTS

- (a) Prior to enrollment the applicant, responsible party, or other caregiver shall have a personal interview with a program staff member. During the interview, the staff shall complete initial documentation identifying the following:
- (1) social and medical care needs;
  - (2) spiritual, religious, or cultural needs; and
  - (3) whether the program can meet the applicant's expressed needs.

The staff person doing the interviewing shall sign the assessment of needs and the applicant, responsible party, or other caregiver shall sign the application for enrollment. These signed documents shall be obtained before the individual's first day of attendance as a participant in the program and shall be maintained in the participant's record.

- (b) Any adult (18 years of age or over) who, because of a physical condition or mental disability, needs a substitute home for purpose of respite for the caregiver may be enrolled for overnight respite services when, in the opinion of the caregiver, family, participant,

physician, appropriate licensed health professional, or social worker and the administrator, the services and accommodations of the facility will meet the respite needs of the participant.

(c) Individuals shall not be admitted:

- (1) for treatment of mental illness or alcohol or drug abuse;
- (2) for maternity care;
- (3) for professional nursing care under continuous medical supervision;
- (4) for lodging, when the personal assistance and supervision offered for the participant are not needed; or
- (5) who pose a threat to the health or safety of others.

(d) A medical examination report signed by a physician or appropriate licensed health professional completed within the prior three months, shall be obtained by the program at the time of enrollment. The report must be updated annually no later than the anniversary date of the initial report.

(e) The program shall assure that the participant's physician or appropriate licensed health professional is contacted for orders for medications, treatments, and special diets if current physician orders are not part of the medical examination report required in Paragraph (d) of this Rule for inclusion in the participant's record. Prior to or the day of admission, the participant's physician or appropriate licensed health professional shall be contacted for clarification of orders, if orders are not clear or complete.

(f) The program shall assure that the participant has been tested for tuberculosis disease ~~within the past 12 months of each admission for overnight respite services in accordance with the NC Division of Public Health's Tuberculosis Policy Manual, incorporated herein by reference including any subsequent amendments and editions, and shall be free of active tuberculosis. This manual may be accessed free of charge at <http://epi.publichealth.nc.gov/cd/lhds/manuals/tb/toe.html>.~~ in compliance with the control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205 including subsequent amendments and editions.

*Authority G.S. 131D-6.1.*