



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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1711 New Hope Church Rd
Raleigh, NC 27609-6285

March 19, 2020

Nadine Pfeiffer, Rulemaking Coordinator
Medical Care Commission
Sent via email only to: nadine.pfeiffer@dhhs.nc.gov

Re: Extension of the Period of Review for Rules 10A NCAC 13F .0202, .0204, .0208, .0209, .0212; and 13G .0202, .0204, .0208, .0209, .0212, and .0213

Dear Ms. Pfeiffer:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rule in accordance with G.S. 150B-21.10. They did so in response to a request from the Medical Care Commission Committee to extend the period of review in order to allow the agency to address the requested technical changes and submit the revised rule at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to the rule or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amber May
Commission Counsel

Administration
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Burgos, Alexander N

Subject: FW: Request to extend the period of review - 10A NCAC 13F &G

From: Pfeiffer, Nadine <nadine.pfeiffer@dhhs.nc.gov>

Sent: Wednesday, March 11, 2020 12:01 PM

To: May, Amber Cronk <amber.may@oah.nc.gov>

Cc: Lamphere, Megan <megan.lamphere@dhhs.nc.gov>; Milliken, Emery <emery.milliken@dhhs.nc.gov>; Hamer, Tichina <Tichina.Hamer@dhhs.nc.gov>; Kinsey, Libby <libby.kinsey@dhhs.nc.gov>; Barrick, Doug <doug.barrick@dhhs.nc.gov>

Subject: Request to extend the period of review - 10A NCAC 13F &G

Amber,

We are requesting an extension of the period of review for the following rules: 10A NCAC 13F .0202, .0204, .0208, .0209, .0212; and 10A NCAC 13G .0202, .0204, .0208, .0209, .0212, and .0213. We are requesting the extension because we need additional time to address the technical change requests for these rules.

Thank you.

Nadine Pfeiffer

Rules Review Manager

Division of Health Service Regulation

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

Office: 919-855-3811

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Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .1902

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

On line 4, delete "clearly"

In Item (13), put "drug" in quotation marks since it is defined in this Rule.

In item (14), approved in accordance with what? Please provide the appropriate cross-reference to rule or statute.

In Item (15), approved by whom and in accordance with what?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .1902 is readopted as published in 34:06 NCR 473-481 as follows:

2
3 **10A NCAC 13B .1902 DEFINITIONS**

4 The following definitions shall apply throughout this Section, unless text otherwise clearly indicates to the contrary:

- 5 (1) "Accident" means something occurring by chance or without intention ~~which~~ that has caused
6 physical or mental harm to a patient, ~~resident~~ resident, or employee.
- 7 (2) "Administer" means ~~the direct application of a drug to the body of a patient by injection, inhalation,~~
8 ~~ingestion or other means. as defined in G.S. 90-87.~~
- 9 (3) "Administrator" means the person who has authority for and is responsible to the governing board
10 for the overall operation of a facility.
- 11 (4) "Brain injury long-term care" is defined as an interdisciplinary, intensive maintenance program for
12 patients who have incurred brain damage caused by external physical trauma and who have
13 completed a primary course of rehabilitative treatment and have reached a point of no gain or
14 progress for more than three consecutive months. Services are provided through a medically
15 supervised interdisciplinary process and are directed toward maintaining the individual at the
16 optimal level of physical, ~~eognitive~~ cognitive, and behavioral functioning.
- 17 ~~(5) "Capacity" means the maximum number of patient or resident beds which the facility is licensed to~~
18 ~~maintain at any given time. This number shall be determined as follows:~~
- 19 ~~(a) Bedrooms shall have minimum square footage of 100 square feet for a single bedroom and~~
20 ~~80 square feet per patient or resident in multi-bedded rooms. This minimum square footage~~
21 ~~shall not include space in toilet rooms, washrooms, closets, vestibules, corridors, and~~
22 ~~built-in furniture.~~
- 23 ~~(b) Dining, recreation and common use areas available shall total no less than 25 square feet~~
24 ~~per bed for skilled nursing and intermediate care beds and no less than 30 square feet per~~
25 ~~bed for adult care home beds. Such space must be contiguous to patient and resident~~
26 ~~bedrooms.~~
- 27 ~~(6)(5)~~ (5) "Combination Facility" means any hospital with nursing home beds ~~which~~ that is licensed to provide
28 more than one level of care such as a combination of intermediate care ~~and/or~~ and skilled nursing
29 care and adult care home care.
- 30 ~~(7) "Convalescent Care" means care given for the purpose of assisting the patient or resident to regain~~
31 ~~health or strength.~~
- 32 ~~(8)(6)~~ (6) "Department" means the North Carolina Department of Health and Human Services.
- 33 ~~(9)(7)~~ (7) "Director of Nursing" means the nurse who has authority and ~~direct~~ responsibility for all nursing
34 services and nursing care.
- 35 ~~(10)(8)~~ (8) "Dispense" means ~~preparing and packaging a prescription drug or device in a container and labeling~~
36 ~~the container with information required by state and federal law. Filling or refilling drug containers~~

1 with prescription drugs for subsequent use by a patient is "dispensing". Providing quantities of unit
 2 dose prescription drugs for subsequent administration is "dispensing", as defined in G.S. 90-87.

3 ~~(11)~~(9) "Drug" means substances:

4 ~~(a)~~ recognized in the official United States Pharmacopoeia, official National Formulary, or
 5 any supplement to any of them;

6 ~~(b)~~ intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in
 7 man or other animals;

8 ~~(c)~~ intended to affect the structure or any function of the body of man or other animals, i.e.,
 9 substances other than food; and

10 ~~(d)~~ intended for use as a component of any article specified in (a), (b), or (c) of this
 11 Subparagraph; but does not include devices or their components, parts, or accessories. as
 12 defined in G.S. 90-87.

13 ~~(12)~~(10) "Duly Licensed" means holding a current and valid license as required under the General Statutes of
 14 North Carolina.

15 ~~(13)~~ "Existing Facility" means a licensed facility; or a proposed facility, proposed addition to a licensed
 16 facility or proposed remodeled licensed facility that will be built according to plans and
 17 specifications which have been approved by the department through the preliminary working
 18 drawings stage prior to the effective date of this Rule.

19 ~~(14)~~ "Exit Conference" means the conference held at the end of a survey, inspection or investigation, but
 20 prior to finalizing the same, between the department's representatives who conducted the survey,
 21 inspection or investigation and the facility administration representative(s).

22 ~~(15)~~(11) "Incident" means an intentional or unintentional action, occurrence or happening ~~which~~ that is likely
 23 to cause or lead to physical or mental harm to a patient, ~~resident~~ resident, or employee.

24 ~~(16)~~(12) "Licensed Practical Nurse" means ~~a nurse who is duly licensed as a practical nurse under G.S. 90,~~
 25 ~~Article 9A.~~ as defined in G.S. 90-171.30 or G.S. 90-171.32.

26 ~~(17)~~ "Licensee" means the person, firm, partnership, association, corporation or organization to whom a
 27 license has been issued.

28 ~~(18)~~(13) "Medication" means drug as defined in ~~(42)~~ Item (9) of this Rule.

29 ~~(19)~~ "New Facility" means a proposed facility, a proposed addition to an existing facility or a proposed
 30 remodeled portion of an existing facility that is constructed according to plans and specifications
 31 approved by the department subsequent to the effective date of this Rule. ~~If determined by the~~
 32 ~~department that more than one half of an existing facility is remodeled, the entire existing facility~~
 33 ~~shall be considered a new facility.~~

34 ~~(20)~~(14) "Nurse Aide" means any individual providing nursing or nursing-related services to patients in a
 35 facility, and is not a licensed health professional, a qualified dietitian or someone who volunteers to
 36 provide such services without pay, and who is listed in a nurse aide registry approved by the
 37 Department.

1 ~~(21)~~(15) "Nurse Aide Trainee" means an individual who has not completed an approved nurse aide training
 2 course and competency evaluation and is demonstrating knowledge, while performing tasks ~~for~~
 3 ~~which that~~ they have been found proficient in by an instructor. These tasks shall be performed under
 4 the ~~direct~~ supervision of a registered nurse. The term does not apply to volunteers.

5 ~~(22)~~(16) "Nursing Facility" means that portion of a nursing home certified under Title XIX of the Social
 6 Security Act (Medicaid) as in compliance with federal program standards for nursing facilities. It
 7 is often used ~~as~~ synonymous with the term "nursing ~~home~~" home, ~~which is~~ the usual prerequisite
 8 level for state licensure for nursing facility (NF) certification and Medicare skilled nursing facility
 9 (SNF) certification.

10 ~~(23)~~(17) "Nurse in Charge" means the nurse to whom duties for a specified number of patients and staff for
 11 a specified period of time have been delegated, such as for Unit A on the 7-3 or 3-11 shift.

12 ~~(24)~~(18) "On Duty" means personnel who are awake, dressed, and responsive to patient needs and ~~physically~~
 13 present in the facility performing assigned duties.

14 ~~(25)~~(19) "Patient" means any person admitted for care to a skilled nursing or intermediate care facility.

15 ~~(26)~~(20) "Physician" means ~~a person licensed under G.S. Chapter 90, Article 1 to practice medicine in North~~
 16 ~~Carolina, as defined in G.S. 90-9.1 or G.S. 90-9.2.~~

17 ~~(27)~~(21) "Qualified Dietitian" means ~~a person who meets the standards and qualifications established by the~~
 18 ~~Committee on Professional Registration of the American Dietetic Association included in~~
 19 ~~"Standards of Practice" seven dollars and twenty five cents (\$7.25) or "Code of Ethics for the~~
 20 ~~Profession of Dietetics" two dollars and fifteen cents (\$2.15), American Dietetic Association, 216~~
 21 ~~W. Jackson Blvd., Chicago, IL 60606-6995, as defined in 42 CFR 483.60(a)(1), herein incorporated~~
 22 ~~by reference including subsequent amendments and editions. Electronic copies of 42 CFR 483.60~~
 23 ~~can be obtained free of charge at [https://www.ecfr.gov/cgi-bin/text-](https://www.ecfr.gov/cgi-bin/text-idx?SID=1260800a39929487f0ca55b0ab5e710b&mc=true&tpl=/ecfrbrowse/Title42/42cfrv5_02.t

 24 <a href=)~~
 25 ~~[pl#0.](https://www.ecfr.gov/cgi-bin/text-idx?SID=1260800a39929487f0ca55b0ab5e710b&mc=true&tpl=/ecfrbrowse/Title42/42cfrv5_02.t)~~

26 ~~(28)~~(22) "Registered Nurse" means ~~a nurse who is duly licensed as a registered nurse under~~ as defined in
 27 G.S. 90, Article 9A.

28 ~~(29)~~(23) "Resident" means ~~any person admitted for care to an adult care home, as defined in G.S.131D-2.1.~~

29 ~~(30)~~ "Sitter" means ~~an individual employed to provide companionship and social interaction to a~~
 30 ~~particular resident or patient, usually on a private duty basis.~~

31 ~~(31)~~(24) "Supervisor-in-Charge" means a duly licensed nurse to whom supervisory duties have been
 32 delegated by the Director of Nursing.

33 ~~(32)~~(25) "Ventilator dependence" means physiological dependency by a patient on the use of a ventilator for
 34 more than eight hours a day.

36 *History Note:* *Filed as a Temporary Amendment Eff. October 1, 1990 For a Period of 142 Days to Expire on*
 37 *February 28, 1991;*

1 *Authority G.S. 131E-79;*
2 *Eff. February 1, 1986;*
3 *Amended Eff. February 1, 1993; December 1, 1991; March 1, 1991; March 1, ~~1990.~~ 1990.*
4 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .1915

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

What is the difference between “person to be in charge” in (a) and a “person on duty” in (b)? Are these the same? If so, please use consistent language. If not, please clarify the difference. I note that “on duty” is defined in .1902, but “in charge” seems to refer to a nurse.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .1915 is readopted as published in 34:06 NCR 473-481 as follows:

2

3 **10A NCAC 13B .1915 ADULT CARE HOME PERSONNEL REQUIREMENTS**

4 (a) The administrator shall designate a person to be in charge of the adult care home residents at all times. The nurse
5 in charge of nursing services may also serve as supervisor-in-charge of the adult care home beds.

6 (b) If adult care home beds are located in a separate building or a separate level of the same building, there ~~must~~ shall
7 be a person on duty in the adult care home areas at all times.

8 (c) A licensed facility shall provide ~~sufficient~~ staff to assure that activities of daily living, personal grooming, and
9 assistance with eating are provided to each resident. Medication administration as indicated by each resident's
10 condition or physician's orders shall be carried out as identified in each resident's plan of care.

11 (d) Adult care home facilities (~~Home for the Aged beds~~) licensed as a part of a combination facility shall comply with
12 the staffing requirements of ~~10A NCAC 42D .1407 as adopted by the Social Services Commission for freestanding~~
13 ~~adult care homes.~~ in 10A NCAC 13F .0605 herein incorporated by reference including subsequent amendments and
14 editions.

15

16 *History Note:* *Filed as a Temporary Amendment Eff. October 1, 1990 For a Period of 142 Days to Expire on*
17 *February 28, 1991;*

18 *Authority G.S. 131E-79; 42 U.S.C. 1396 r (a);*

19 *Eff. February 1, 1986;*

20 *Amended Eff. March 1, ~~1991~~ 1991;*

21 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .1918

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (d), what is meant by “unless otherwise prohibited”? By what?

On line 16, what is a “skills check off record”?

In (e), what is the 75 hour training program

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .1918 is readopted as published in 34:06 NCR 473-481 as follows:

2

3 **10A NCAC 13B .1918 TRAINING**

4 (a) A licensed facility shall provide ~~for all~~ patient or resident care employees a planned orientation and continuing
5 education program emphasizing patient or resident assessment and planning, activities of daily living, personal
6 grooming, rehabilitative nursing or restorative care, other patient or resident care policies and procedures, patients'
7 rights, and staff performance expectations. Attendance and subject matter covered shall be documented for each
8 ~~session~~ session, retained in accordance with policy established by the facility, and available for licensure inspections.

9 (b) The administrator shall assure that ~~each employee is~~ employees are oriented within the first week of employment
10 to the facility's philosophy and goals.

11 (c) ~~Each employee~~ Employees shall have specific on-the-job training as necessary ~~for the employee to properly~~
12 perform ~~his~~ their individual job assignment.

13 (d) Unless otherwise prohibited, a nurse aide trainee may be employed to perform the duties of a nurse aide for a
14 period of time not to exceed four months. During this period of time the nurse aide trainee shall be permitted to
15 perform only those tasks ~~for which minimum acceptable~~ that competence has been demonstrated and documented on
16 a skills check-off record. ~~Job applicants for nurse aide positions who were formerly qualified nurse aides but have not~~
17 ~~been gainfully employed as such for a period of 24 consecutive months or more shall be employed only as nurse aide~~
18 ~~trainees and must re-qualify as nurse aides within four months of hire by successfully passing an approved competency~~
19 ~~evaluation. Any individual, nursing home, or education facility may offer Department approved vocational education~~
20 ~~for nursing home nurse aides. An accurate record~~ Nurse aide I shall meet the training and competency evaluation
21 standards in 10A NCAC 13O .0301, incorporated herein by reference including subsequent amendments and editions.
22 A record of nurse aide qualifications shall be maintained for each nurse aide used by a facility and shall be retained in
23 the general personnel files of the facility. facility in accordance with policy established by the facility.

24 (e) ~~The curriculum content required for nurse aide education programs shall be subject to approval by the Division~~
25 ~~of Health Service Regulation and shall include, as a minimum, basic nursing skills, personal care skills, cognitive,~~
26 ~~behavioral and social care, basic restorative services, and patients' rights. Successful course completion shall be~~
27 ~~determined by passing a competency evaluation test. The minimum number of course hours shall be 75 of which at~~
28 ~~least 20 hours shall be classroom and at least 40 hours of supervised practical experience. The initial orientation to the~~
29 facility shall be exclusive of the 75 hour training program. Competency evaluation shall be conducted in each of the
30 following areas:

- 31 (1) Observation and documentation,
32 (2) Basic nursing skills,
33 (3) Personal care skills,
34 (4) Mental health and social service needs,
35 (5) Basic restorative services, and
36 (6) Residents' Rights.

1 ~~(f) Successful course completion and skill competency shall be determined by competency evaluation approved by~~
2 ~~the Department. Commencing July 1, 1989, nurse aides who had formerly been fully qualified under nurse aide~~
3 ~~training requirements may re-establish their qualifications by successfully passing a competency evaluation test.~~

4
5 *History Note: Filed as a Temporary Rule Eff. October 1, 1990 For a Period of 142 Days to Expire on February*
6 *28, 1991;*

7 *Authority G.S. 131E-79; 42 U.S.C. 1396 r (b)(5);*

8 *Eff. February 1, 1986;*

9 *Amended Eff. March 1, 1991; March 1, ~~1990~~ 1990;*

10 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .1925

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

I think that it's probably fine, but I want to be sure that I understand – facilities have to have the required space set forth in (a) without counting any of the areas included in (b)?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .1925 is readopted as published in 34:06 NCR 473-481 as follows:

2

3 **10A NCAC 13B .1925 REQUIRED SPACES**

4 ~~The total space requirements shall be those set forth in Rule .1902(5) of this Section. Physical therapy and~~
 5 ~~occupational therapy space shall not be included in these totals.~~

6 (a) A combination or nursing facility shall meet the following requirements for bedrooms, dining, recreation, and
 7 common use areas:

8 (1) single bedrooms shall be provided with not less than 100 square feet of floor area;

9 (2) bedrooms with more than one bed shall be provided with not less than 80 square feet of floor area
 10 per bed;

11 (3) dining, recreation, and common use areas shall:

12 (A) total not less than 25 square feet of floor area per bed for skilled nursing and intermediate
 13 care beds;

14 (B) total not less than 30 square feet of floor area per bed for adult care home beds; and

15 (C) be contiguous to patient and resident bedrooms.

16 (b) Floor space for the following rooms, areas, and furniture shall not be included in the floor areas required by
 17 Paragraph (a) of this Rule:

18 (1) toilet rooms;

19 (2) vestibules;

20 (3) bath areas;

21 (4) closets;

22 (5) lockers;

23 (6) built-in furniture;

24 (7) movable wardrobes;

25 (6) corridors; and

26 (7) areas for physical and occupational therapy.

27

28 *History Note: Authority G.S. 131E-79;*

29 *Eff. February 1, 1986. 1986;*

30 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .3001

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

On line 5, delete "clearly"

In Item (1), what professional organizations? Would it make sense to provide some examples?

In Item (4), what is meant by "well; skill; ability"? Is this missing a word?

I don't see that Items (5), (18), (23), and (28) are used throughout this Subchapter. Are they necessary?

What is meant by the definition of Item (5)? Delete or define "completely", "inclusive", and "large."

In Item (9), should "as defined in" be something like "who meets the criteria set forth in"? Same question for Item (13), (30), and (39).

In Item (10), delete or define "primarily"

I don't see "DTR" defined in 90-352. Please review and revise as necessary.

In Item (15), delete or define "immediate"

In Item (25), please delete or define "regularly", "routinely", and "active."

In (28), I don't understand the cross-reference to 90-8.2 or 90-18(14). Here, do you mean "approved under the provisions of G.S. 90-18(c)(14)?"

In (29) I'm not sure that I understand the cross-reference to 21 NCAC 36 .0109. Is this the correct cross-reference.

In Item (30), please change the cross-reference to 90-171.21(d)(4).

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .3001 is readopted as published in 34:06 NCR 473-481 as follows:

2
3 **10A NCAC 13B .3001 DEFINITIONS**

4 Notwithstanding Section .1900 of this Subchapter, The the following definitions shall apply throughout this Section
5 Subchapter unless the context clearly indicates to the contrary:

- 6 (1) "Appropriate" means suitable or fitting, or conforming to standards of care as established by
7 professional organizations.
- 8 (2) "Authority having jurisdiction" means the Division of Health Service Regulation.
- 9 (3) "Certified Dietary Manager" or "CDM" means an individual who is certified by the Certifying Board
10 of the Dietary Managers and meets the standards and qualification as referenced in the "Dietary
11 Manager Training Program Requirements." These standards include any subsequent amendments
12 and editions of the referenced manual. Copies of the "Dietary Manager Training Program
13 Requirements" may be ~~purchased for fifteen dollars (\$15.00) from the Dietary Managers~~
14 ~~Association, 406 Surry Woods Dr., St. Charles, IL 60174.~~ obtained free of charge at
15 <https://www.cbdmonline.org/>.
- 16 (4) "Competence" means the state or quality of being able to perform specific functions well; skill;
17 ability.
- 18 (5) "Comprehensive" means covering completely, inclusive; large in scope or content.
- 19 ~~(6)~~ "Construction documents" means final building plans and specifications for the construction of a
20 facility that a governing body submits to the Construction Section for approval as specified in Rule
21 .3102 of this Subchapter.
- 22 ~~(7)~~ "Construction Section" means the Construction Section of the Division of Health Service
23 Regulation.
- 24 ~~(6)(8)~~ "Continuous" means ongoing or uninterrupted, 24 hours per day.
- 25 ~~(7)(9)~~ "CRNA" means a Certified Registered Nurse Anesthetist as ~~eredentialed by the Council on~~
26 ~~Certification of Nurse Anesthetists and recognized by the Board of Nursing in 21 NCAC 36 .0226.~~
27 ~~defined in G.S. 90-171.21(d)(4).~~
- 28 ~~(8)(10)~~ "Credentialed" means that the individual having a given title or position has been credited with the
29 right to exercise official responsibilities to provide specific patient care and treatment services,
30 within defined limits, based primarily upon the individual's license, education, training, experience,
31 competence, and judgment.
- 32 ~~(9)(11)~~ "Department" means the Department of Health and Human Services.
- 33 ~~(10)(12)~~ "Dietetics" means ~~the integration and application of principles derived from the science of nutrition,~~
34 ~~biochemistry, physiology, food and management and from behavioral and social sciences to achieve~~
35 ~~and maintain optimal nutritional status. as defined in G.S. 90-352.~~
- 36 ~~(11)(13)~~ "Dietitian" means ~~an individual who is licensed according to as defined in G.S. 90, Article 25, or is~~
37 ~~registered by the Commission on Dietetic Registration (CDR) of the American Dietetic Association~~

(ADA) according to the standards and qualifications as referenced in the second edition of the "Accreditation/Approval Manual for Dietetic Education Programs", "The Registration Eligibility Application for Dietitians" and the "Continuing Professional Education" and subsequent amendments or editions of the reference material. Copies of the "Accreditation/Approval Manual for Dietetic Education Programs" may be purchased for twenty one dollars and ninety five cents (\$21.95) plus three dollars (\$3.00) minimum shipping and handling from ADA 216 W. Jackson Blvd., Chicago, IL 60606 9 6995. Article 25.

~~(13)~~(14) "Dietetic Technician Registered" or "DTR" means ~~an individual who is registered by the Commission on Dietetic Registration (CDR) of the American Dietetic Association (ADA) according to the standards and qualifications as referenced in the second edition of the "Accreditation/Approval Manual for Dietetic Education Programs" which is incorporated by reference including any subsequent amendments and editions. Copies of the "Accreditation/Approval Manual for Dietetic Education Programs" may be purchased for twenty one dollars and ninety five cents (\$21.95) plus three dollars (\$3.00) minimum for shipping and handling from the ADA 216 W. Jackson Blvd., Chicago, IL 60606 9 6995. as defined in G.S. 90-352.~~

~~(13)~~(15) "Direct Supervision" means the state of being under the immediate control of a supervisor, manager, or other person of authority.

~~(14)~~(16) "Division" means the Division of Health Service Regulation.

~~(15)~~(17) "Facility" means a hospital as defined in G.S. 131E-76.

~~(16)~~(18) "Free standing facility" means a facility that is physically separated from the primary hospital building or separated by a three hour fire containment wall.

~~(17)~~(19) "Full-time equivalent" means a unit of measure of employee work time that is equal to the number of hours that one full-time employee would work during one calendar year if the employee worked eight hours a day, five days a week, and 52 weeks a year; i.e. 2,080 hours per year.

~~(18)~~(20) "Governing body" means the authority as defined in G.S. 131E-76.

~~(19)~~(21) "Imaging" means a reproduction or representation of a body or body part for diagnostic purposes by radiologic intervention that may include conventional fluoroscopic exam, magnetic resonance, nuclear or radio-isotope scan.

~~(20)~~(22) "Invasive procedure" means a procedure involving puncture or incision of the skin, insertion of an instrument or foreign material into the body (excluding venipuncture and intravenous therapy).

~~(21)~~(23) "LDRP" (labor, delivery, recovery, post-partum) means a specific single occupancy obstetrical use room counted as a licensed bed.

~~(22)~~(24) "License" means formal permission to provide services as granted by the State.

~~(23)~~(25) "Medical staff" means the formal organization that is comprised of ~~all of these~~ individuals who have sought and obtained clinical privileges in a facility. Those members of the medical staff who regularly and routinely admit patients to a facility constitute the active medical staff.

- 1 ~~(24)~~(26) "Mission statement" means a written statement of the philosophy and beliefs of the organization or
 2 hospital as approved by the governing body.
- 3 ~~(25)~~(27) "Neonate" means the newborn from birth to one month.
- 4 ~~(26)~~(28) "NP" means a Nurse Practitioner as defined in ~~G.S. 90-6; G.S. 90-8.2, 90-18(14)~~ 90-18(14), and 90-
 5 18.2.
- 6 ~~(27)~~(29) "Nurse executive" means ~~a registered nurse who is the director of nursing services or a~~
 7 ~~representative of decentralized nursing management staff.~~ as defined in Rule 21 NCAC 36 .0109.
- 8 ~~(28)~~(30) "Nurse midwife" means ~~a Certified Nurse Midwife as defined in G.S. 90, Article 10, G.S.90-171.21~~
 9 ~~(4).~~
- 10 ~~(29)~~(31) "Nursing facility" means ~~that portion of a hospital that is approved to provide skilled nursing care.~~
 11 ~~as defined in G.S. 131E-116 (2).~~
- 12 ~~(30)~~(32) "Nursing staff" means the registered nurses, licensed practical nurses, nurse aides, and others under
 13 nurse supervision, who provide ~~direct~~ patient care. The term also includes clerical personnel who
 14 work in clinical areas under nurse supervision.
- 15 ~~(33)~~ "Nutrition and Dietetic Technician Registered" means as defined by the Academy of Nutrition and
 16 Dietetics. A copy of the requirements can be obtained at [https://www.eatrightpro.org/about-us/what-](https://www.eatrightpro.org/about-us/what-is-an-rdn-and-dtr/what-is-a-nutrition-and-dietetics-technician-registered)
 17 is-an-rdn-and-dtr/what-is-a-nutrition-and-dietetics-technician-registered at no cost.
- 18 ~~(31)~~(34) "Nutrition therapy" ranges from intervention and counseling on diet modification to administration
 19 of specialized nutrition therapies as determined necessary to manage a condition or treat illness or
 20 injury. Specialized nutrition therapies include supplementation with medical foods, enteral and
 21 parenteral nutrition. Nutrition therapy integrates information from the nutrition assessment with
 22 information on food and other sources of nutrients and meal preparation consistent with cultural
 23 background and socioeconomic status.
- 24 ~~(32)~~(35) "Observation bed" means a bed used for no more than 24-hours, to evaluate and determine the
 25 condition and disposition of a patient and is not considered a part of the hospital's licensed bed
 26 capacity.
- 27 ~~(33)~~(36) "Patient" means any person receiving diagnostic or medical services at a hospital.
- 28 ~~(34)~~(37) "Pharmacist" means ~~a person licensed according to G.S. 90, Article 4A, by the N.C. Board of~~
 29 ~~Pharmacy to practice pharmacy.~~ as defined in G.S. 90-85.3.
- 30 ~~(35)~~(38) "Physical Rehabilitation Services" means any combination of physical therapy, occupational
 31 therapy, speech ~~therapy~~ therapy, or vocational rehabilitation.
- 32 ~~(36)~~(39) "Physician" means ~~a person licensed according to G.S. 90, Article 1, by the N.C. Board of Medical~~
 33 ~~Examiners to practice medicine.~~ as defined in G.S.90-9.1 or G.S. 90-9.2.
- 34 ~~(37)~~(40) "Provisional license" means a hospital license recognizing ~~significantly~~ less than full compliance
 35 with the licensure rules.
- 36 ~~(38)~~(41) "Qualified" means having complied with the specific conditions for employment or the performance
 37 of a function.

1 ~~(39)~~(42) "Reference" means to use in consultation to obtain information.

2 ~~(40)~~(43) "Special Care Unit" means a ~~designated~~ unit or area of a hospital ~~with a concentration of qualified~~
3 ~~professional staff and support services that provide intensive or extra-ordinary care on a 24 hour~~
4 ~~basis to critically ill patients; these units may include but are not limited to Cardiac Care, Medical~~
5 ~~or Surgical Intensive Care Unit, Cardiothoracic Intensive Care Unit, Burn Intensive Care Unit,~~
6 ~~Neurologic Intensive Care Unit or Pediatric Intensive Care Unit.~~ that includes a critical care unit, an
7 intermediate care unit, or a pediatric care unit.

8 ~~(41)~~(44) "Unit" means a designated area of the hospital for the delivery of patient care services.

9
10 *History Note: Authority G.S. 131E-79;*
11 *RRC Objection due to lack of Statutory Authority Eff. July 13, 1995;*
12 *Eff. January 1, ~~1996~~. 1996;*
13 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .3101

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), just to make sure that I understand, just an application is necessary before patients are admitted? They don't need to be approved and obtain a license?

In (b), are the approval standards set forth elsewhere in rule or statute? If not, please provide some additional information on how approval will be determined.

In (c), is the application available on the website?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .3101 is readopted as published in 34:06 NCR 473-481 as follows:

2

3 **10A NCAC 13B .3101 GENERAL REQUIREMENTS**

4 (a) An application for licensure shall be submitted to the Division prior to a license being issued or patients admitted.

5 (b) An existing facility shall not sell, ~~lease~~ lease, or subdivide a portion of its bed capacity without the approval of
6 the Division.

7 (c) Application forms may be obtained by contacting the Division.

8 (d) The Division shall be notified in writing 30 days prior to the occurrence of any of the following:

9 (1) addition or deletion of a licensable service;

10 (2) increase or decrease in bed capacity;

11 (3) change of chief executive officer;

12 (4) change of mailing address;

13 (5) ownership change; or

14 (6) name change.

15 (e) Each application shall contain the following information:

16 (1) legal identity of applicant;

17 (2) name or names ~~under which used to present~~ used to present the hospital or services ~~are presented~~ to the public;

18 (3) name of the chief executive officer;

19 (4) ownership disclosure;

20 (5) bed complement;

21 (6) bed utilization data;

22 (7) accreditation data;

23 (8) physical plant inspection data; and

24 (9) service data.

25 (f) A license shall include only facilities or premises within a single county.

26

27 *History Note: Authority G.S. 131E-79;*

28 *Eff. January 1, 1996;*

29 *Amended Eff. April 1, 2003- 2003;*

30 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .3110

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

*In (a), is the requirement that a patient may request an itemized bill for **whichever is the longer** of 3 years or however long the patient has an obligation to pay the bill?*

In (a) and (b), what is meant by "shall present"? Do they have to just make it available (as in you can come to my office and look) or do they have to actually give the patient a bill?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .3110 is readopted as published in 34:06 NCR 473-481 as follows:

2

3 **10A NCAC 13B .3110 ITEMIZED CHARGES**

4 (a) The facility shall ~~either~~ present an itemized list of charges to ~~all~~ discharged patients or the facility shall include
5 on patients' bills that are not itemized, notification of the right to request an itemized bill within three years of receipt
6 of the non-itemized bill or so long as the hospital, a collections agency, or other assignee asserts the patient has an
7 obligation to pay the bill.

8 (b) If requested, the facility shall present an itemized list of charges to ~~each~~ the patient or the patient's representative.
9 This list shall detail in language comprehensible to an ordinary layperson the specific nature of the charges or expenses
10 incurred by the patient.

11 (c) The itemized listing shall include each specific chargeable item or service in the following service areas:

- 12 (1) room ~~rate~~ rate;
- 13 (2) laboratory;
- 14 (3) radiology and nuclear medicine;
- 15 (4) surgery;
- 16 (5) anesthesiology;
- 17 (6) pharmacy;
- 18 (7) emergency services;
- 19 (8) outpatient services;
- 20 (9) specialized care;
- 21 (10) extended care;
- 22 (11) prosthetic and orthopedic appliances; and
- 23 (12) professional services provided by the facility.

24

25 *History Note: Authority G.S. 131E-79; 131E-91; ~~S.L. 2013-382, s. 13.1;~~*

26 *Eff. January 1, 1996;*

27 *Temporary Amendment Eff. May 1, 2014;*

28 *Amended Eff. November 1, ~~2014.~~ 2014;*

29 *Readopted Eff. April 1, 2020.*

1 10A NCAC 13B .3204 is readopted as published in 34:06 NCR 473-481 as follows:

2

3 **10A NCAC 13B .3204 TRANSFER AGREEMENT**

4 (a) Any facility ~~which~~ that does not provide hospital based nursing facility service shall maintain written agreements
5 with institutions offering this kind of care. Such agreements shall provide for the transfer and admission of patients
6 who no longer require the services of the hospital but do require nursing facility services.

7 (b) A patient shall not be transferred to another medical care facility unless prior arrangements for admission have
8 been made. Clinical records ~~of sufficient content~~ to provide continuity of care shall accompany the patient.

9

10 *History Note: Authority G.S. 131E-79;*
11 *Eff. January 1, ~~1996~~. 1996;*
12 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .3205

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

What is meant by "cannot legally consent"? Those under 18 or those deemed incompetent?

On line 5, what is "another competent adult"? What is the intent of lines 5-6? I'm struggling with the "unless otherwise directed..." Is this intended to only get to "another competent adult" if a parent or guardian is not available? Please review and clarify. Perhaps it would be more clear to break this out into two sentences?

On line 7, please change "they" to "he or she" since you've used a singular parent or guardian.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .3205 is readopted as published in 34:06 NCR 473-481 as follows:

2

3 **10A NCAC 13B .3205 DISCHARGE OF MINOR OR INCOMPETENT**

4 ~~Any individual~~ Individuals who cannot legally consent to his or her own care shall be discharged ~~only~~ to the custody
5 of parents, legal guardian, person standing in loco parentis, or another competent adult unless otherwise directed by
6 the parent or ~~guardian~~ guardian, or court of competent jurisdiction. If the parent or guardian directs that discharge be
7 made otherwise, ~~he~~ they shall so state in writing, and the statement shall become a part of the permanent medical
8 record of the patient.

9

10 *History Note: Authority G.S. 131E-79;*
11 *Eff. January 1, ~~1996~~. 1996;*
12 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .3302

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

Is the first sentence necessary (“This Rule does not apply... pursuant to G.S. 131E-117”)? Rule .3001 defines “facility” as a “hospital as defined in G.S. 131E-76.” Is it possible that a nursing facility could fall in the definition of a “hospital”? If so, please consider revising this to say something like “Except for patients in a licensed nursing facility, a patient shall have the following rights.”

On line 5, what is a “facility subject to this Rule”? I assume hospitals based on the definition in .3001?

In (1), delete or define “respectful” and “competent”

In (2), delete or define “directly” and “direct”

In (2), please change “his” to “his or her” on line 7.

In (3), delete or define “discreetly.” Is “and shall be conducted discreetly” necessary? Are there requirements regarding confidentiality set forth otherwise in Rule or CFR?

In (7), delete or define “full”

On line 21, change “his” to “his or her”

In (9), is the CFR fully incorporated by reference elsewhere in rule?

What is the intent of lines 16-20? What is your authority to require OAH to publish this information in the NC Register?

In (10), what is meant by “to the extent permitted by law”?

In Item (14), what is meant by “except as otherwise provided by law or third party contractual agreements”?

On line 36, what is “sound medical reason”?

Amber May
Commission Counsel

Date submitted to agency: Monday, March 2, 2020

On line 36, by "may" do you mean "shall"? It very well may be "may", I just want to be sure.

On line 20, delete or define "full"

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .3302 is readopted as published in 34:06 NCR 473-481 as follows:

2
3 **10A NCAC 13B .3302 MINIMUM PROVISIONS OF PATIENT'S BILL OF RIGHTS**

4 This Rule does not apply to patients in licensed nursing facility beds since these individuals are granted rights pursuant
5 to G.S. 131E-117. A patient in a facility subject to this Rule has the following rights:

- 6 (1) A patient has the right to respectful care given by competent personnel.
- 7 (2) A patient has the right, upon request, to be given the name of his attending physician, the names of
8 all other physicians directly participating in his or her care, and the names and functions of other
9 health care persons having direct contact with the patient.
- 10 (3) A patient has the right to privacy concerning his or her own medical care program. Case discussion,
11 consultation, examination, and treatment are considered confidential and shall be conducted
12 discreetly.
- 13 ~~(4) A patient has the right to have all records pertaining to his medical care treated as confidential except~~
14 ~~as otherwise provided by law or third party contractual arrangements.~~
- 15 ~~(5)~~(4) A patient has the right to know what facility rules and regulations apply to his or her conduct as a
16 patient.
- 17 ~~(6)~~(5) A patient has the right to expect emergency procedures to be implemented without ~~unnecessary~~
18 delay.
- 19 ~~(7)~~(6) A patient has the right to ~~good~~ quality care and ~~high~~ professional standards that are ~~continually~~
20 maintained and reviewed.
- 21 ~~(8)~~(7) A patient has the right to full information in laymen's terms, concerning his diagnosis, treatment and
22 prognosis, including information about alternative treatments and possible complications. When it
23 is not possible or medically advisable to give such information to the patient, the information shall
24 be given on his or her behalf to the patient's designee.
- 25 ~~(9)~~ (8) Except for emergencies, a physician must obtain ~~necessary~~ informed consent prior to the start of
26 any procedure or ~~treatment, or both.~~ treatment.
- 27 ~~(10)~~ (9) A patient has the right to be advised when a physician is considering the patient as a part of a medical
28 care research program or donor program. Informed consent ~~must shall~~ be obtained prior to ~~actual~~
29 participation in such a ~~program and the program.~~ program. The patient or legally responsible party, may, at
30 ~~any time, party may~~ refuse to continue in any ~~such~~ program ~~to which that~~ that he or she has previously
31 given informed consent. An Institutional Review Board (IRB) may waive or alter the informed
32 consent requirement if it reviews and approves a research study in ~~accord~~ accordance with federal
33 regulations for the protection of human research subjects including U.S. Department of Health and
34 Human Services (HHS) regulations under 45 CFR Part 46 and U.S. Food and Drug Administration
35 (FDA) regulations under 21 CFR Parts 50 and 56. For any research study proposed for conduct
36 under an FDA "Exception from Informed Consent Requirements for Emergency Research" or an
37 HHS "Emergency Research Consent Waiver" ~~in which that waives~~ in which that waives informed consent ~~is waived~~ but

community consultation and public disclosure about the research are required, any facility proposing to be engaged in the research study shall also ~~must~~ verify that the proposed research study has been registered with the North Carolina Medical Care Commission. When the IRB ~~reviewing the research study~~ has authorized the start of the community consultation process required ~~by the federal regulations~~ for emergency research, but before the beginning of that process, notice of the proposed research study ~~by the facility~~ shall be provided to the North Carolina Medical Care Commission.

The notice shall include:

- (a) the title of the research study;
- (b) a description of the research study, including a description of the population to be enrolled;
- (c) a description of the planned community consultation process, including ~~currently~~ proposed meeting dates and times;
- (d) ~~an explanation of the way that people choosing not to participate in~~ instructions for opting out of the research study may opt out; study; and
- (e) contact information including mailing address and phone number for the IRB and the principal investigator.

The Medical Care Commission may publish all or part of the above information in the North Carolina Register, and may require the institution proposing to conduct the research study to attend a public meeting convened by a Medical Care Commission member in the community where the proposed research study is to take place to present and discuss the study or the community consultation process proposed.

~~(14)~~ (10) A patient has the right to refuse any drugs, treatment or procedure offered by the facility, to the extent permitted by law, and a physician shall inform the patient of his or her right to refuse any drugs, treatment or procedures and of the medical consequences of the patient's refusal of any drugs, treatment or procedure.

~~(12)~~ (11) A patient has the right to assistance in obtaining consultation with another physician at the patient's request and expense.

~~(13)~~ (12) A patient has the right to medical and nursing services without discrimination based upon race, color, religion, sex, sexual orientation, gender identity, national origin or source of payment.

~~(14)~~ (13) A patient who does not speak English shall have ~~access, when possible,~~ access to an interpreter.

~~(15)~~ (14) ~~A facility shall provide a patient, or patient designee, upon request, access to all information contained in the patient's medical records. A patient or his or her designee has the right to have all records pertaining to his or her medical care treated as confidential except as otherwise provided by law or third party contractual arrangements.~~ A patient's access to medical records may be restricted by the patient's attending physician. If the physician restricts the patient's access to information in the patient's medical record, the physician shall record the reasons on the patient's medical record. Access shall be restricted only for sound medical reason. A patient's designee may have access to

1 the information in the patient's medical records even if the attending physician restricts the patient's
2 access to those records.

3 ~~(16)~~ (15) A patient has the right not to be awakened by hospital staff unless it is medically necessary.

4 ~~(17)~~ (16) The patient has the right to be free from duplication of medical and nursing procedures as determined
5 by the attending physician.

6 ~~(18)~~ (17) The patient has the right to medical and nursing treatment that avoids unnecessary physical and
7 mental discomfort.

8 ~~(19)~~ (18) When medically permissible, a patient may be transferred to another facility only after he or his next
9 of kin or other legally responsible representative has received complete information and an
10 explanation concerning the needs for and alternatives to such a transfer. The facility ~~to which~~ that
11 the patient is to be transferred must first have accepted the patient for transfer.

12 ~~(20)~~ (19) The patient has the right to examine and receive a detailed explanation of his bill.

13 ~~(21)~~ (20) The patient has a right to full information and counseling on the availability of known financial
14 resources for his health care.

15 ~~(22)~~ (21) A patient has the right to be informed upon discharge of his or her continuing health care
16 requirements following discharge and the means for meeting them.

17 ~~(23)~~ (22) A patient shall not be denied the right of access to an individual or agency who is authorized to act
18 on his or her behalf to assert or protect the rights set out in this Section.

19 ~~(24)~~ (23) A patient has the right to be informed of his rights at the earliest possible time in the course of his
20 or her hospitalization.

21 ~~(25)~~ (24) A patient has the right to designate visitors who shall receive the same visitation privileges as the
22 patient's immediate family members, regardless of whether the visitors are legally related to the
23 patient.

24
25 *History Note:* Authority G.S. 131E-75; 131E-79; 143B-165;
26 RRC Objection due to ambiguity Eff. July 13, 1995;
27 Eff. January 1, 1996;
28 Temporary Amendment Eff. April 1, 2005;
29 Amended Eff. January 1, 2011; May 1, 2008; November 1, ~~2005~~; 2005;
30 Readopted Eff. April 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .3303

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), delete or define "prominent"

In (a)(2), by "provision", do you mean "providing"? (or provided to match displayed)

In (b), what is the Section in the Department? Please provide some additional information.

In (b), what is "this Part"? Do you mean this Rule?

In (c), delete or define "formal" What's the practical difference in a "formal written complaint" and a "written complaint"? Also, in (c)(3), is this the written complaint (it just says "formal complaint")?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .3303 is readopted as published in 34:06 NCR 473-481 as follows:

2

3 **10A NCAC 13B .3303 PROCEDURE**

4 (a) The facility shall develop and implement procedures to inform ~~each patient~~ patients of his or her rights. Copies
5 of the facilities' Patient's Bill of Rights shall be made available through one of the following ways:

6 (1) displayed in prominent ~~displays in appropriate~~ locations in addition to copies available upon request;
7 or

8 (2) provision of a copy to each patient or responsible party upon admission or as soon after admission
9 as is feasible.

10 (b) The address and telephone number of the section in the Department responsible for the enforcement of the
11 provisions of this part shall be posted.

12 (c) The facility shall adopt procedures to ensure ~~effective and fair~~ a comprehensive investigation of violations of
13 patients' rights and to ensure their enforcement. These procedures shall ensure that:

14 (1) a system is established to identify formal written complaints;

15 (2) formal written complaints are recorded and investigated;

16 (3) investigation and resolution of formal complaints shall be conducted; and

17 (4) disciplinary and education procedures shall be developed for members of the hospital and medical
18 staff who are noncompliant with facility policies.

19 (d) The Division shall investigate or refer to ~~appropriate~~ other State agencies all complaints within the jurisdiction of
20 the rules in this Subchapter.

21

22 *History Note: Authority G.S. 131E-79;*

23 *Eff. January 1, ~~1996~~. 1996;*

24 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .5412

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

Should this Rule be formatted with Paragraphs? It doesn't look like Items (1) through (4) modify or detail lines 4-6. They all look to be separate requirements.

In Item (1), what does it mean that "the facility shall have access to special equipment"? Does this have to be in the facility? In the same room? In a partner facility in the same county?

In Item (1), delete or define "special" in "special equipment" It looks like you've deleted the language that provides the detail to give "special" some meaning. Adding that language back in would provide some meaning to this requirement.

What is the intent of Item (4)? What is meant by "comprehensive, dedicated"?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .5412 is readopted as published in 34:06 NCR 473-481 as follows:

2
3 **10A NCAC 13B .5412 ADDITIONAL REQUIREMENTS FOR TRAUMATIC BRAIN INJURY**
4 **PATIENTS**

5 Inpatient rehabilitation facilities providing services to ~~persons~~ patients with traumatic brain injuries shall ~~meet the~~
6 ~~requirements in this Rule in addition to those identified in this Section.~~ provide staff to meet the needs of patients in
7 accordance with the patient assessment, treatment plan, and physician orders.

8 (1) ~~Direct care nursing personnel staffing ratios established in Rule .5408 of this Section shall not be~~
9 ~~applied to nursing services for traumatic brain injury patients in the inpatient, rehabilitation facility~~
10 ~~or unit. The minimum nursing hours per traumatic brain injury patient in the unit shall be 6.5 nursing~~
11 ~~hours per patient day. At no time shall direct care nursing staff be less than two full time~~
12 ~~equivalents, one of which shall be a registered nurse.~~

13 (2) ~~The inpatient rehabilitation facility or unit shall employ or provide by contractual agreements~~
14 ~~physical, occupational or speech therapists in order to provide a minimum of 4.5 hours of specific~~
15 ~~or combined rehabilitation therapy services per traumatic brain injury patient day.~~

16 (3) (1) ~~The facility shall provide special facility or~~ have access to special equipment to meet the needs for
17 patients of patients with traumatic brain injury, ~~including specially designed wheelchairs, tilt tables~~
18 ~~and standing tables.~~ injury.

19 (4) ~~The medical director of an inpatient traumatic brain injury program shall have two years~~
20 ~~management in a brain injury program, one of which may be in a clinical fellowship program and~~
21 ~~board eligibility or certification in the medical specialty of the physician's training.~~

22 (5) (2) The facility shall provide the consulting services of a neuropsychologist.

23 (6) (3) The facility shall provide continuing education in the care and treatment of brain injury patients for
24 all staff.

25 (7) (4) The size of the brain injury program shall ~~be adequate to~~ support a comprehensive, dedicated
26 ongoing brain injury program.

27
28 *History Note: Authority G.S. 131E-79;*
29 *RRC Objection due to lack of statutory authority Eff. January 18, 1996;*
30 *Eff. May 1, 1996. 1996;*
31 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .5413

DEADLINE FOR RECEIPT: Friday, March 13, 2020

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 call our office to inquire concerning the staff recommendation.

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

Should this Rule be formatted with Paragraphs? It doesn't look like Items (1) through (4) modify or detail lines 4-6. They all look to be separate requirements.

In Item (1), what does it mean that "the facility shall have access to special equipment"? Does this have to be in the facility? In the same room? In a partner facility in the same county?

In Item (1), delete or define "special" in "special equipment" It looks like you've deleted the language that provides the detail to give "special" some meaning. Adding that language back in would provide some meaning to this requirement.

What is the difference between "continuing education" and "specific staff training" in (2) and (3)? Both appear to require training regarding care and treatment in spinal cord injury. Please clarify.

What is the intent of Item (4)? What is meant by "comprehensive, dedicated"?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 2, 2020

1 10A NCAC 13B .5413 is readopted as published in 34:06 NCR 473-481 as follows:

2
3 **10A NCAC 13B .5413 ADDITIONAL REQUIREMENTS FOR SPINAL CORD INJURY PATIENTS**

4 Inpatient rehabilitation facilities providing services to ~~persons~~ patients with spinal cord injuries shall ~~meet the~~
5 ~~requirements in this Rule in addition to those identified in this Section.~~ provide staff to meet the needs of patients in
6 accordance with the patient assessment, treatment plan, and physician orders.

7 (1) ~~Direct care nursing personnel staffing ratios established in Rule .5408 of this Section shall not be~~
8 ~~applied to nursing services for spinal cord injury patients in the inpatient rehabilitation facility or~~
9 ~~unit. The minimum nursing hours per spinal cord injury patient in the unit shall be 6.0 nursing hours~~
10 ~~per patient day. At no time shall direct care nursing staff be less than two full-time equivalents, one~~
11 ~~of which shall be a registered nurse.~~

12 (2) ~~The inpatient rehabilitation facility or unit shall employ or provide by contractual agreements~~
13 ~~physical, occupational or speech therapists in order to provide a minimum of 4.0 hours of specific~~
14 ~~or combined rehabilitation therapy services per spinal cord injury patient day.~~

15 (3) (1) The facility shall ~~provide special facility or~~ have access to special equipment to meet the needs of
16 patients with spinal cord injury, including specially designed wheelchairs, tilt tables and standing
17 tables. ~~injury.~~

18 (4) ~~The medical director of an inpatient spinal cord injury program shall have either two years~~
19 ~~experience in the medical care of persons with spinal cord injuries or six months minimum in a~~
20 ~~spinal cord injury fellowship.~~

21 (5) (2) The facility shall provide continuing education in the care and treatment of spinal cord injury
22 patients for all staff.

23 (6) (3) The facility shall provide specific staff training and education in the care and treatment of spinal
24 cord injury.

25 (7) (4) The size of the spinal cord injury program shall ~~be adequate to~~ support a comprehensive, dedicated
26 ongoing spinal cord injury program.

27
28 *History Note: Authority G.S. 131E-79;*
29 *RRC Objection due to lack of statutory authority Eff. January 18, 1996;*
30 *Eff. May 1, 1996. 1996;*
31 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13F .0202

DEADLINE FOR RECEIPT: Wednesday, March 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), do you want to say "Department of Health and Human Services" to match .0202? I note that "Department" is not defined in .0201, but is in G.S. 131D-2.1. Either way is fine with me.

In (b) and (c), please delete or define "conspicuously"

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

Amber May
Commission Counsel
Date submitted to agency: Wednesday, February 26, 2020

1 10A NCAC 13F .0202 is amended as published in 34:06 NCR 481-485 as follows:

2

3 **10A NCAC 13F .0202 THE LICENSE**

4 (a) Except as otherwise provided in ~~Rule .0203 of this Section, G.S. 131D-2.4,~~ the Department shall issue an adult
5 care home license to any person who submits the application material according to Rule .0204 of this Section and the
6 Department determines that the applicant complies with the provisions of all ~~applicable~~ State adult care home licensure
7 statutes and ~~rules.~~ rules of this Subchapter. All applications for a new license shall disclose the names of individuals
8 who are co-owners, partners, or shareholders holding an ownership or controlling interest of five percent or more of
9 the applicant entity.

10 (b) The license shall be conspicuously posted in a public place in the home.

11 (c) When a provisional license is ~~issued,~~ issued according to G.S. 131D-2.7, the administrator shall post the
12 provisional license and a copy of the notice from the Division of Health Service Regulation identifying the reasons
13 for it, conspicuously in a public place in the home and in place of the full license.

14 (d) The license is not transferable or assignable.

15 (e) An adult care home shall be licensed only as an adult care home and not for any other level of care or licensable
16 entity or service. The license shall be terminated when the home is licensed to provide a higher level of care or a
17 combination of a higher level of care and adult care home level of care.

18

19 *History Note: Authority G.S. 131D-2.4; 131D-2.7; 131D-2.16; 131D-4.5; 143B-165;*

20 *Eff. January 1, 1977;*

21 *Readopted Eff. October 31, 1977;*

22 *Temporary Amendment Eff. July 1, 2003;*

23 *Amended Eff. June 1, 2004;*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
25 *~~2018.~~ 2018;*

26 *Amended Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13F .0204

DEADLINE FOR RECEIPT: Wednesday, March 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

Please either delete the "Note" language on line 30 or make this a directive to your regulated public.

In (c)(1), delete or define "successful"

In (c)(1), by "completion and approval of" do you mean "completion of and approval in accordance with"? Maybe just "Subparagraphs (b)(1) through (b)(6)"?

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

Amber May
Commission Counsel
Date submitted to agency: Wednesday, February 26, 2020

1 10A NCAC 13F .0204 is amended as published in 34:06 NCR 481-485 as follows:

2
3 **10A NCAC 13F .0204 APPLYING FOR A LICENSE TO OPERATE A FACILITY NOT CURRENTLY**
4 **LICENSED**

5 (a) Prior to submission of a license application, all Certificate of Need requirements shall be met according to G.S.
6 131E, Article 9.

7 (b) In applying for a license to operate an adult care home to be constructed or ~~renovated~~ renovated, or in an existing
8 building that is not currently licensed, the applicant shall submit the following to the Division of Health Service
9 Regulation:

10 (1) the Initial License Application ~~which that~~ is available ~~on the internet website, online at~~
11 ~~http://facility-services.state.nc.us/gepage.htm~~ https://info.ncdhhs.gov/dhsr/acls/pdf/fchgapp.pdf at
12 ~~no cost and includes the following: or the Division of Health Service Regulation, Adult Care~~
13 ~~Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708;~~

14 (A) contact person, facility site and mailing addresses, and administrator;

15 (B) operation disclosure including names and contact information of the licensee, management
16 company, and building owner;

17 (C) ownership disclosure including names and contact information of owners, principals,
18 affiliates, shareholders, and members; and

19 (D) bed capacity including that of any special care unit for Alzheimer's and Related Disorders;

20 (2) plans and specifications as required in Section .0300 of this Subchapter and a construction review
21 fee according to ~~G.S. 131E-267;~~ G.S. 131E-267 to be calculated and invoiced by the DHSR
22 Construction Section;

23 (3) an approved fire and building safety inspection report from the local fire marshal to be submitted
24 upon completion of construction or renovation;

25 (4) an approved sanitation report or a copy of the permit to begin operation from the sanitation division
26 of the county health department to be submitted upon completion of construction or renovation;

27 (5) a nonrefundable license fee as required by ~~G.S. 131D-2(b)(1);~~ G.S. 131D-2.5; and

28 (6) a certificate of occupancy or certification of compliance from the local building official to be
29 submitted upon completion of construction or renovation.

30 Note: Rule .0207 of this Section applies to obtaining a license to operate a currently licensed facility.

31 (c) ~~A pre-licensing survey shall be made by program consultants of the Division of Health Service Regulation and an~~
32 ~~adult home specialist of the county department of social services.~~ Issuance of an adult care home license shall be
33 based on the following:

34 (1) successful completion and approval of Subparagraphs (b)(1) through (b)(6) of this Rule;

35 (2) the Division of Health Service Regulation's Construction Section's recommendation of licensure
36 based on compliance with rules in Section .0300 of this Subchapter;

- 1 (3) a compliance history review of the facility and its principals and affiliates according to G.S. 131D-
 2 2.4;
 3 (4) approval by the Adult Care Licensure Section of the facility's operational policies and procedures
 4 based on compliance with the rules of this Subchapter; and
 5 (5) the facility's demonstration of compliance with Adult Care Home statutes and rules of this
 6 Subchapter as determined by a pre-licensing survey of the facility by the Adult Care Licensure
 7 Section.

8 (d) ~~The Division of Health Service Regulation shall provide to the applicant written notification of the decision to~~
 9 ~~license or not to license the adult care home. The Adult Care Licensure Section shall notify in writing the applicant~~
 10 ~~licensee and the county department of social services of the decision to license or not to license the adult care home~~
 11 ~~based on compliance with adult care home statutes and the rules of this Subchapter within 14 days from the decision~~
 12 ~~to license or not to license the facility.~~

13
 14 *History Note: Authority G.S. 131D-2.4; 131D-2.5; 131D-2.16; 143B-165;*

15 *Readopted Eff. October 31, 1977;*

16 *Amended Eff. April 1, 1984;*

17 *Temporary Amendment Eff. September 1, 2003;*

18 *Amended Eff. June 1, 2004;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
 20 ~~2018- 2018;~~

21 *Amended Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13F .0208

DEADLINE FOR RECEIPT: Wednesday, March 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), are the forms available online? If so, please consider providing the link. Also, do you need "no cost"?

In (b)(3), what is a "related facility"? One owned by the same group?

In (c), how will the determination be made what action will be taken? If this set forth further elsewhere in rule or statute? If so, I think it's fine.

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

Amber May
Commission Counsel
Date submitted to agency: Wednesday, February 26, 2020

1 10A NCAC 13F .0208 is amended as published in 34:06 NCR 481-485 as follows:

2
3 **10A NCAC 13F .0208 RENEWAL OF LICENSE**

4 (a) ~~The license shall be renewed annually, licensee shall file a license renewal application annually on a calendar year~~
5 ~~basis except as otherwise provided in Rule .0209 of this Subchapter, if the licensee submits an application for renewal~~
6 ~~on the forms provided by the Department at no cost with a nonrefundable annual license fee according to G.S. 131D-~~
7 ~~2(b)(1) and the Department determines that the licensee complies with the provisions of all applicable State adult care~~
8 ~~home licensure statutes and rules. When violations of licensure rules or statutes are documented and have not been~~
9 ~~corrected prior to expiration of license, the Department shall either approve a continuation or extension of a plan of~~
10 ~~correction, issue a provisional license, or revoke the license. G.S. 131D-2.5. The renewal application form includes~~
11 the following:

- 12 (1) contact person, facility site and mailing address, and administrator;
13 (2) operation disclosure including names and contact information of the licensee, management
14 company, and building owner;
15 (3) ownership disclosure including names and contact information of owners, principals, affiliates,
16 shareholders, and members holding an ownership or controlling interest of five percent or more of
17 the applicant entity;
18 (4) bed capacity including that of any special care unit for Alzheimer's and Related Disorders; and
19 (5) population and census data.

20 ~~(b) All applications for license renewal shall disclose the names of individuals who are co-owners, partners or~~
21 ~~shareholders holding an ownership or controlling interest of five percent or more of the applicant entity.~~

22 (b) In determining whether to renew a license under G.S. 131D-2.4, the Department shall take into consideration at
23 least the following:

- 24 (1) the compliance history of the applicant facility with the provisions of all State adult care home
25 licensure statutes and rules of this Subchapter;
26 (2) the compliance history of the owners, principals, and affiliates of the applicant facility in operating
27 other adult care homes in the State;
28 (3) the extent to which the conduct of a related facility, its owners, principals, and affiliates is likely to
29 affect the quality of care at the applicant facility; and
30 (4) the hardship on residents of the applicant facility if the license is not renewed.

31 (c) When violations of licensure rules or statutes are documented by the Department and have not been corrected by
32 the facility prior to license expiration, the Department shall either approve a continuation or extension of a plan of
33 correction, issue a provisional license, or deny the license.

34
35 *History Note: Authority G.S. 131D-2.4; 131D-2.5; 131D-2.16; 143B-165;*
36 *Eff. January 1, 1977;*
37 *Readopted Eff. October 31, 1977;*

1 *Temporary Amendment Eff. December 1, 1999;*
2 *Amended Eff. July 1, 2000;*
3 *Temporary Amendment Eff. July 1, 2003;*
4 *Amended Eff. June 1, 2004;*
5 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
6 *~~2018.~~ 2018.*
7 *Amended Eff. April 1, 2020.*

1 10A NCAC 13F .0209 is repealed as published in 34:06 NCR 481-485 as follows:

2

3 **10A NCAC 13F .0209 CONDITIONS FOR LICENSE RENEWAL**

4

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

6 *Temporary Adoption Eff. December 1, 1999;*

7 *Eff. July 1, 2000;*

8 *Temporary Amendment Eff. July 1, 2003;*

9 *Amended Eff. June 1, 2004;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*

11 *~~2018- 2018;~~*

12 *Repealed Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13F .0212

DEADLINE FOR RECEIPT: Wednesday, March 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a) and (c), what factors will be used in determining whether the failure to comply will result in denial or revocation? Do you use the factors set forth in 131D-2.4? If so, I think it's fine as written.

Given G.S. 131D-29, is (b) necessary?

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

Amber May
Commission Counsel
Date submitted to agency: Wednesday, February 26, 2020

1 10A NCAC 13F .0212 is amended as published in 34:06 NCR 481-485 as follows:

2

3 **10A NCAC 13F .0212 DENIAL OR REVOCATION OF LICENSE**

4 (a) A license may be denied by the Division of Health Service Regulation for failure to comply with the rules of this
5 Subchapter.

6 (b) Denial of a license by the Division of Health Service Regulation shall be effected by mailing to the ~~applicant,~~
7 applicant licensee, by registered mail, a notice setting forth the particular reasons for such action.

8 (c) A license may be revoked by the Division of Health Service Regulation in accordance with ~~G.S. 131D-2(b)~~ G.S.
9 131D-2.7(b) and G.S. 131D-29.

10 (d) When a facility receives a notice of revocation, the administrator shall inform each resident and the resident's
11 responsible person in writing of the notice and the basis on which it was ~~issued.~~ issued within five calendar days of
12 the notice of revocation being received by the licensee of the facility.

13

14 *History Note: Authority G.S. 131D-2.7; 131D-2.16; 131D-4.3; 131D-29; 143B-165;*

15 *Eff. January 1, 1977;*

16 *Readopted Eff. October 31, 1977;*

17 *Temporary Amendment Eff. July 1, 2003;*

18 *Amended Eff. June 1, 2004;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
20 *~~2018.~~ 2018;*

21 *Amended Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13G .0202

DEADLINE FOR RECEIPT: Wednesday, March 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (b) and (c), please delete or define "conspicuously"

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

Amber May
Commission Counsel
Date submitted to agency: Wednesday, February 26, 2020

1 10A NCAC 13G .0202 is readopted as published in 34:06 NCR 481-485 as follows:

2

3 **10A NCAC 13G .0202 THE LICENSE**

4 (a) Except as otherwise provided in ~~Rule .0203 of this Subchapter~~, G.S. 131D-2.4, the Department of Health and
 5 Human Services shall issue a family care home license to any person who submits ~~an application on the forms provided~~
 6 ~~by the Department with a non refundable license fee as required by G.S. 131D 2(b)(1)~~ the application material
 7 according to Rule .0204 of this Section and the Department determines that the applicant complies with the provisions
 8 of all ~~applicable~~ State ~~family care~~ adult care home licensure statutes and ~~rules~~ rules of this Subchapter. All
 9 applications for a new license shall disclose the names of individuals who are co-owners, partners, or shareholders
 10 holding an ownership or controlling interest of five percent or more of the applicant entity.

11 (b) The license shall be conspicuously posted in a public place in the home.

12 ~~(c) The license shall be in effect for 12 months from the date of issuance unless revoked for cause, voluntarily or~~
 13 ~~involuntarily terminated, or changed to provisional licensure status.~~

14 ~~(d) A provisional license may be issued in accordance with G.S. 131D 2(b).~~

15 ~~(e)(c)~~ (c) When a provisional license is ~~issued~~, issued according to G.S. 131D-2.7, the administrator shall post the
 16 provisional license and a copy of the notice from the Division of Health Service Regulation identifying the reasons
 17 for it, conspicuously in a public place in the home in place of the full license.

18 ~~(f)(d)~~ (d) The license is not transferable or assignable.

19 ~~(g)(e)~~ (e) A family care home shall be licensed only as a family care home and not for any other level of care or licensable
 20 entity or service. The license shall be terminated when the home is licensed to provide a higher level of care or a
 21 combination of a higher level of care and family care home level of care.

22

23 *History Note: Authority G.S. 131D-2.4; 131D-2.7; 131D-2.16; 131D-4.5; 143B-165;*

24 *Eff. January 1, 1977;*

25 *Readopted Eff. October 31, 1977;*

26 *Amended Eff. April 1, 1984;*

27 *Temporary Amendment Eff. January 1, 1998;*

28 *Amended Eff. April 1, 1999;*

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

30 *Amended Eff. July 1, 2000;*

31 *Temporary Amendment Eff. July 1, 2004;*

32 *Amended Eff. July 1, ~~2005~~ 2005;*

33 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13G .0204

DEADLINE FOR RECEIPT: Wednesday, March 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (c)(1), delete or define "successful"

In (c)(1), by "completion and approval of" do you mean "completion of and approval in accordance with"? Maybe just "Subparagraphs (b)(1) through (b)(6)"?

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

Amber May
Commission Counsel
Date submitted to agency: Wednesday, February 26, 2020

1 10A NCAC 13G .0204 is readopted as published in 34:06 NCR 481-485 as follows:

2
3 **10A NCAC 13G .0204 APPLYING FOR A LICENSE TO OPERATE A HOME NOT CURRENTLY**
4 **LICENSED**

5 (a) An application for a license to operate a family care home for adults in an existing building where no alterations
6 are necessary as determined by the Construction Section of the Division of Health Service Regulation or a family care
7 home which that is to be constructed, added to, or renovated shall be made at the county department of social
8 services, services in the county where the licensed family care home will be located.

9 ~~(b) If during the study of the administrator and the home, it does not appear that the qualifications of the administrator~~
10 ~~or requirements for the home can be met, the county department of social services shall so inform the applicant,~~
11 ~~indicating in writing the reason and give the applicant an opportunity to withdraw the application. Upon the applicant's~~
12 ~~request, the application shall be completed and submitted to the Division of Health Service Regulation for~~
13 ~~consideration.~~

14 ~~(c)~~(b) The applicant shall submit the following forms and reports through material to the county department of social
15 services for submission to the Division of Health Service Regulation: Regulation within ten business days of receipt
16 by the county department of social services:

- 17 (1) the Initial Licensure ~~Application;~~ Application that is available online at
18 <https://info.ncdhhs.gov/dhsr/acls/pdf/acchgapp.pdf> at no cost and includes the following:
19 (A) contact person, facility site and mailing addresses, and administrator;
20 (B) operation disclosure including names and contact information of licensee, management
21 company, and building owner;
22 (C) ownership disclosure including names and contact information of owners, principals,
23 affiliates, shareholders, and members; and
24 (D) bed capacity;
25 (2) an approval letter from the local zoning jurisdiction for the proposed location;
26 (3) a photograph of each side of the existing structure and at least one of each of the interior spaces if
27 an existing structure;
28 (4) a set of blueprints or a floor plan of each level indicating the following:
29 (A) the layout of all ~~rooms,~~ rooms;
30 (B) the room dimensions (including ~~closets), closets);~~
31 (C) the door widths (exterior, bedroom, ~~bathroom bathroom,~~ and kitchen ~~doors), doors);~~
32 (D) the window sizes and window sill ~~heights,~~ heights;
33 (E) the type of ~~construction,~~ construction;
34 (F) the use of the basement and ~~attic,~~ attic; and
35 (G) the proposed resident bedroom locations including the number of occupants and the
36 bedroom and number (including the ages) of any non-resident who will be residing within
37 the home;

1 (5) a cover letter ~~or transmittal form~~ prepared by the adult home specialist of the county department of
2 social services ~~identifying~~ stating the following:

3 (A) the prospective home site address, address;

4 (B) the name of the contact person (including address, telephone numbers, ~~fax numbers~~), email
5 address); and

6 (C) the name and address of the applicant (if different from the contact person) and the total
7 number and the expected evacuation capability of the residents; person); and

8 (6) ~~a construction review fee according to G.S. 131E-267.~~ a non-refundable license fee as required by
9 G.S. 131D-2.5.

10 ~~(d) The Construction Section of the Division of Health Service Regulation shall review the information and notify~~
11 ~~the applicant and the county department of social services of any required changes that must be made to the building~~
12 ~~to meet the rules in Section .0300 of this Subchapter along with the North Carolina State Building Code. At the end~~
13 ~~of the letter there shall be a list of final documentation required from the local jurisdiction that must be submitted upon~~
14 ~~completion of any required changes to the building or completion of construction.~~

15 ~~(e) Any changes to be made during construction that were not proposed during the initial review shall require the~~
16 ~~approval of the Construction Section to assure that licensing requirements are maintained.~~

17 ~~(f) Upon receipt of the required final documentation from the local jurisdiction, the Construction Section shall review~~
18 ~~the information and may either make an on-site visit or approve the home for construction by documentation. If all~~
19 ~~items are met, the Construction Section shall notify the Adult Care Licensure Section of the Division of Health Service~~
20 ~~Regulation of its recommendation for licensure.~~

21 ~~(g) Following review of the application, references, all forms and the Construction Section's recommendation for~~
22 ~~licensure, a pre-licensing visit shall be made by a consultant of the Adult Care Licensure Section. The consultant shall~~
23 ~~report findings to the Division of Health Service Regulation which shall notify, in writing, the applicant and the county~~
24 ~~department of social services of the decision to license or not to license the family care home.~~

25 (c) Issuance of a family care home license shall be based on the following:

26 (1) successful completion and approval of Subparagraphs (b)(1) through (b)(6) of this Rule;

27 (2) the Division of Health Service Regulation's Construction Section's recommendation of licensure
28 based on compliance with rules in Section .0300 of this Subchapter;

29 (3) a compliance history review of the facility and its principals and affiliates according to G.S. 131D-
30 2.4;

31 (4) approval by the Adult Care Licensure Section of the facility's operational policies and procedures
32 based on compliance with the rules of this Subchapter; and

33 (5) the facility's demonstration of compliance with Adult Care Home statutes and rules of this
34 Subchapter as determined by a pre-licensing survey of the facility by the Adult Care Licensure
35 Section.

1 (d) The Adult Care Licensure Section shall notify in writing the applicant licensee and the county department of social
2 services of the decision to license or not to license the adult care home based on compliance with adult care home
3 statutes and the rules of this Subchapter within 14 days from the decision to license or not to license the facility.
4

5 *History Note: Authority G.S. 131D-2.4; 131D-2.5; 131D-2.16; 143B-165;*
6 *Eff. January 1, 1977;*
7 *Readopted Eff. October 31, 1977;*
8 *Amended Eff. July 1, 1990; April 1, 1987; April 1, 1984;*
9 *ARRC Objection Lodged November 14, 1990;*
10 *Amended Eff. May 1, 1991;*
11 *Temporary Amendment Eff. September 1, 2003;*
12 *Amended Eff. July 1, 2005; July 1, ~~2004~~ 2004;*
13 *Readopted Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13G .0208

DEADLINE FOR RECEIPT: Wednesday, March 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), are the forms available online? If so, please consider providing the link. Also, do you need "no cost"?

In (b)(3), what is a "related facility"? One owned by the same group?

In (c), how will the determination be made what action will be taken? If this set forth further elsewhere in rule or statute? If so, I think it's fine.

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

Amber May
Commission Counsel
Date submitted to agency: Wednesday, February 26, 2020

1 10A NCAC 13G .0208 is readopted as published in 34:06 NCR 481-485 as follows:

2
3 **10A NCAC 13G .0208 RENEWAL OF LICENSE**

4 (a) ~~The license shall be renewed annually, licensee shall file a license renewal application annually on a calendar year~~
5 ~~basis except as otherwise provided in Rule .0209 of this Subchapter, if the licensee submits an application for renewal~~
6 ~~on the forms provided by the Department at no cost and the Department determines that the licensee complies with~~
7 ~~the provisions of all applicable State adult care home licensure statutes and rules. When violations of licensure rules~~
8 ~~or statutes are documented and have not been corrected prior to expiration of license, the Department shall either~~
9 ~~approve a continuation or extension of a plan of correction, issue a provisional license, or revoke the license for cause.~~
10 with a nonrefundable annual license fee according to G.S. 131D-2.5. The renewal application includes the following:

- 11 (1) contact person, facility site and mailing address, and administrator;
12 (2) operation disclosure including names and contact information of the licensee, management
13 company, and building owner;
14 (3) ownership disclosure including names and contact information of owners, principals, affiliates,
15 shareholders, and members holding an ownership or controlling interest of five percent or more of
16 the applicant entity;
17 (4) bed capacity; and
18 (5) population and census data.

19 ~~(b) All applications for license renewal shall disclose the names of individuals who are co-owners, partners or~~
20 ~~shareholders holding an ownership or controlling interest of 5% or more of the applicant entity.~~

21 (b) In determining whether to renew a license under G.S. 131D-2.4, the Department shall take into consideration at
22 least the following:

- 23 (1) the compliance history of the applicant facility with the provisions of all State adult care home
24 licensure statutes and rules of this Subchapter;
25 (2) the compliance history of the owners, principals and affiliates of the applicant facility in operating
26 other adult care homes in the State;
27 (3) the extent to which the conduct of a related facility, its owners, principals, and affiliates is likely to
28 affect the quality of care at the applicant facility; and
29 (4) the hardship on residents of the applicant facility if the license is not renewed.

30 (c) When violations of licensure rules or statutes are documented by the Department and have not been corrected by
31 the facility prior to license expiration, the Department shall either approve a continuation or extension of a plan of
32 correction, issue a provisional license, or deny the license.

33
34 *History Note: Authority G.S. 131D-2.4; 131D-2.16; 131D-4.5; 143B-165;*

35 *Eff. January 1, 1977;*

36 *Readopted Eff. October 31, 1977;*

37 *Amended Eff. December 1, 1992; July 1, 1990; April 1, 1987; April 1, 1984;*

- 1 *Temporary Amendment Eff. December 1, 1999;*
- 2 *Amended Eff. July 1, ~~2000~~ 2000;*
- 3 *Readoption Eff. April 1, 2020.*

1 10A NCAC 13G .0209 is repealed through readoption as published in 34:06 NCR 481-485 as follows:

2

3 **10A NCAC 13G .0209 CONDITIONS FOR LICENSE RENEWAL**

4

5 *History Note: Authority G.S. 131D-2.4; 131D-2.16; 131D-4.5; 143B-165;*

6 *Temporary Adoption Eff. December 1, 1999;*

7 *Eff. July 1, ~~2000~~, 2000;*

8 *Repealed Eff. April 1, 2020.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13G .0212

DEADLINE FOR RECEIPT: Wednesday, March 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a) and (c), what factors will be used in determining whether the failure to comply will result in denial or revocation? Do you use the factors set forth in 131D-2.4? If so, I think it's fine as written.

Given G.S. 131D-29, is (b) necessary?

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

Amber May
Commission Counsel
Date submitted to agency: Wednesday, February 26, 2020

1 10A NCAC 13G .0212 is readopted as published in 34:06 NCR 481-485 as follows:

2

3 **10A NCAC 13G .0212 DENIAL AND REVOCATION OF LICENSE**

4 (a) A license may be denied by the Division of Health Service Regulation for failure to comply with the rules of this
5 Subchapter.

6 (b) Denial of a license by the Division of Health Service Regulation shall be effected by mailing to the ~~applicant,~~
7 applicant licensee, by registered mail, a notice setting forth the particular reasons for such action.

8 (c) A license may be revoked by the Division of Health Service Regulation in accordance with ~~G.S. 131D-2(b)~~ G.S.
9 131D-2.7(b) and G.S. 131D-29.

10 (d) When a facility receives a notice of revocation, the administrator shall inform each resident and ~~his~~ the resident's
11 responsible person in writing of the notice and the basis on which it was ~~issued.~~ issued within five calendar days of
12 the notice of revocation being received by the licensee of the facility.

13

14 *History Note: Authority G.S. 131D-2.7; 131D-2.16; 131D-4.3; 131D-29; 143B-165;*

15 *Eff. January 1, 1977;*

16 *Readopted Eff. October 31, 1977;*

17 *Amended Eff. April 1, 1984; May 1, 1981;*

18 *Temporary Amendment Eff. January 1, 1998;*

19 *Amended Eff. April 1, ~~1999.~~ 1999;*

20 *Readopted Eff. April 1, 2020.*

1 10A NCAC 13G .0213 is repealed through readoption as published in 34:06 NCR 481-485 as follows:

2

3 **10A NCAC 13G .0213 APPEAL OF LICENSURE ACTION**

4

5 *History Note: Authority 131D-2.4; 131D-2.16; 143B-165; 150B-23;*

6 *Eff. January 1, 1977;*

7 *Readopted Eff. October 31, 1977;*

8 *Amended Eff. July 1, 1990; April 1, ~~1984~~. 1984;*

9 *Repealed Eff. April 1, 2020.*