

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13D .2001

DEADLINE FOR RECEIPT: Friday, December 11, 2020

NOTE: This request when viewed on computer extends 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 the following technical changes be made:

In (2), line 10, do you need to retain "no matter how slight"?

In (9), I take it this language is known to your regulated public?

In (12), consider separating these concepts using semicolons after "setting" on line 35 and "home" on line 36.

In (13), Page 2, line 4, what do you mean by "to"? Should it be "after" as used in (22), line 29?

In (23), line 33, please confirm this is the correct citation within 42 CFR 483.75. Also, please delete "Part" and just state "42 CFR 483.75"

In (30) and (31), Page 3, I take it that 42 CFR 483 has already been incorporated elsewhere within your rules?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 25, 2020

10A NCAC 13D .2001 is amended as published in 34:24 NCR 2377-2380 as follows:

SECTION .2000 – GENERAL INFORMATION

10A NCAC 13D .2001 DEFINITIONS

In addition to the definitions set forth in 131E-101, the The following definitions ~~will~~ shall apply throughout this Subchapter:

- (1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish.
- (2) "Accident" means an unplanned event resulting in the injury or wounding, no matter how slight, of a patient or other individual.
- (3) "Addition" means an extension or increase in floor area or height of a building.
- (4) "Administrator" as defined in G.S. 90-276(4).
- (5) "Alteration" means any construction or renovation to an existing structure other than repair, maintenance, or addition.
- (6) "Brain injury long term care" means an interdisciplinary, intensive maintenance program for patients who have incurred brain damage caused by external physical trauma and who have completed a primary course of rehabilitative treatment and have reached a point of no gain or progress for more than three consecutive months. Brain injury long term care is provided through a medically supervised interdisciplinary process and is directed toward maintaining the individual at the optimal level of physical, cognitive, and behavioral functions.
- (7) "Capacity" means the maximum number of patient or resident beds for which the facility is licensed to maintain at any given time.
- (8) "Combination facility" means a combination home as defined in G.S. 131E-101.
- (9) "Comprehensive, inpatient rehabilitation program" means a program for the treatment of persons with functional limitations or chronic disabling conditions who have the potential to achieve a significant improvement in activities of daily living, including bathing, dressing, grooming, transferring, eating, and using speech, language, or other communication systems. A comprehensive, inpatient rehabilitation program utilizes a coordinated and integrated, interdisciplinary approach, directed by a physician, to assess patient needs and to provide treatment and evaluation of physical, psychosocial, and cognitive deficits.
- (10) "Department" means the North Carolina Department of Health and Human Services.
- (11) "Director of nursing" means a registered nurse who has authority and ~~direct~~ responsibility for all nursing services and nursing care.
- (12) "Discharge" means a physical relocation of a patient to another health care setting, the discharge of a patient to his or her home, or the relocation of a patient from a nursing bed to an adult care home bed, or from an adult care home bed to a nursing bed.

- (13) "Existing facility" means a facility currently licensed, a proposed facility, a proposed addition to a licensed facility, or a proposed remodeled licensed facility that will be built according to design development drawings and specifications approved by the Department for compliance with the standards established in Sections .3100, .3200, and .3400 of this Subchapter, to the effective date of this Rule.
- (14) "Facility" means a nursing facility or combination facility as defined in this Rule.
- (15) "Incident" means any accident, event, or occurrence that is unplanned, or unusual, and has ~~actually~~ caused harm to a patient, or has the potential for harm.
- (16) "Inpatient rehabilitation facility or unit" means a free-standing facility or a unit (unit pertains to contiguous dedicated beds and spaces) within an existing licensed health service facility approved in accordance with G.S. 131E, Article 9 to establish inpatient, rehabilitation beds and to provide a comprehensive, inpatient rehabilitation program.
- (17) "Interdisciplinary" means an integrated process involving representatives from disciplines of the health care team.
- (18) "Licensee" means the person, firm, partnership, association, corporation, or organization to whom a license to operate the facility has been issued. The licensee is the legal entity that is responsible for the operation of the business.
- (19) "Medication error rate" means the measure of discrepancies between medication that was ordered for a patient by the health care provider and medication that is ~~actually~~ administered to the patient. The medication error rate is calculated by dividing the number of errors observed by the surveyor by the opportunities for error, multiplied times 100.
- (20) "Misappropriation of property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a patient's belongings or money without the patient's consent.
- (21) "Neglect" means a failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.
- (22) "New facility" means a proposed facility, a proposed addition to an existing facility, or a proposed remodeled portion of an existing facility that will be built according to design development drawings and specifications approved by the Department for compliance with the standards established in Sections .3100, .3200, and .3400 of this Subchapter after the effective date of this Rule.
- (23) "Nurse Aide" means a person who is listed on the N.C. Nurse Aide Registry and provides nursing or nursing-related services to patients in a nursing home. A nurse aide is not a licensed health professional. Nursing homes that participate in Medicare or Medicaid shall comply with 42 CFR Part 483.75(e), which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at http://www.access.gpo.gov/nara/cfr/waisidx_08/42cfr483_08; <https://www.ecfr.gov>.
- (24) "Nursing facility" means a nursing home as defined in G.S. 131E-101.
- (25) "Patient" means any person admitted for nursing care.

- (26) "Remodeling" means alterations, renovations, rehabilitation work, repairs to structural systems, and replacement of building systems at a nursing or combination facility.
- (27) "Repair" means reconstruction or renewal of any part of an existing building for the purpose of its maintenance.
- (28) "Resident" means any person admitted for care to an adult care home part of a combination ~~facility as defined in G.S. 131E-101.~~ facility.
- (29) "Respite care" means services provided for a patient on a temporary basis, not to exceed 30 days.
- (30) "Surveyor" means ~~an authorized~~ a representative of the Department who inspects nursing facilities and combination facilities to determine compliance with ~~rules~~ rules, laws, and regulations as set forth in G.S. 131E-117; Subchapters 13D and 13F of this Chapter; and 42 CFR Part 483, Requirements for States and Long Term Care Facilities.
- ~~(31) "Ventilator dependence" means a physiological dependency by a patient on the use of a ventilator for more than eight hours a day.~~
- ~~(32)~~(31) "Violation" means a failure to comply with ~~the regulations, standards, and requirements~~ rules, laws, and regulations as set forth in G.S. 131E-117 and 131D-21; Subchapters 13D and 13F of this Chapter; or 42 CFR Part 483, Requirements for States and Long Term Care Facilities, that ~~directly~~ relates to a patient's or resident's health, safety, or welfare, or ~~which that~~ creates a ~~substantial~~ risk that death, or ~~serious~~ physical harm ~~will~~ may occur.

History Note: Authority G.S. 131E-104;
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Readopted Eff. July 1, 2016; 2016;
Amended Eff. January 1, 2021.

1 10A NCAC 13D .2506 is repealed as published in 34:24 NCR 2377-2380 as follows:

2
3 **10A NCAC 13D .2506 PHYSICIAN SERVICES FOR VENTILATOR DEPENDENT PATIENTS**

4
5 *History Note: Authority G.S. 131E-104;*

6 *RRC objection due to lack of statutory authority and ambiguity Eff. July 13, 1995;*

7 *Eff. January 1, 1996;*

8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22,*

9 ~~*2015.*~~ *2015;*

10 *Repealed Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13D .3003

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 the following technical changes be made:

In (a), line 6, what is "F695"? And not the same question in (b)(1), as I do not see that term in the CFR.

On lines 7 and 8, the name of the document I get when I go to the link is "State Operations Manual, Appendix PP – Guidance to Surveyors for Long Term Care Facilities." What is the proper name?

In (b)(3), line 22, what do you mean by "according to"? Is it that the training is conducted in the manner set by the Board, or do you mean that the individual is on a registry maintained by the Board?

In (b)(3)(C), line 29, I do not believe "24-hours" should be hyphenated here.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 25, 2020

10A NCAC 13D .3003 is amended as published in 34:24 NCR 2377-2380 as follows:

10A NCAC 13D .3003 VENTILATOR ~~DEPENDENCE~~ ASSISTED CARE

~~(a) The general requirements in this Subchapter shall apply when applicable. In addition, facilities having patients requiring the use of ventilators for more than eight hours a day shall meet the following requirements: For the purpose of this Rule, ventilator assisted individuals, means as defined in 42 CFR Part 483.25(i), F695, herein incorporated by reference including subsequent amendments and editions. Copies of the Code of Federal Regulations, Title 42, Public Health, Part 482-End, 2019 may be accessed free of charge online at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf.~~

(b) Facilities having patients who are ventilator assisted individuals shall:

- ~~(1) The facility shall be located within 30 minutes of an acute care facility. administer respiratory care in accordance with 42 CFR Part 483.25(i), F695;~~
- ~~(2) Respiratory therapy shall be provided and supervised by a respiratory therapist currently registered by the National Board for Respiratory Care. administer respiratory care in accordance with the scope of practice for respiratory therapists defined in G.S. 90-648; and The respiratory therapist shall:~~
 - ~~(a) make, as a minimum, weekly on-site assessments of each patient receiving ventilator support with corresponding progress notes;~~
 - ~~(b) be on-call 24 hours daily; and~~
 - ~~(c) assist the pulmonologist and nursing staff in establishing ventilator policies and procedures, including emergency policies and procedures.~~
- ~~(3) Direct nursing care staffing shall be in accordance with Rule .3005 of this Section. provide pulmonary services from a physician who has training in pulmonary medicine according to The American Board of Internal Medicine. The physician shall be responsible for respiratory services and shall:~~
 - ~~(A) establish with the respiratory therapist and nursing staff, ventilator policies and procedures, including emergency procedures;~~
 - ~~(B) assess each ventilator assisted patient's status at least monthly with corresponding progress notes;~~
 - ~~(C) respond to emergency communications 24-hours a day; and~~
 - ~~(D) participate in individual care planning.~~

(c) Direct care nursing personnel staffing ratios established in Rule .2303 of this Subchapter shall not be applied to nursing services for patients who are ventilator assisted at life support settings. The minimum direct care nursing staff shall be 5.5 hours per patient day, allocated on a per shift basis as the facility chooses; however, in no event shall the direct care nursing staff fall below a registered nurse and a nurse aide I at any time during a 24-hour period.

History Note: Authority G.S. 131E-104;

RRC objection due to lack of statutory authority Eff. July 13, 1995;

1 *Eff. January 1, 1996;*
2 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22,*
3 *~~2015.~~ 2015.*
4 *Amended Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13K .0102

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 the following technical changes be made:

In (5), NC does not license dietitians, but instead "dietitian/nutritionists" and "nutritionists" Are you capturing individuals not licensed in NC?

In (19), Page 2, line 24, please just end the sentence after "amendments." Do not insert the remaining language as you are incorporating another rule within the Code.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 25, 2020

10A NCAC 13K .0102 is readopted as published in 34:24 NCR 2380-2383 as follows:

10A NCAC 13K .0102 DEFINITIONS

In addition to the definitions set forth in G.S. ~~131E-201~~ 131E-201, the following definitions shall apply throughout this ~~Subchapter~~ following Subchapter:

- (1) "Agency" means a licensed hospice as defined in ~~Article 10~~ G.S. 131E-201(3).
- (2) ~~"Attending Physician" means the physician licensed to practice medicine in North Carolina who is identified by the patient at the time of hospice admission as having the most significant role in the determination and delivery of medical care for the patient.~~
- (3)(2) "Care Plan" means the proposed method developed in writing by the interdisciplinary care team through which the hospice seeks to provide services ~~which~~ that meet the patient's and family's medical, ~~psychosocial~~ psychosocial, and spiritual needs.
- (4)(3) "Clergy Member" means an individual who has received a degree ~~from an~~ from a theological school and has fulfilled ~~appropriate~~ denominational seminary requirements; or an individual who, by ordination or authorization from the individual's denomination, has been approved to function in a pastoral capacity. Each hospice shall designate a clergy member responsible for coordinating spiritual care to hospice patients and families.
- (5)(4) "Coordinator of Patient Family Volunteers" means an individual on the hospice ~~staff~~ team who coordinates and supervises the activities of all patient family volunteers.
- (6)(5) "Dietary Counseling" means counseling given by a licensed ~~dietitian~~ dietitian, licensed dietitian/nutritionist, or licensed nutritionist as defined in ~~G.S. 90-357~~ G.S. 90-352.
- (7)(6) "Director" means the person having administrative responsibility for the operation of the hospice.
- (7) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
- (8) "Governing Body" means the group of persons responsible for overseeing ~~the~~ operations of the hospice, ~~specifically for~~ including the development and monitoring of policies and procedures related to all aspects of the operations of the hospice program. The governing body ensures that all services provided are consistent with accepted standards of hospice practice.
- (9) "Hospice" means a coordinated program of services as defined in G.S. ~~131E-176(13a)~~ 131E-201.
- (10) "Hospice Caregiver" means an individual on the hospice ~~staff~~ team who has completed hospice caregiver training as defined in ~~10A NCAC 13K Rule .0402 of this Subchapter~~ and is assigned to a hospice residential facility or hospice inpatient unit.
- (11) "Hospice Inpatient Facility or Hospice Inpatient Unit" means ~~a licensed facility~~ as defined in ~~G.S. 131E-201(3)~~ G.S. 131E-201(3a).
- (12) "Hospice Residential Facility" means as defined in ~~G.S. 131E-201(5)~~ is a facility licensed to provide hospice care to hospice patients as defined in G.S. 131E-201(4) and their families in a group residential setting. G.S. 131E-201(5a).

- (13) "Hospice Staff" Team" means ~~members of the interdisciplinary team~~ as defined in ~~G.S. 131E-201(7), nurse aides, administrative and support personnel and patient family volunteers. G.S. 131E-201(6).~~
- (14) "Informed Consent" means the agreement to receive hospice care made by the patient and family ~~which that~~ specifies in writing the type of care and services to be provided. The informed consent form shall be signed by the patient prior to service. If the patient's medical condition is such that a signature cannot be obtained, a signature shall be obtained from the individual having legal guardianship, applicable durable or health care power of attorney, or the family member or individual assuming the responsibility of primary caregiver.
- (15) ~~"Inpatient Beds" means beds licensed as such by the Department of Health and Human Services for use by hospice patients, for medical management of symptoms or for respite care.~~
- (16)(15) "Interdisciplinary Team" means ~~a group of hospice staff~~ as defined in ~~G.S. 131E-201(7); G.S. 131E-201(6).~~
- (17)(16) "Licensed Practical Nurse" means ~~a nurse holding a valid current license as required by G.S. 90, Article 9A, as defined in G.S. 90-171.30 or G.S. 171.32.~~
- (18)(17) "Medical Director" means a physician licensed to practice medicine in North Carolina who directs the medical aspects of the hospice's patient care program.
- (18) "Nurse Practitioner" means as defined in G.S. 90-18.2(a).
- (19) "Nurse Aide" means an individual who is authorized to provide nursing care under the supervision of a licensed nurse, has completed a training and competency evaluation program or competency evaluation program and is listed on the Nurse Aide Registry, at the Division of Health Service Regulation. If the nurse aide performs Nurse Aide II tasks, ~~he or she~~ the nurse aide must shall also meet the requirements established by the N.C. Board of Nursing as defined in 21 NCAC 36 .0405- .0405, incorporated by reference including subsequent amendments and editions. This Rule may be accessed at <http://reports.oah.state.nc.us/ncac.asp> at no charge.
- (20) ~~"Occupational Therapist" means a person duly licensed as such, holding a current license as required by G.S. 90-270.29.~~
- (21)(20) "Patient and Family Care Coordinator" means a registered nurse designated by the hospice to coordinate the provision of hospice services for each patient and family.
- (22)(21) "Patient Family Volunteer" means an individual who has received orientation and training as defined in Rule .0402 of this Subchapter, and provides volunteer services to a patient and the patient's family in the patient's home or in a hospice inpatient facility or hospice inpatient unit, or a hospice residential facility.
- (23)(22) "Pharmacist" means ~~an individual licensed to practice pharmacy in North Carolina as required in G.S. 90-85(15); as defined in G.S. 90-85.3.~~
- (24) ~~"Physical Therapist" means an individual holding a valid current license as required by G.S. 90, Article 18B.~~

1 ~~(25)~~(23) "Physician" means ~~an individual licensed to practice medicine in North Carolina, as defined in G.S.~~
2 90-9.1 or G.S. 90-9.2.

3 ~~(26)~~(24) "Premises" means the location or licensed site ~~from which~~ where the agency provides hospice
4 services or maintains patient service records or advertises itself as a hospice agency.

5 ~~(27)~~(25) "Primary Caregiver" means the family member or other person who assumes the overall
6 responsibility for the care of the patient in the patient's home.

7 ~~(28)~~(26) "Registered Nurse" means ~~a nurse holding a valid current license as required by G.S. 90, Article 9A,~~
8 as defined in G.S. 90-171.30 or G.S. 90-171.32.

9 ~~(29)~~(27) "Respite Care" means care provided to a patient for temporary relief to family members or others
10 caring for the patient at home.

11 ~~(30)~~ "Social Worker" means ~~an individual who performs social work and holds a bachelor's or advanced~~
12 ~~degree in social work from a school accredited by the Council of Social Work Education or a~~
13 ~~bachelor's or an advanced degree in psychology, counseling or psychiatric nursing.~~

14 ~~(31)~~ "Speech and Language Pathologist" means ~~an individual holding a valid current license as required~~
15 ~~by G.S. 90, Article 22.~~

16 ~~(32)~~(28) "Spiritual Caregiver" means an individual authorized by the patient and family to provide for their
17 spiritual ~~direction,~~ needs.

18
19 *History Note: Authority G.S. 131E-202;*

20 *Eff. November 1, 1984;*

21 *Amended Eff. February 1, 1996; February 1, 1995; June 1, 1991; November 1, ~~1989.~~ 1989.*

22 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13K .0401

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 the following technical changes be made:

In (a), line 8, end the sentence after "amendments."

In (b), line 16, and elsewhere the term is used, does your regulated public know what "hands-on care" means? And should "employees" be "team employees" to be consistent with the rest of the Rule?

In (e), line 35, you appear to be missing language. Right now, it reads "... maintained for hospice team, both paid and direct patient/family services volunteers." Should this read "hospice team members, and both paid..."? Or "for the hospice team, including paid..."?

In (e)(1), Page 2, line 4, can be verified by whom? And is this not addressed by (e)(3)?

In (e)(5), please hyphenate "hands-on" to be consistent with the rest of the Rule.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 25, 2020

1 10A NCAC 13K .0401 is readopted as published in 34:24 NCR 2380-2383 as follows:

3 SECTION .0400 - PERSONNEL

5 10A NCAC 13K .0401 PERSONNEL

6 (a) Written policies shall be established and implemented by the agency regarding infection control and exposure to
 7 communicable diseases consistent with the rules set forth in 10A NCAC 41A, 41A, which is incorporated by reference,
 8 including subsequent amendments and editions. These policies and procedures shall include provisions for compliance
 9 with 29 CFR 1910 (~~Occupational~~ Occupational Safety and Health ~~Standards~~) Standards, which is incorporated by
 10 reference including subsequent ~~amendments,~~ amendments and editions. ~~Emphasis shall be placed on compliance with~~
 11 These editions shall include 29 CFR 1910.1030 (~~Airborne and Bloodborne Pathogens~~) Bloodborne Pathogens.
 12 Copies of Title 29 Part 1910 can be ~~purchased from the Superintendent of Documents, U.S. Government Printing~~
 13 ~~Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 or by calling Washington, D.C. (202) 512-1800. The cost is~~
 14 ~~twenty one dollars (\$21.00) and may be purchased with a credit card.~~ obtained online at no charge at
 15 https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=10051&p_table=STANDARDS.

16 (b) Hands-on care employees ~~must~~ shall have a baseline ~~skin~~ test for tuberculosis. Individuals who test positive ~~must~~
 17 shall demonstrate non-infectious status prior to assignment in a patient's home. Individuals who have previously tested
 18 positive to the tuberculosis ~~skin~~ test shall obtain a baseline and subsequent annual verification that they are free of
 19 tuberculosis symptoms. The verification shall be obtained from the local health department, a private ~~physician~~
 20 physician, or health nurse employed by the agency. The ~~Tuberculosis Control~~ Communicable Disease Branch of the
 21 North Carolina Department of Health and Human Services, Division of Public Health, ~~1902~~ 1905 Mail Service Center,
 22 Raleigh, NC ~~27699-1902~~ 27699-1905 will ~~provide,~~ provide free of charge guidelines for conducting and verification
 23 utilizing and Form ~~DEHNR~~ DHHS 3405 (Record of Tuberculosis Screening). Employees identified by agency risk
 24 assessment to be at risk for exposure ~~are required to~~ shall be subsequently tested ~~at intervals prescribed by OSHA~~
 25 ~~standards.~~ in accordance with Centers for Disease Control (CDC) guidelines, which is incorporated by reference with
 26 subsequent amendments and editions. A copy of the CDC guidelines can be obtained online at no charge at
 27 <https://search.cdc.gov/search/?query=TB+testing+intervals&sitelimit=&utf8=%E2%9C%93&affiliate=cdc-main>.

28 (b)(c) Written policies shall be established and implemented ~~which~~ by the agency that include personnel record
 29 content, orientation, patient family volunteer training, and in-service education. Records on the subject of in-service
 30 education and attendance shall be maintained by the agency and retained for ~~at least~~ one year.

31 (e)(d) Job descriptions for every position, including volunteers involved in direct patient/family services, shall be
 32 established ~~in writing which~~ by the agency and shall include the position's qualifications and specific responsibilities.
 33 ~~Individuals~~ Hospice team member(s) shall be assigned only to duties ~~for which that~~ they are trained and competent to
 34 ~~perform and when applicable for which they are properly licensed.~~ perform, or licensed to perform.

35 (d)(e) Personnel records shall be established and maintained for ~~all hospice staff,~~ team, both paid and direct
 36 patient/family services volunteers. These records shall be maintained ~~at least~~ for one year after ~~termination from~~

~~agency employment.~~ employment or volunteer service ends. When ~~requested,~~ requested by the State surveyors, the records shall be available on the agency premises for inspection by the Department. The records shall include:

- (1) an application or resume ~~which that~~ lists education, ~~training~~ training, and previous employment that can be verified, including job title;
- (2) a job description with record of acknowledgment by the ~~staff;~~ team member(s);
- (3) reference checks or verification of previous employment;
- (4) records of tuberculosis annual screening for ~~those employees for whom the test is necessary as described in Paragraph (a) of this Rule;~~ hands-on care team;
- (5) documentation of Hepatitis B immunization or declination for hands on care ~~staff;~~ team;
- (6) ~~airborne and~~ bloodborne pathogen training for ~~hands-on~~ hands-on care ~~staff;~~ team, including annual updates, in compliance with 29 CFR 1910 and in accordance with the agency's exposure control plan;
- (7) performance evaluations according to agency ~~policy and~~ policy, or at least annually;
- (8) verification of ~~staff credentials as applicable;~~ team member(s) credentials;
- (9) records of the verification of competencies by agency supervisory personnel of ~~all~~ skills required of hospice services personnel to carry out patient care ~~tasks to which the staff is assigned.~~ tasks. The method of verification shall be defined in agency policy.

History Note: Authority G.S. 131E-202;
Eff. November 1, 1984;
Amended Eff. February 1, 1996; November 1, 1989 1989;
Readopted Eff. January 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13K .0604

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 the following technical changes be made:

In (a), line 6, since you have "each patient" (singular) please state "his or her" rather than "their"

In (c), line 26, please state "agency, for a minimum of one year, in accordance..."

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 25, 2020

10A NCAC 13K .0604 is readopted as published in 34:24 NCR 2380-2383 as follows:

10A NCAC 13K .0604 PATIENT'S RIGHTS AND RESPONSIBILITIES

(a) A hospice agency shall provide each patient with a written notice of the patient's rights and responsibilities in advance of furnishing care to the patient or during the initial evaluation visit before the initiation of services. The agency ~~must~~ shall maintain documentation showing that each patient has received a copy of ~~his~~ their rights and ~~responsibilities.~~ responsibilities as defined in G.S. 131E-144.3.

~~(b) The notice shall include at a minimum the patient's right to:~~

- ~~(1) be informed and participate in the patient's plan of care;~~
- ~~(2) voice grievances about the patient's care and not be subjected to discrimination or reprisal for doing so;~~
- ~~(3) confidentiality of the patient's records;~~
- ~~(4) be informed of the patient's liability for payment for services;~~
- ~~(5) be informed of the process for acceptance and continuance of service and eligibility determination;~~
- ~~(6) accept or refuse services;~~
- ~~(7) be informed of the agency's on-call service;~~
- ~~(8) be advised of the agency's procedures for discharge; and~~
- ~~(9) be informed of supervisory accessibility and availability~~

~~(e)(b)~~ A hospice agency shall provide all patients with a business hours telephone number for information, ~~questions~~ questions, or complaints about services provided by the agency. The agency shall also provide the Division of Health Service Regulation's complaints ~~number and the Department of Health and Human Services Careline number.~~ intake telephone numbers: within N.C. (800) 624-3004; outside of N.C. (919) 855-4500. The Division of Health Service Regulation shall investigate all allegations of non-compliance with the ~~rules.~~ rules of this Subchapter.

~~(d)(c)~~ A hospice agency shall initiate an investigation within ~~72 hours~~ 72 hours of complaints made by a patient or ~~his or her~~ family. Documentation of both the existence of the complaint and the resolution of the complaint shall be maintained by the ~~agency.~~ agency, at a minimum of one-year, in accordance with hospice agency policy and procedures.

History Note: Authority G.S. 131E-202;

Eff. February 1, ~~1996~~-1996;

Readopted Eff. January 1, 2021.

10A NCAC 13K .0701 is readopted as published in 34:24 NCR 2380-2383 as follows:

SECTION .0700 - PATIENT/FAMILY CARE PLAN

10A NCAC 13K .0701 CARE PLAN

(a) The ~~hospice~~ agency shall develop and implement policies and procedures ~~which that~~ that ensure ~~that~~ a written care plan is developed and maintained for each patient and family. The plan shall be established by the interdisciplinary ~~care~~ team in accordance with the orders of the attending physician and be based on the ~~complete~~ assessment of the patient's and family's medical, ~~psychosocial~~ psychosocial, and spiritual needs. The patient and family care coordinator shall have the primary responsibility for assuring the implementation of the patient's care plan. The care plan shall include the following:

- (1) the patient's diagnosis and prognosis;
- (2) the identification of problems or needs and the establishment of ~~appropriate goals;~~ goals that are appropriate for the patient;
- (3) the types and frequency of services required to meet the goals; and
- (4) the identification of personnel and disciplines responsible for each service.

(b) The care plan shall be reviewed by ~~appropriate~~ the interdisciplinary ~~care~~ team members and updated ~~at least once~~ monthly. The interdisciplinary ~~care~~ team and other ~~appropriate~~ personnel shall meet at ~~least once~~ a minimum every ~~two weeks~~ 15 days for the purpose of care plan review and staff support. Minutes shall be kept of these meetings that include the date, names of those in ~~attendance~~ attendance, and the names of the patients discussed. Additionally, entries shall be recorded in the medical records of those patients whose care plans are reviewed.

History Note: Authority G.S. 131E-202;

Eff. November 1, 1984;

Amended Eff. February 1, 1996; November 1, ~~1989~~ 1989;

Readopted Eff. January 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13K .1104

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 the following technical changes be made:

In (b), line 5, so that I'm clear – does “directly” mean “in-house”?

On line 6, please retain “if applicable” or state “Any written agreement shall meet” (and delete the comma after “agreement.”)

In (c), line 7, since this is “whenever possible,” should “assure” be “offer”?

In (d), line 8, what is “balanced meals” and “regular intervals”? Should this state “...serve three meals throughout the day, timed to meet the needs of the residents.”?

On line 9, what is a “substantial” evening meal?

In (e), line 11, what is “food management”? Does your regulated public know?

In (f), line 14, please be sure to update the term of “registered dietitian” to match the defined term in Rule .0102.

In (g), line 15, what is “nourishing quality”?

In (h), line 18, do not insert “and editions” and insert a comma after “amendments”

Do not include the sentence on line 19.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: November 25, 2020

1 10A NCAC 13K .1104 is readopted as published in 34:24 NCR 2380-2383 as follows:

2
3 **10A NCAC 13K .1104 DIETARY SERVICES**

4 (a) The hospice shall develop and maintain written policies and procedures for dietary services.

5 (b) Dietary services shall be provided directly or ~~may be provided~~ through written agreement with a food service
6 company. The written agreement, ~~if applicable~~, shall meet the provisions of Rule .0505 of this Subchapter.

7 (c) The hospice shall assure that residents' favorite foods are included in their diets whenever possible.

8 (d) The food service shall be planned and staffed to serve three balanced meals at regular intervals or at a variety of
9 times depending upon the needs of the residents. No more than 14 hours shall elapse between a substantial evening
10 meal and breakfast.

11 (e) The hospice shall appoint a staff member trained or experienced in food management to:

12 (1) plan menus to meet the nutritional needs of the ~~residents~~; residents; and

13 (2) supervise meal preparation and service.

14 (f) Therapeutic diets shall be prescribed by the physician and planned by a registered dietitian.

15 (g) Between-meal snacks of nourishing quality shall be offered and be available on a ~~24-hour~~ 24-hour basis.

16 (h) The procurement, ~~storage~~ storage, and refrigeration of food, refuse ~~handling~~ handling, and pest control shall
17 comply with ~~the most current sanitation rules~~ 15A NCAC 18A which are hereby incorporated by reference, including
18 subsequent amendments and editions promulgated by the ~~Division of Environmental~~ Commission for Public Health.
19 These rules may be accessed at <http://reports.oah.state.nc.us/ncac.asp> free of charge.

20
21 *History Note: Authority G.S. 131E-202;*

22 *Eff. June 1, ~~1991~~, 1996;*

23 *Readopted Eff. January 1, 2021.*