

10A NCAC 13C .1401 is amended as published in 33:24 NCR 2352-2356 as follows:

SECTION .1400 - PHYSICAL PLANT CONSTRUCTION

10A NCAC 13C .1401 ~~OPERATING SUITE~~ DEFINITIONS

The size and design of the suite shall be in accordance with individual programs, but the following basic elements designed to ensure no flow of through traffic must be incorporated in all facilities:

- (1) ~~Operating Room(s). The number shall depend on the projected case load and types of procedures to be performed. Rooms used for surgery shall have adequate space to accommodate necessary equipment and personnel.~~
- (2) ~~Service Areas. The following supporting services shall be provided:~~
 - (a) ~~scrub up facilities with foot or knee controls;~~
 - (b) ~~personnel locker and dressing areas so located that personnel enter from uncontrolled areas and exit directly into a surgical suite. Locker space shall be provided for each employee; and a toilet, shower, and dressing area shall be provided in each personnel dressing room;~~
 - (c) ~~separate rooms for clean and for soiled supplies and equipment;~~
 - (d) ~~anesthesia workroom;~~
 - (e) ~~one clerical control station; and~~
 - (f) ~~a janitor's closet conveniently located to serve only the licensed facility.~~

In addition to the definitions set forth in G.S. 131E-146, the following definitions shall apply in Section .1400 of this Subchapter:

- (1) "Addition" means an extension or increase in floor area or height of a building.
- (2) "Alteration" means any construction or renovation to an existing building other than construction of an addition.
- (3) "Construction documents" means final building plans and specifications for the construction of a facility that a governing body submits to the Construction Section for approval as specified in Rule .0202 of this Subchapter.
- (4) "Construction Section" means the Construction Section of the Division of Health Service Regulation.
- (5) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
- (6) "Facility" means an ambulatory surgical facility as defined in G.S. 131E-146.
- (7) "FGI Guidelines" means the Guidelines for Design and Construction of Outpatient Facilities that is incorporated by reference in Rule .1402 of this Section.

History Note: Authority G.S. 131E-145; 131E-146; 131E-149;
Eff. October 14, 1978;

1 *Amended Eff. December 24, 1979;*
2 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
3 *23, ~~2017~~, 2017;*
4 *Amended Eff. January 1, 2020.*

10A NCAC 13C .1402 is amended as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1402 ~~RECOVERY AREA~~ LIST OF REFERENCED GUIDELINES, CODES, STANDARDS, AND REGULATION

~~Recovery area with handwashing facilities, secured medication storage space, clerical work space, storage for clerical supplies, linens, and patient care supplies and equipment shall be provided.~~

(a) The FGI Guidelines are incorporated herein by reference, including all subsequent amendments and editions; however, the following chapters of the FGI Guidelines shall not be incorporated herein by reference:

- (1) Chapter 2.3;
- (2) Chapter 2.4;
- (3) Chapter 2.5;
- (4) Chapter 2.6;
- (5) Chapter 2.8;
- (6) Chapter 2.10;
- (7) Chapter 2.11;
- (8) Chapter 2.12;
- (9) Chapter 2.13; and
- (10) Chapter 2.14.

Copies of the FGI Guidelines may be purchased from the Facility Guidelines Institute online at <https://www.fgiguideines.org/guidelines-main/purchase/> at a cost of two hundred dollars (\$200.00) or accessed electronically free of charge at <https://www.fgiguideines.org/guidelines-main/>.

(b) For the purposes of the rules of this Section, the following codes, standards, and regulation are incorporated herein by reference including subsequent amendments and editions. Copies of these codes, standards, and regulation may be obtained or accessed from the online addresses listed:

- (1) the North Carolina State Building Codes with copies that may be purchased from the International Code Council online at <https://shop.iccsafe.org/> at a cost of six hundred sixty-six dollars (\$666.00) or accessed electronically free of charge at <https://shop.iccsafe.org/state-and-local-codes/north-carolina.html>;
- (2) the following National Fire Protection Association standards, codes, and guidelines with copies of these standards, codes, and guidelines that may be accessed electronically free of charge at <https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards> or may be purchased online at <https://catalog.nfpa.org/Codes-and-Standards-C3322.aspx> for the costs listed:
 - (A) NFPA 22, Standard for Water Tanks for Private Fire Protection for a cost of fifty-four dollars (\$54.00);
 - (B) NFPA 53, Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres for a cost of fifty-three dollars (\$53.00);

- (C) NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas for a cost of fifty-four dollars (\$54.00);
- (D) NFPA 99, Health Care Facilities Code for a cost of seventy-seven dollars (\$77.00);
- (E) NFPA 101, Life Safety Code for a cost of one hundred and five dollars and fifty cents (\$105.50);
- (F) NFPA 255, Standard Method of Test of Surface Burning Characteristics of Building Materials for a cost of forty-two dollars (\$42.00);
- (G) NFPA 407, Standard for Aircraft Fuel Servicing for a cost of forty-nine dollars (\$49.00);
- (H) NFPA 705, Recommended Practice for a Field Flame Test for Textiles and Films for a cost of forty-two dollars (\$42.00);
- (I) NFPA 780, Standard for the Installation of Lightning Protection Systems for a cost of sixty-three dollars and fifty cents (\$63.50);
- (J) NFPA 801, Standard for Fire Protection for Facilities Handling Radioactive Materials for a cost of forty-nine dollars (\$49.00); and
- (K) Fire Protection Guide to Hazardous Materials for a cost of one hundred and thirty-five dollars and twenty-five cents (\$135.25).
- (3) 42 CFR Part 416.54 Condition of participation: Emergency preparedness with copies of this regulation that may be accessed free of charge at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-15.xml> or purchased online at <https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7> for a cost of seventy-seven dollars (\$77.00).

History Note: Authority G.S. 131E-149;

Eff. October 14, 1978;

Amended Eff. December 24, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017~~ 2017;

Amended Eff. January 1, 2020.

10A NCAC 13C .1403 is amended with changes as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1403 SUPPORTING ELEMENTS GENERAL AND EMERGENCY PREPAREDNESS

~~In addition to those areas covered in Rules .1401 and .1402 of this Section, the facility shall provide space for the following:~~

- ~~(1) the receiving and registering of patients in privacy for obtaining confidential information;~~
- ~~(2) waiting space with public toilets, public telephone, drinking fountain, and wheelchair storage;~~
- ~~(3) preoperative preparation and post operative space for both males and females with dressing rooms and toilet facilities; and~~
- ~~(4) secure storage for patients' personal effects.~~

(a) A new facility or any addition or alterations to an existing facility whose construction documents were approved by the Construction Section on or after July 1, 2020 shall meet the requirements set forth in:

- (1) the rules of this Section; and
- (2) the FGI Guidelines.

(b) An existing facility whose construction documents were approved by the Construction Section prior to July 1, 2020 shall meet those standards established in the rules of this Section that were in effect at the time the construction documents were approved by the Construction Section. Previous versions of the rules of this Section can be accessed online at [\[https://www.ncdhhs.gov/dhsr/const/index.html\]](https://www.ncdhhs.gov/dhsr/const/index.html) <https://info.ncdhhs.gov/dhsr/const/index.html>.

(c) The facility shall develop and maintain an emergency preparedness program as required by 42 CFR Part 416.54 Condition of Participation: Emergency Preparedness. The emergency preparedness program shall be developed with input from the local fire department and local emergency management agency. Documentation required to be maintained by 42 CFR Part 416.54 shall be maintained at the facility for at least three years and shall be made available to the Division during an inspection upon request.

(d) Any existing building converted from another use to a new facility shall meet the requirements of Paragraph (a) of this Rule.

History Note: Authority G.S. 131E-149; 42 CFR Part 416.54;

Eff. October 14, 1978;

Amended Eff. April 1, 2003;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017~~, 2017;

Amended Eff. January 1, 2020.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13C .1404

DEADLINE FOR RECEIPT: Thursday, December 12, 2019

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 the following technical changes be made:

In (a), consider deleting "The equivalency may be granted by the Division" on line 15 so that it reads "The Division may grant an equivalency to allow an alternative design or functional variation from the requirements in the rules contained in this Section if a governing body..."

Also, in (a), by "may" do you mean "shall"? If you mean may? Will this be done on a case-by-case basis if it found that the safety won't be impacted? If so, please provide some additional information.

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: November 26, 2019

10A NCAC 13C .1404 is readopted as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1404 ~~DETAILS AND FINISHES~~ EQUIVALENCY AND CONFLICTS WITH REQUIREMENTS

All details and finishes must meet the following requirements:

(1) ~~Details~~

- ~~(a) The type of construction shall meet the requirement of the current edition of the North Carolina State Building Code for "Business Occupancy (B)," except that in the construction of new facilities required exit doors to stairs or to the outside shall be no less than 44" wide doors.~~
- ~~(b) Exit corridors, in addition to meeting the appropriate requirements of the North Carolina State Building Code, shall:

 - ~~(i) be no less than 7'0" clear width between doors from the recovery area or operating rooms and required exit doors; or~~
 - ~~(ii) if in a one-story building or on the ground floor of a multi-story building and is less than 7'0" clear width be so arranged as to allow a stretcher to exit from the recovery area or operating room directly into the corridor without turning and move to the required exit without having to make a turn.~~~~
- ~~(c) Doors between preoperative preparation, operating rooms and recovery areas and recovery rooms and corridors shall be no less than 44" wide. All recovery areas shall have at least one door opening to an exit passage way meeting the requirements of (b)(i) and (b)(ii) of this Rule.~~
- ~~(d) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.~~
- ~~(e) No doors shall swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width except doors to spaces such as small closets which are not subject to occupancy.~~
- ~~(f) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts.~~
- ~~(g) Single use towel dispensers or air driers shall be provided at all handwashing fixtures except scrub sinks.~~
- ~~(h) All other rooms shall have not less than 8'0" (2.44 m.) high ceilings except that corridors, storage rooms, toilet rooms, and other minor rooms may be not less than 7' 8" (2.34 m.). Suspended tracks, rails, pipes, etc., located in the path of normal traffic, shall be not less than 7' 6" (2.28 m.) above the floor.~~

(2) ~~Finishes~~

- (a) ~~Floors shall be easily cleanable and have wear resistance appropriate for the locations involved. Joints in tile and similar material in such areas shall be resistant to food acids.~~
- (b) ~~Wall bases in operating rooms, soiled workrooms, and other areas subject to frequent wet cleaning shall be integral and covered with the floor, tightly sealed within the wall, and constructed without voids that can harbor vermin.~~
- (c) ~~Walls shall be washable; and, in the immediate area of plumbing fixtures, the finish shall be smooth, moisture resistant, and easily cleaned.~~
- (d) ~~Floor and wall penetrations by pipes, ducts, conduits, etc., shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.~~
- (e) ~~Ceilings in operating rooms shall be readily washable and without crevices that can retain dirt particles. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces except where required for fire rating.~~

(a) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements in the rules contained in this Section. The equivalency may be granted by the Division if a governing body submits a written equivalency request to the Division that indicates the following:

- (1) the rule citation and the rule requirement that will not be met;
- (2) the justification for the equivalency;
- (3) how the proposed equivalency meets the intent of the corresponding rule requirement; and
- (4) a statement by the governing body that the equivalency request will not reduce the safety and operational effectiveness of the facility design and layout.

The governing body shall maintain a copy of the approved equivalence issued by the Division.

(b) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

History Note: Authority G.S. 131E-149;

Eff. October 14, 1978;

Amended Eff. November 1, 1989; December 24, 1979. 1979;

Readopted Eff. January 1, 2020.

1 10A NCAC 13C .1405 - .1407 are repealed through readoption as published in 33:24 NCR 2352-2356 as follows:

2
3 **10A NCAC 13C .1405 MECHANICAL REQUIREMENTS**

4 **10A NCAC 13C .1406 PLUMBING AND OTHER PIPING SYSTEMS**

5 **10A NCAC 13C .1407 ELECTRICAL REQUIREMENTS**

6
7 *History Note: Authority G.S. 131E-149;*

8 *Eff. October 14, 1978;*

9 *Amended Eff. April 1, 2003; December 24, ~~1979-1979~~;*

10 *Repealed Eff. January 1, 2020.*

1 10A NCAC 13C .1408 - .1409 are repealed as published in 33:24 NCR 2352-2356 as follows:

2
3 **10A NCAC 13C .1408 GENERAL**

4 **10A NCAC 13C .1409 LIST OF REFERENCED CODES AND STANDARDS**

5
6 *History Note: Authority G.S. 131E-149;*

7 *Eff. April 1, 2003;*

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

9 *23, ~~2017~~, 2017;*

10 *Repealed Eff. January 1, 2020.*

1 10A NCAC 13C .1410 is repealed through readoption as published in 33:24 NCR 2352-2356 as follows:

2

3 **10A NCAC 13C .1410 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

4

5 *History Note: Authority G.S. 131E-149;*

6 *Eff. April 1, ~~2003~~-2003;*

7 *Repealed Eff. January 1, 2020.*

1 10A NCAC 13F .0203 is repealed through readoption as published in 33:24 NCR 2356-2358 as follows:

2
3 **10A NCAC 13F .0203 PERSONS NOT ELIGIBLE FOR NEW ADULT CARE HOME LICENSES**

4
5 *History Note: Authority G.S. 131D-2.4; 131D-2.5; 131D-4.5; 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, ~~2004-2004~~;*

10 *Repealed Eff. January 1, 2020.*

10A NCAC 13F .0207 is readopted with changes as published in 33:24 NCR 2356-2358 as follows:

10A NCAC 13F .0207 CHANGE OF LICENSEE

~~When a licensee plans to sell the adult care home business, the following procedure is required. Prior to the sale of an adult care home business, the current and prospective licensee shall meet the requirements of this Rule.~~

- (1) The current licensee shall provide written notification of a planned change of licensee to the Division of Health Service Regulation, the county department of social ~~services~~ services, and the residents or their responsible persons at least 30 days prior to the date of the planned change of licensee.
- (2) If the prospective licensee plans to purchase the building, the prospective licensee shall provide the Healthcare Planning and Certificate of Need Section of the Division of Health Service Regulation with prior written notice as required by G.S. ~~13E-184(a)(8)~~ 131E-184(a)(8) prior to the purchase of the building.
- ~~(3) If the licensee is changing but the ownership of the building is not, the applicant for the license shall request in writing an exemption from review from the Certificate of Need Section.~~
- (4) (3) The prospective licensee shall submit the following license application material to the Division of Health Service Regulation:
 - (a) the ~~Initial License Application~~ Change Licensure Application for Adult Care Home (7 or more Beds) ~~which that~~ is available on the internet website, ~~http://facility-services.state.nc.us/gepage.htm;~~ [www2.ncdhhs.gov/dhsr/acls/pdf/acchgapp.pdf] https://info.ncdhhs.gov/dhsr/acls/pdf/acchgapp.pdf at no cost ~~or from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708; and includes the following:~~
 - (i) facility administrator and building owner information;
 - (ii) operation disclosure including new licensee information and management company, if any; and
 - (iii) ownership disclosure including new owners, principles, affiliates, shareholders, and members;
 - (b) a ~~current~~ fire and building safety inspection report from the local fire ~~marshal;~~ marshal dated within the past 12 months;
 - (c) a ~~current~~ sanitation report from the sanitation division of the county health ~~department;~~ department dated within the past 12 months; and
 - (d) a nonrefundable license fee as required by ~~G.S. 131D-2(b)(1).~~ G.S. 131D-2.5.
- ~~(5) Following the licensing of the facility to the new licensee, a survey of the facility shall be made by program consultants of the Division of Health Service Regulation and an adult home specialist of the county department of social services.~~

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

1 *Eff. January 1, 1977;*
2 *Readopted Eff. October 31, 1977;*
3 *Amended Eff. April 1, 1984;*
4 *Temporary Amendment Eff. September 1, 2003; July 1, 2003;*
5 *Amended Eff. June 1, ~~2004~~ 2004;*
6 *Readopted Eff. January 1, 2020.*

1 10A NCAC 13F .0214 is repealed through readoption as published in in 33:24 NCR 2356-2358 as follows:

2

3 **10A NCAC 13F .0214 SUSPENSION OF ADMISSIONS**

4

5 *History Note:* *Authority G.S. 131D-2.7;*

6 *Eff. January 1, ~~1982~~-1982;*

7 *Repealed Eff. January 1, 2020.*

1 10A NCAC 13F .1206 is readopted as published in 33:24 NCR 2356-2358 as follows:

2
3 **10A NCAC 13F .1206 ~~ADVERTISING-MARKETING~~**

4 ~~The~~ An adult care home may ~~advertise~~ market provided:

- 5 (1) ~~The~~ the name used is as it appears on the ~~license~~ license;
- 6 (2) ~~Only~~ only the services and accommodations for which the home is licensed are ~~used~~ used; and
- 7 (3) ~~The~~ the home is ~~listed under proper classification in telephone books, newspapers or magazines.~~
8 classified by licensure status.

9
10 *History Note: Authority G.S. 131D-2.1; 131D-2.16; 143B-165;*

11 *Eff. January 1, 1977;*

12 *Readopted Eff. October 31, 1977;*

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

14 *Amended Eff. July 1, ~~2004~~. 2004;*

15 *Readopted Eff. January 1, 2020.*

10A NCAC 13G .0207 is readopted with changes as published in 33:24 NCR 2356-2358 as follows:

10A NCAC 13G .0207 CHANGE OF LICENSEE

~~When a licensee wishes to sell or lease the family care home business, the following procedure is required:~~

- ~~(1) The licensee shall notify the county department of social services that a change is desired. When there is a plan for a change of licensee and another person applies to operate the home immediately, the licensee shall notify the county department and the residents or their responsible persons. The county department shall talk with the residents, giving them the opportunity to make other plans if they so desire.~~
- ~~(2) The county department of social services shall submit all forms and reports specified in Rule .0204 (b) of this Subchapter to the Division of Health Service Regulation.~~
- ~~(3) The Division of Health Service Regulation shall review the records of the facility and may visit the home.~~
- ~~(4) The licensee and prospective licensee shall be advised by the Division of Health Service Regulation of any changes which must be made to the building before licensing to a new licensee can be recommended.~~
- ~~(5) Frame or brick veneer buildings over one story in height with resident services and accommodations on the second floor shall not be considered for re-licensure.~~

Prior to the sale of a family care home business, the current and prospective licensee shall meet the requirements of this Rule.

- (1) The current licensee shall provide written notification of a planned change of licensee to the Division of Health Service Regulation, the county department of social services, and the residents or their responsible persons at least 30 days prior to the date of the planned change of licensee.
- (2) The prospective licensee shall submit the following license application material to the Division of Health Service Regulation:
 - (a) the Change Licensure Application for Family Care Home (2 to 6 Beds) that is available on the internet website, www2.ncdhhs.gov/dhsr/acls/pdf/fchgapp.pdf <https://info.ncdhhs.gov/dhsr/acls/pdf/fchgapp.pdf> at no cost and includes the following:
 - (i) facility, administrator and building owner information;
 - (ii) operation disclosure including new licensee information and management company, if any; and
 - (iii) ownership disclosure including new owners, principles, affiliates, shareholders, and members;
 - (b) a fire and building safety inspection report from the local fire marshal dated within the past 12 months;
 - (c) a sanitation report from the sanitation division of the county health department dated within the past 12 months; and

1 (d) a nonrefundable license fee as required by G.S. 131D-2.5.

2

3 *History Note:* *Authority G.S. 131D-2.4; 131D-2.16; 143B-165;*
4 *Eff. January 1, 1977;*
5 *Readopted Eff. October 31, 1977;*
6 *Amended Eff. July 1, 1990; April 1, 1984;*
7 *Temporary Amendment Eff. September 1, 2003;*
8 *Amended Eff. June 1, ~~2004~~ 2004;*
9 *Readopted Eff. January 1, 2020.*

1 10A NCAC 13G .0214 is repealed through readoption as published in 33:24 NCR 2356-2358 as follows:

2

3 **10A NCAC 13G .0214 SUSPENSION OF ADMISSIONS**

4

5 *History Note: Authority G.S. 131D-2.7;*

6 *Eff. January 1, 1982;*

7 *Amended Eff. July 1, ~~1990~~. 1990;*

8 *Repealed Eff. January 1, 2020.*

1 10A NCAC 13G .1207 is readopted as published in 33:24 NCR 2356-2358 as follows:

2
3 **10A NCAC 13G .1207 ADVERTISING MARKETING**

4 ~~The administrator~~ A family care home may use acceptable methods of advertising market provided:

- 5 (1) ~~The~~ the name used is as it appears on the ~~license.~~ license;
- 6 (2) ~~Only~~ only the services and accommodations for which the home is licensed are ~~used.~~ used; and
- 7 (3) ~~The~~ the home is ~~listed under proper classification in telephone books, newspapers or magazines.~~
8 classified by licensure status.

9
10 *History Note:* Authority G.S. 131D-2.1; 131D-2.16; 143B-165;
11 Eff. January 1, 1977;
12 Readopted Eff. October 31, 1977;
13 Amended Eff. April 1, ~~1984.~~ 1984;
14 Readopted Eff. January 1, 2020.