

10A NCAC 13E .0101 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

SUBCHAPTER 13E – LICENSING OF OVERNIGHT RESPITE SERVICES

SECTION .0100 DEFINITIONS

10A NCAC 13E .0101 DEFINITIONS

The following definitions apply throughout this Subchapter:

- (1) ~~"Program" means a facility certified by the Department of Health and Human Services, Division of Aging and Adult Services to provide adult day care services pursuant to G.S. 131D-6, and 10A NCAC Chapter 06R, or adult day health services pursuant to 10A NCAC Chapter 06S, or both.~~
"Accident" means an unexpected, unintentional, or irregular event that results in injury or illness to a participant or suspected injury or illness to a participant.
- (2) ~~"Overnight respite services" means the provision of 24 hour supervision and personal care services to persons on a temporary basis for caregiver relief, not to~~ is defined in G.S. 131D-6.1 and shall not exceed 14 consecutive days, days or more than 60 total calendar days per individual participant in a 365-day period, and is provided by a program. period.
- (3) ~~"Personal care" means tasks such as assistance with bathing, dressing, grooming, toileting, eating, ambulation, transferring, and other personal care needs.~~
- (4) (3) "Participant" means the recipient of the overnight respite services.
- (4) ~~"Personal care" means tasks such as assistance with bathing, dressing, grooming, toileting, eating, ambulation, and transferring, and other personal care needs.~~ transferring.
- (5) ~~"Program" means a facility certified by the Department of Health and Human Services, Division of Aging and Adult Services, to provide adult day care services pursuant to G.S. 131D-6 and 10A NCAC Chapter 06R, adult day health services pursuant to 10A NCAC Chapter 06S, or both.~~
- (5) (6) "Responsible party" means the caretaker with primary day-to-day responsibility for a participant.
- (5) (7) "Supervision" means to oversee, manage, and direct for the determination and provision of assistance to a participant.
- (6) ~~"Accident" means an unexpected, unintentional, or irregular event that results in injury or illness to a participant or suspected injury or illness to a participant.~~

*History Note: Authority G.S. 131D-6.1;
 Eff. April 1, 2017.*

1 10A NCAC 13E .0201 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **SECTION .0200 – LICENSING**
4

5 **10A NCAC 13E .0201 APPLYING FOR A LICENSE TO PROVIDE OVERNIGHT RESPITE**
6 **SERVICES**

7 (a) Except as otherwise provided in Rule .0202 of this Section, the Division of Health Service Regulation (DHSR)
8 shall issue an overnight respite services license to any program that meets the following requirements:

- 9 (1) submission of an initial license application, ~~incorporated herein by reference including subsequent~~
10 ~~amendments and editions, and may be obtained online~~ available at
11 <https://www.ncdhhs.gov/dhsr/acls/acforms.html> at no cost that includes the following:

12 (A) applicant information;

13 (B) ownership information; and

14 ~~(C) operation information; and~~

15 ~~(D)~~ (C) the program's capacity and scope of services;

- 16 (2) payment of a the non-refundable license fee as required by G.S. 131D-6.1; and

- 17 (3) compliance with the provisions of G.S. 131D-6.1 and the Rules of this Subchapter.

18 (b) An application for a license to provide overnight respite services shall not be reviewed or approved unless the
19 applicant is certified by the Division of Aging and Adult Services ~~as an adult day care program pursuant to G.S. 131D-~~
20 ~~6, as a program as defined in Rule .0101 of this Subchapter.~~

21 (c) Following review of the initial license application, program policies in accordance with Rule .0501 of this
22 Subchapter, and the Construction Section's recommendation for use, a pre-approval visit shall be made by ~~a consultant~~
23 ~~of the DHSR Adult Care Licensure Section. Section or its consultant. The consultant shall report findings and~~
24 ~~recommendations to the Adult Care Licensure Section following the pre-approval visit.~~ The Adult Care Licensure
25 Section shall notify, in writing, the Division of Aging and Adult Services and the applicant of the decision to approve
26 or deny a license to provide overnight respite services as a part of the adult day care program.
27

28 *History Note: Authority G.S. 131D-6.1;*

29 *Eff. April 1, 2017.*

1 10A NCAC 13E .0202 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0202 PERSONS NOT ELIGIBLE FOR OVERNIGHT RESPITE SERVICES LICENSES**

4 A ~~new~~ license ~~shall not be issued~~ for an overnight respite services program shall not be issued to an ~~applicant who~~
5 ~~was the owner of an overnight respite services program in the following circumstances until:~~ applicant:

6 (1) ~~for an applicant~~ whose license for any overnight respite services program was ~~revoked,~~ revoked
7 until one year after the date of revocation; or

8 (2) ~~for an applicant~~ whose admissions for any overnight respite services program were ~~suspended,~~
9 suspended until six months after the suspension is lifted.

10
11 *History Note:* Authority G.S. 131D-6.1;

12 Eff. April 1, 2017.

10A NCAC 13E .0204 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

10A NCAC 13E .0204 RENEWAL OF LICENSE

(a) The license shall be renewed annually, except as otherwise provided in Rule .0205 of this Section, if the licensee submits an application for renewal and the Department determines that the licensee complies with the provisions of G.S. 131D-6.1 and the Rules of this Subchapter. When violations of ~~licensure rules~~ the Rules of this Subchapter or statutes are documented and have not been corrected prior to expiration of the license, the Department may approve an extension of a plan of correction or may revoke the license for cause.

(b) In determining whether to renew a license under G.S. 131D-6.1 or extend a plan of correction, the Department shall take into consideration the following factors:

- (1) the compliance history of the adult day care program;
- (2) the compliance history of overnight respite services;
- (3) the extent to which the conduct of a related licensed program for overnight respite services is likely to affect the quality of care at the applicant service; and
- (4) the hardship on residents of the applicant service if the license is not renewed.

~~(b)~~ (c) The license renewal application shall be sent to the applicant by the Department at least 60 days prior to expiration of the license.

~~(c)~~ (d) The license renewal application shall include the following:

- (1) applicant information;
- (2) ownership information;
- ~~(3) operation information;~~
- ~~(4)~~ (3) the program's capacity and scope of services; and
- ~~(5)~~ (4) invoice for the annual nonrefundable renewal licensure fee in accordance with G.S. 131D-6.1(i).

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

1 10A NCAC 13E .0205 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0205 CLOSING OF OVERNIGHT RESPITE SERVICES**

4 If a licensee plans to close its overnight respite services, the licensee shall provide written notification of the planned
5 closing to the Division of Health Service Regulation, Adult Care Licensure ~~Section~~, Section at 2708 Mail Service
6 Center, Raleigh, NC 27699-2708; the Division of Aging and Adult Services at 2101 Mail Service Center, Raleigh,
7 NC 27699-2101; and the participants; participants and their responsible ~~party~~ parties at least 30 days prior to the
8 planned closing. Written notification shall include the date of closing.

9
10 *History Note: Authority G.S. 131D-6.1;*

11 *Eff. April 1, 2017.*

1 10A NCAC 13E .0206 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0206 DENIAL AND REVOCATION OF LICENSE**

4 (a) The Division of Health Service Regulation shall deny any licensure application ~~upon the applicant's failure~~ if the
5 applicant fails to comply with G.S. 131D-6.1 and the Rules of this Subchapter.

6 (b) ~~Denial by the Division shall be effected by mailing to the applicant, by certified mail, a notice setting forth the~~
7 ~~particular reasons for such denial.~~ A license may be revoked by the Division in accordance with G.S. 131D-2.7 and
8 G.S. 131D-6.1.

9 (c) ~~A license may be revoked by the Division in accordance with G.S. 131D-2.7 and G.S. 131D-6.1.~~ The Division
10 shall notify the applicant of a denial of its application or revocation of its license by certified mail stating the reasons
11 for the denial or revocation.

12 (d) When an overnight respite service provider receives a notice of revocation, the administrator shall inform each
13 participant and ~~his or her~~ the participant's responsible party of the notice and the ~~basis on which the revocation was~~
14 ~~issued.~~ reasons for the revocation.

15
16 *History Note:* Authority G.S. 131D-2.7; 131D-6.1;
17 Eff. April 1, 2017.

1 10A NCAC 13E .0207 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0207 SUSPENSION OF ADMISSIONS**

4 (a) The Division of Health Service Regulation may suspend the admission of participants to overnight respite services
5 when warranted under the provisions of G.S. 131D-6.1 and G.S. 131D-2.7.

6 (b) The Division shall notify the overnight respite service licensee by certified mail of the decision to suspend
7 admissions. Such notice ~~will~~ shall include:

- 8 (1) the period of the suspension;
9 (2) factual allegations;
10 (3) citation of statutes and rules alleged to be violated; and
11 (4) notice of the licensee's right to a contested case hearing regarding the suspension.

12 (c) The suspension ~~is~~ shall be effective on the date specified in the notice of suspension. The suspension shall remain
13 effective for the period specified in the ~~notice~~, notice or until the overnight respite service demonstrates to the Division
14 that conditions are no longer detrimental to the health and safety of the ~~participants~~. participants based on the factors
15 set forth in G.S. 131D-2.7(d)(2).

16 (d) The overnight respite service shall not admit any participants during the effective period of the suspension.

17 (e) Any action taken by the Division to revoke a license for overnight respite services shall be accompanied by a
18 suspension of admissions. ~~A suspension may be ordered without the license being affected.~~

19
20 *History Note: Authority G.S. 131D-2.7; 131D-6.1;*

21 *Eff. April 1, 2017.*

1 10A NCAC 13E .0208 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0208 APPEAL OF LICENSURE ACTION**

4 The licensee may appeal any decision of the Division to deny or revoke a license or any decision to suspend admissions
5 of participants by making such an appeal in accordance with G.S. 150B.

6
7 *History Note: G.S. 131D-6.1;*
8 *Eff. April 1, 2017.*

10A NCAC 13E .0301 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

SECTION .0300 - PHYSICAL PLANT RULES

10A NCAC 13E .0301 SUBMISSION OF INFORMATION TO THE DIVISION OF HEALTH SERVICE REGULATION CONSTRUCTION SECTION

(a) Prior to operation, an applicant for a license to provide overnight respite services shall submit the following documents to the Division of Health Service Regulation (DHSR) Construction Section:

- (1) an approval letter from the local zoning jurisdiction for the proposed location;
- (2) if an existing structure, a photograph of each side of the existing structure and at least one of each of the interior spaces; and
- (3) a set of building plans of each floor level indicating:
 - (A) the layout of all rooms;
 - (B) room dimensions (including closets);
 - (C) door widths (exterior, bedroom, bathroom, and kitchen doors);
 - (D) window sizes and window sill heights;
 - (E) type of construction; and
 - (F) the proposed participant bedroom locations including the number of occupants in each bedroom.

(b) The Construction Section shall review the documents and notify the applicant by letter of changes that ~~must~~ shall be made to the building to meet the standards established in this Section. The letter shall also contain a list of final documentation required from the local fire marshal, local building code ~~official~~ official, and county health department that shall be submitted upon completion of any required changes to the building or completion of construction.

(c) In order to maintain compliance with the standards established in this Section, any changes made during construction that were not proposed during the document review required by Paragraph (b) of this Rule shall require the approval of the Construction Section.

(d) Upon receipt of the final documentation required by Paragraph (b) of this Rule, the Construction Section shall review the information and may either approve the overnight respite services program for construction based on documentation or make an on-site visit. If an on-site visit is made, the Construction Section shall inspect the construction and shall notify the applicant by letter of any changes that ~~must~~ shall be made to the construction. When the Construction Section determines that the completed construction is in compliance with the standards established in this Section, it shall notify the Division of Health Service Regulation Adult Care Licensure Section of its recommendation for use.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

1 10A NCAC 13E .0302 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0302 CAPACITY**

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

8 (b) An overnight respite services program shall not exceed the capacity shown on its license.

9 (c) Prior to an increase in capacity by adding rooms, altering rooms, or changing use of space, the overnight respite
10 services program shall submit a request for capacity increase and two building plans of each floor to the Construction
11 Section. One plan shall indicate the current use of rooms in the existing building. The other plan shall indicate the
12 proposed use of rooms in the existing building and its addition, alteration, or change in use of space. For an addition
13 to an existing building, the building plans shall also indicate how the addition will be tied into the existing building
14 and any proposed changes to the building structure.

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

21
22 *History Note: Authority G.S. 131D-6.1;*

23 *Eff. April 1, 2017.*

10A NCAC 13E .0303 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

10A NCAC 13E .0303 DESIGN AND CONSTRUCTION

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

- (1) “facility” means a building or portion of a building housing an overnight respite services program as defined in G.S. 131D-6.1(a);
- (2) “proposed facility” means the new construction of a building for a facility, an addition or alteration to an existing building for a facility, or the change in use of a building for a facility.
- (3) “existing facility” means a currently licensed facility and a proposed facility that will be built according to building plans approved by the Construction Section for compliance with the standards established in this Section, prior to the effective date of this Rule; and
- (4) “new facility” means a proposed facility that will be built according to building plans approved by the Construction Section for compliance with the standards established in this Section, on or after the effective date of this Rule.

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

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

(c) ~~For a new facility, new construction or an addition or alteration to an existing building~~ All new construction, additions, or alterations for a new facility shall meet the requirements of the North Carolina State Building Codes, which are incorporated herein by ~~reference,~~ reference including all subsequent amendments and editions. Copies of these codes may be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty-seven dollars (\$527.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>. ~~For an existing facility, construction, addition, alteration, or repair~~ All new construction, additions, or repairs of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.

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

~~(e) Rules contained in this Section are minimum requirements and are not intended to prohibit buildings, systems, or operational conditions that exceed these minimum requirements.~~

~~(f)~~ (e) The Construction Section may grant an equivalency to allow an alternate design or functional variation from the requirements of the Rules contained in this Section. For the purposes of this Rule, an “equivalency” is a ~~Construction Section-approved~~ Section-approved alternate design and functional variation to a ~~Rule~~ requirement

1 contained in the Rules of this Section that meets the intent of the Rule ~~requirement~~, requirement but does not reduce
 2 the safety and operational effectiveness of the facility design and layout. If granted, the equivalency shall apply to a
 3 specific facility. ~~If the following occurs, a~~ A program shall be granted an ~~equivalency~~; equivalency if:

4 (1) the overnight respite services program submits a written equivalency request to the Construction
 5 Section indicating:

6 (A) the Rule ~~requirement, which~~ requirement that will not be met;

7 (B) the justification for the equivalency; and

8 (C) how the proposed equivalency meets the intent of the corresponding Rule requirement;

9 and

10 ~~(2) — the Construction Section reviews the equivalency request; and~~

11 ~~(3)~~ (2) the program receives a written approval of the equivalency from the Construction Section.

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

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

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

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

23 (1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building
 24 Code;

25 (2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c)
 26 of this Section; and

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

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

29 ~~(l)~~ (k) The ceiling shall be at least seven and one-half feet from the floor.

30 ~~(m)~~ (l) Elevation changes in ~~the level of~~ the floor are not permitted in participant-use areas.

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

33 ~~(o)~~ (n) Windows shall be operable and shall be maintained operable. For the purposes of this Rule, “operable” means
 34 a window that may be opened and shut to allow outdoor-air ventilation. To inhibit participant elopement from any
 35 window, the window opening may be restricted to a six-inch opening.

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

(p) The facility shall comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section, which are incorporated herein by ~~reference~~, reference including subsequent amendments and editions. The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27509. Copies may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost or can be accessed electronically free of charge at <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>.

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

- (1) a current sanitation inspection report from the county health department; and
- (2) a current fire safety inspection report from the local fire marshal.

(r) ~~A~~ The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and sounding devices that are audible throughout the ~~building shall be installed.~~ building. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated herein by reference including subsequent amendments and editions and may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50). Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected to the fire alarm system. These heat detectors shall be interconnected and ~~be~~ provided with battery backup. Corridors shall be equipped with smoke detectors that are connected to the fire alarm system.

(s) ~~The~~ A building housing the an overnight respite services program and the or an adult day care or adult health care programs program shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by reference including subsequent amendments and editions and may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars (\$103.00).

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

1 10A NCAC 13E .0304 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0304 LOCATION**

4 (a) A program offering overnight respite care services shall be in a location approved by local zoning boards.

5 (b) The site of a proposed facility where overnight respite care services are to be provided shall:

6 (1) be accessible by public roads that shall be maintained for motor vehicles access;

7 (2) be accessible to fire fighting and other emergency services;

8 (3) have a water supply, sewage disposal system, garbage disposal system, and trash disposal system
9 approved by the local health department having jurisdiction;

10 (4) ~~meet~~ comply with local ordinances; and

11 (5) be free from exposure to waste material that contaminates the air, soil, or water.

12
13 *History Note: Authority G.S. 131D-6.1;*

14 *Eff. April 1, 2017.*

1 10A NCAC 13E .0305 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0305 LIVING ROOM**

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

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

13 (c) The living room shall have windows with views to the outdoors. The gross window area shall not be less than
14 eight percent of the floor area required by Paragraph (a) of this Rule.

15
16 *History Note: Authority G.S. 131D-6.1;*
17 *Eff. April 1, 2017.*

1 10A NCAC 13E .0306 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0306 DINING ROOM**

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

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

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

15 (d) The dining room shall have windows with views to the outdoors. The gross window area shall not be less than
16 eight percent of the floor area required by Paragraph (a) of this Rule.

17
18 *History Note: Authority G.S. 131D-6.1;*

19 *Eff. April 1, 2017.*

1 10A NCAC 13E .0307 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0307 KITCHEN**

4 (a) The kitchen shall ~~be sized by the overnight respite services program to provide for the preparation and preservation~~
5 ~~of food and the washing of dishes.~~ have a floor area of not less than 120 square feet. The kitchen may be shared with
6 the ~~program.~~ adult day care or adult day health program.

7 (b) The cooking unit shall be mechanically ventilated to the exterior or be equipped with an unvented recirculation
8 fan provided with a filter as required by the manufacturer's instructions for vent-less use.

9 (c) The kitchen floor shall have a non-slippery and water-resistant covering.
10

11 *History Note: Authority G.S. 131D-6.1;*

12 *Eff. April 1, 2017.*

1 10A NCAC 13E .0308 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0308 BEDROOMS**

4 (a) There shall be bedrooms sufficient in number and size to meet the individual needs of the participant according to
5 their age and gender.

6 (b) ~~Only rooms authorized by the Construction Section for use as bedrooms shall be used as bedrooms. A room used~~
7 as a bedroom shall meet the requirements of this Rule and be approved by the Construction Section.

8 (c) A room ~~where access is~~ accessed only through a bathroom, kitchen, or another bedroom shall not be approved for
9 a participant's bedroom.

10 (d) Bedrooms occupied by one participant shall be provided with not less than 100 square feet of floor area, including
11 vestibule, closet, or wardrobe space. Bedrooms occupied by two participants shall be provided with not less than ~~400~~
12 160 square feet of floor area, including vestibule, closet, or wardrobe space,

13 (e) The total number of participants assigned to a bedroom shall ~~not exceed the number authorized~~ be based on the
14 square footage requirements of Paragraph (d) of this Rule as approved by the Construction Section for that ~~particular~~
15 bedroom.

16 (f) A bedroom shall not be occupied by more than two participants.

17 (g) Each participant bedroom shall have one or more windows with views to the outdoors. The gross window area
18 shall be equal to at least eight percent of the floor space required by Paragraph (d) of this Rule. The windows shall
19 have a maximum sill height of 44 inches.

20 (h) Bedroom closets or wardrobes shall be large enough to provide each participant with a minimum of 22 cubic feet
21 of clothing storage, one-half of which shall be for hanging clothes with an adjustable-height hanging bar.

22
23 *History Note: Authority G.S. 131D-6.1;*

24 *Eff. April 1, 2017.*

1 10A NCAC 13E .0309 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0309 BATHROOM**

4 (a) ~~The~~ An overnight respite services program shall have one bathroom for each six or fewer respite participants. A
5 bathroom shall contain a ~~water-closet, toilet,~~ a lavatory, and one of the following:

6 (1) a roll-in shower designed and equipped for unobstructed ~~ease-of~~ shower chair entry and use;

7 (2) a bathtub accessible on three sides; or

8 (3) a manufactured walk-in bathtub or a similar manufactured bathtub designed for ~~easy~~ transfer of
9 participants into the bathtub that is accessible on one short side and one long side of the bathtub.

10 (b) ~~Once the requirements of 10A NCAC 06R .0401(g) for an adult day care facility and 10A NCAC 06S .0301 for~~
11 ~~an adult day health facility are met as determined by the Division of Aging and Adult Services of the Department of~~
12 ~~Health and Human Services, the~~ The bathroom required by Paragraph (a) of this Rule may be shared with the adult
13 day care program or adult day health ~~program.~~ program only after the Division of Aging and Adult Services of the
14 Department of Health and Human Services determines, in writing, that the requirements of 10A NCAC 06R .0401(g)
15 for an adult day care facility and 10A NCAC 06S .0301 for an adult day health facility are met.

16 (c) A bathroom shall be designed to provide privacy. A bathroom with two or more ~~water-closets~~ toilets shall have
17 privacy partitions or curtains for each ~~water-closet, toilet.~~ Each bathtub or shower shall have privacy partitions or
18 curtains.

19 (d) The entrance to the bathroom shall not be through a kitchen, another participant's bedroom, or another bathroom.

20 (e) The bathroom shall be located so that there is no more than 40 feet ~~from~~ between any participant's bedroom door
21 ~~to~~ and a participant-use bathroom door.

22 (f) Hand grips shall be installed at all ~~water-closets, toilets,~~ bathtubs, and showers used by participants.

23 (g) Nonskid surfacing or strips shall be installed to the floor or bottom of showers and bathtubs.

24 (h) A bathroom shall have mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor
25 area. The mechanical ducted vent shall be vented directly to the outdoors.

26 (i) The bathroom floor shall have a non-slippery water-resistant covering.

27
28 *History Note: Authority G.S. 131D-6.1;*

29 *Eff. April 1, 2017.*

1 10A NCAC 13E .0312 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0312 OUTSIDE ENTRANCE AND EXITS**

4 (a) Each overnight respite services program shall have at least two exit doors on all floor levels. If there are only two
5 exit doors, the exit ~~or exit access door~~ doors shall be located and constructed to minimize the possibility that both may
6 be blocked by a fire or other emergency condition.

7 (b) One exterior door shall have a minimum width of three feet. Another exterior door shall have a minimum width
8 of two feet and eight inches. For the purposes of this Rule, an “exterior door” means a door used by a participant to
9 enter and exit the building to and from the outdoors ~~and to exit the building to the outdoors~~.

10 (c) At least one principal exterior door for the participants’ use shall be at grade level or accessible by a ramp with a
11 one inch rise for each 12 inches of ramp length. For the purposes of this Rule, a “principal exterior door” means a
12 door that is used by participants to access the vehicular pick-up and drop-off area. If the overnight respite services
13 program serves any participant who must have physical assistance with evacuation, the building shall have two exterior
14 doors at grade level or accessible by a ramp.

15 (d) All exit door locks shall be easily operable, by a single hand motion, from the inside at all times without keys.
16 Deadbolts or turn buttons on the inside of exit doors shall be disabled.

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

19 (f) ~~All steps, Steps,~~ porches, stoops, and ramps shall be provided with handrails or guardrails.

20 (g) In each overnight respite services program with at least one participant who is determined by a physician or
21 appropriate licensed health professional or is otherwise known to be disoriented or who wanders, each exit door for
22 participant-use shall be equipped with a sounding device that is activated when the door is opened. The sound shall
23 be of sufficient volume that it can be heard by staff. If a central system of remote sounding devices is provided, the
24 control panel for the system shall be located in the office area or in a location accessible only to staff authorized by
25 the administrator to operate the control panel.

26
27 *History Note: Authority G.S. 131D-6.1;*

28 *Eff. April 1, 2017.*

10A NCAC 13E .0315 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

10A NCAC 13E .0315 HOUSEKEEPING AND FURNISHINGS

(a) Each overnight respite services program shall:

- (1) have walls, ceilings, and floors or floor coverings kept clean, well maintained, and free of damage;
- (2) have no lingering odors;
- (3) have furniture clean and free of damage;
- (4) have a North Carolina Environmental Health Services Section approved sanitation classification at all times;
- (5) be maintained in an uncluttered, clean, and orderly condition, free of all obstructions and hazards;
- (6) have a supply of bath soap, clean towels, washcloths, sheets, pillow cases, blankets, and additional coverings adequate for participant use on hand at all times;
- (7) make available the following items as needed but shall not charge the participant's personal funds for the cost of these items:
 - (A) protective ~~sheets~~; sheets and clean, absorbent, soft, and smooth pads;
 - (B) bedpans, urinals, hot water bottles, and ice bags; and
 - (C) bedside commodes, walkers, and wheelchairs;
- (8) have a television and radio, each in good working order;
- (9) have curtains, draperies, shades, or blinds at all windows in participant-use areas to provide for participant privacy;
- (10) have recreational equipment, supplies for games, books, magazines, and a current newspaper available for participants;
- (11) have a clock that has numbers at least 1½ inches tall in an area commonly used by the participants; and
- (12) have at least one working telephone that does not depend on electricity or cellular service to operate.

(b) Each bedroom shall have the following furnishings for each participant:

- (1) beds equipped with box springs and mattress, solid link springs and no-sag innerspring, or a foam mattress. A hospital bed shall be provided as needed. A water bed may be allowed if requested by a participant and permitted by the overnight respite services program. Each bed shall have the following:
 - (A) at least one pillow with clean pillow case;
 - (B) clean top and bottom sheets on the bed, changed at least once a week; and
 - (C) clean bedspread and other clean coverings as needed;
- (2) a bedside-type table;
- (3) a chest of drawers or bureau for a single participant or a double chest of drawers or double dresser for two participants when not provided as built-ins;
- (4) a wall or dresser mirror;

(5) a minimum of one comfortable chair per participant, high enough from the floor for easy rising;

(6) additional chairs available, as needed, for use by visitors;

(7) ~~individual~~ a clean towel, wash cloth, and towel bar within the bedroom or adjoining bathroom; and

(8) a wall-mounted light overhead of the bed or a lamp with a switch within reach of a person lying on the bed. The light shall provide a minimum of 30 foot-candle power of illumination for reading.

(c) The living room shall have ~~functional~~ living room furnishings for the comfort of participants with coverings that are ~~easily~~ cleanable.

(d) The dining room shall have the following furnishings:

(1) tables and chairs to seat all participants eating in the dining room; and

(2) chairs that are sturdy, non-folding, without rollers unless retractable or on front legs only, and designed to minimize tilting.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

1 10A NCAC 13E .0316 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0316 FIRE SAFETY AND DISASTER PLAN**

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

- 5 (1) one five-pound or larger (net charge) "A-B-C" type centrally located;
- 6 (2) one five-pound or larger "A-B-C" or CO/2 type located in the kitchen; and
- 7 (3) at any other location as required by the North Carolina Fire Prevention Code, which is incorporated
- 8 herein by reference including subsequent amendments and editions. The availability and cost of the
- 9 Code is set forth in Rule .0302 of this Section.

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

11 (c) A written fire evacuation plan that includes a ~~diagrammed drawing~~ diagram and that has the approval of the local

12 fire marshal shall be prepared and posted in a central location on each floor. The plan shall be reviewed with each

13 participant on enrollment and shall be a part of the orientation for new staff.

14 (d) There shall be at least four rehearsals of the fire evacuation plan each year on each shift. Records of rehearsals

15 shall be ~~maintained~~. maintained for three years. The records shall include the date and time of the rehearsals, staff

16 members present, and a description of what the rehearsal involved.

17 (e) A written disaster plan that has the written approval of, or has been documented as submitted to, the local

18 emergency management agency and the local agency designated to coordinate special needs sheltering during disasters

19 shall be prepared and updated ~~at least~~ annually and shall be maintained in the program offering overnight respite care

20 services. ~~This Paragraph applies to new and existing overnight respite services programs, adult day care programs,~~

21 ~~and adult day health programs.~~

22
23 *History Note: Authority G.S. 131D-6.1;*

24 *Eff. April 1, 2017.*

1 10A NCAC 13E .0401 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **SECTION .0400 – STAFF QUALIFICATIONS AND STAFFING**
4

5 **10A NCAC 13E .0401 ADMINISTRATOR**

6 (a) An administrator shall be responsible for the operations of the program offering overnight respite care services.

7 (b) At all ~~times~~, times there shall be one administrator or supervisor-in-charge who is responsible for assuring that all
8 required duties are carried out and for assuring that a staff member is present on-site and available to the program
9 participants.

10 (c) The administrator shall:

- 11 (1) be at least 21 years old;
- 12 (2) be ~~at least~~ a high school graduate or certified under the General Educational Development (GED)
13 Program;
- 14 (3) cooperate with inspectors and DHSR employees in assuring compliance with G.S. 131D-6.1 and the
15 Rules of this Subchapter;
- 16 (4) have a tuberculin skin test within 12 months prior to hire date and annually thereafter;
- 17 (5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant
18 to G.S. 131E-256;
- 19 (6) have documented evidence of managing or supervising personal care to others for at least six months
20 from a current or previous employer; and
- 21 (7) be able to implement all accident, fire safety, and emergency procedures for the protection of the
22 participants of the overnight respite services program.

23
24 *History Note: Authority G.S. 131D-6.1;*

25 *Eff. April 1, 2017.*

1 10A NCAC 13E .0403 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0403 STAFF AND STAFFING**

4 (a) Each staff person shall:

- 5 (1) have a job description that reflects actual duties and responsibilities determined by the program and
- 6 is shall be signed by the administrator and the employee;
- 7 (2) have a tuberculin skin test within 12 months prior to hire and annually thereafter;
- 8 (3) be able to implement all of the program's policies and procedures as defined in Rule .0501 of this
- 9 Subchapter and accident, fire safety, and emergency procedures for the protection of the
- 10 participants;
- 11 (4) be informed of the confidential nature of participant information and protect and preserve the
- 12 information from unauthorized use and disclosure;
- 13 (5) not hinder or interfere with the exercise of the rights as defined by program policy;
- 14 (6) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant
- 15 to G.S. 131E-256;
- 16 (7) have a statewide criminal background check, upon hire, of the past five years in accordance with
- 17 G.S. 143B-932; and
- 18 (8) cooperate with inspectors and the monitoring and licensing agencies in complying with the rules of
- 19 this Subchapter.

20 (b) Any staff member left in charge of the care of participants shall be 18 years or older.

21 (c) The staffing pattern shall be adequate to meet the needs of each participant, with at least one staff present at all

22 times qualified to administer medications as defined ~~under~~ by Rule .0702 of this Subchapter and trained to provide

23 personal care and supervision to current participants.

24 (d) Services required beyond personal care and supervision shall not be provided unless staff satisfies the license

25 requirements ~~required by law.~~ applicable to such services.

26
27 *History Note: Authority G.S. 131D-6.1;*

28 *Eff. April 1, 2017.*

1 10A NCAC 13E .0404 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0404 TRAINING ON CARDIO-PULMONARY RESUSCITATION**

4 At least one staff person shall be on the premises at all times, when participants are present, who has completed within
5 the last 24 months a course on cardio-pulmonary resuscitation and choking management, including the Heimlich
6 maneuver, provided by the American Heart Association, American Red Cross, National Safety Council, American
7 Safety and Health Institute, Medic First Aid, or ~~by~~ a trainer with documented certification as a trainer on these
8 procedures from one of these organizations.

9
10 *History Note: Authority G.S. 131D-6.1;*

11 *Eff. April 1, 2017.*

1 10A NCAC 13E .0501 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **SECTION .0500 – PROGRAM POLICIES**
4

5 **10A NCAC 13E .0501 PROGRAM POLICIES**

6 (a) Each program shall have enrollment policies. Enrollment policies shall be in writing as a part of the program
7 policies and shall define the population served. These policies shall serve as the basis for determining who will be
8 accepted into the program and for planning activities appropriate for the participants. The policies shall prevent
9 enrolling people whose needs cannot be met by the planned activities and services offered and shall provide for
10 discharge of participants whose needs can no longer be met or who can no longer be cared for safely. If the program
11 serves semi-ambulatory or non-ambulatory persons as defined ~~under by~~ 10A NCAC 06R .0201, ~~incorporated herein~~
12 ~~by reference including subsequent amendments and editions~~, it shall be stated in the enrollment criteria.

13 (b) The program policies shall also contain:

- 14 (1) a discharge policy outlining:
 - 15 (A) the criteria for discharge;
 - 16 (B) notification procedures for discharge;
 - 17 (C) the timeframe and procedures for notifying the applicant, family member, or other
18 caregiver of discharge; and
 - 19 (D) referral or follow-up procedures;
- 20 (2) medication policies and procedures as specified in Section .0700 of this Subchapter;
- 21 (3) a description of participant's rights;
- 22 (4) grievance policies and procedures for families;
- 23 (5) the advance directives policy;
- 24 (6) non-discrimination policies;
- 25 (7) a procedure to maintain confidentiality;
- 26 (8) a policy on reporting suspected abuse or neglect;
- 27 (9) a policy on reporting of participant accidents or incidents to family members or medical providers;
- 28 (10) a policy on infection control and universal precautions;
- 29 (11) a policy on missing participants;
- 30 (12) a policy on identification and supervision of participants who wander; and
- 31 (13) inclement weather policies.

32 (c) At enrollment or in the initial interview, the program policies shall be discussed with the applicant, responsible
33 party or other caregiver and a copy of the program policies shall be provided.

34 (d) Documentation ~~of~~ of, receipt ~~of~~ of, and agreement to abide by the program policies by the applicant, responsible
35 party, or other caregiver shall be obtained by the program and kept in the participant's file.

36 (e) All program polices shall be maintained on site and available for inspection by Division of Health Service
37 Regulation employees.

1 (f) The program shall implement all program policies.

2

3 *History Note: Authority G.S. 131D-6.1;*

4 *Eff. April 1, 2017.*

10A NCAC 13E .0601 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

SECTION .0600 - ENROLLMENT AND SERVICE PLANNING

10A NCAC 13E .0601 ENROLLMENT OF PARTICIPANTS

(a) Prior to ~~enrollment~~, enrollment the applicant, responsible party, or other caregiver shall have a personal interview with a program staff member. During the interview, the staff shall complete initial documentation identifying the following:

- (1) social and medical care needs;
- (2) spiritual, religious, or cultural needs; and
- (3) whether the program can meet the applicant's expressed needs.

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

(b) Any adult (18 years of age or over) who, because of a physical condition or mental disability, needs a substitute home for purpose of respite for the caregiver may be enrolled for overnight respite services when, in the opinion of the caregiver, family, participant, physician, appropriate licensed health professional, or social worker and the administrator, the services and accommodations of the facility will meet the respite needs of the participant.

(c) Individuals shall not be admitted:

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

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

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

(f) The program shall assure that the participant has been tested for tuberculosis disease within the past 12 months of each admission for overnight respite services in accordance with the NC Division of Public Health's Tuberculosis Policy Manual, incorporated herein by reference including any subsequent amendments and editions, and shall be free

1 of active tuberculosis. This manual may be accessed free of charge at
2 <http://epi.publichealth.nc.gov/cd/lhds/manuals/tb/toc.html>.

3

4 *History Note: Authority G.S. 131D-6.1;*
5 *Eff. April 1, 2017.*

10A NCAC 13E .0602 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

10A NCAC 13E .0602 PLANNING SERVICES FOR INDIVIDUAL PARTICIPANTS

(a) At enrollment of a new participant, the program shall perform an assessment and written service plan for the individual. The assessment shall address the individual's ability to perform activities of daily living and need for supervision while in the program. The mental and physical health status of the individual shall also be assessed. The service plan shall be signed and dated by the administrator or designee. The health component of the service plan shall be written and signed by a registered nurse.

(b) In developing the written service plan, the program shall include input from the participant, responsible party, other caregiver and other agency professionals with knowledge of the individual's needs. The service plan shall be based on strengths, needs, and abilities identified in the assessment. The assessment and service plan shall be reviewed to assure continued accuracy at each admission for overnight respite services. The service plan shall include:

- (1) the needs and strengths of the participant;
- (2) the interests of the participant;
- (3) the service goals and objectives of care for the participant while in the overnight respite program;
- (4) the type of interventions to be provided by the program in order to reach desired outcomes;
- (5) the services to be provided by the program to achieve the goals and objectives;
- (6) the roles of the participant, responsible party, other caregiver, volunteers and program staff; and
- (7) the time limit for the plan, with provision for review and renewal.

(c) The participant, responsible party, other caregiver and other service providers may contribute to the development, implementation, and evaluation of the service plan.

(d) The participant's record shall include:

- (1) a copy of the medical examination report;
- (2) the written service plan;
- (3) documentation of a tuberculosis test according to Rule .0601(f) of this Section;
- (4) documentation of any contacts (office, home or telephone) with the participant's physician or other licensed health professionals from outside the facility;
- (5) physician orders;
- (6) medication administration records;
- (7) a written description of any acute changes including any unusual behavior, change in condition, need for help or services, or any incidents or accidents resulting in injury to the participant, and any action taken by the facility in response to the changes, incidents or accidents; and
- (8) how the responsible party or his or her designated representative can be contacted in case of an emergency.

(e) The program shall refer a participant to the participant's physician or other appropriate licensed health professional immediately if the participant's behavior, change in condition, any incidents or accidents resulting in injury to the

~~participant~~ participant, or need for help or services poses an immediate risk to the health and safety of the participant, other participants, or staff in the program.

(f) Any unusual behavior, change in condition, ~~incident~~, incident or accident resulting in injury to the participant, or need for help or services shall be reported by the program staff to the responsible party.

(g) Progress notes in the participant's record shall be updated every 24 hours while in the program.

(h) The participant or the responsible party may choose the days and number of days the participant will participate in the program with the administrator's approval and documented in the participant's record.

(i) The reason for any unscheduled participant absence shall be documented by the program staff on the day it occurs. Program staff shall contact or attempt to contact the absent participant or the responsible party and shall document this contact in the participant's record.

(j) The program is responsible for the participant while the participant is enrolled. A participant leaving the program for part of a day shall sign out, relieving the staff of further responsibility. If a participant has an emotional or mental impairment that requires supervision or is adjudicated incompetent, and that person needs or wants to leave the program during the day, the responsible party or individuals designated by the responsible party shall sign the participant out.

(k) The participant's responsible party or his or her designated representative shall be contacted and informed of the need to remove the participant from the program if one or more of the following conditions exists:

(1) the participant's condition is such that he or she is a danger to ~~himself~~, himself or herself, or poses a direct threat to the health of others, as documented by a ~~physician~~; physician or appropriate licensed health professional; or

(2) the safety of individuals in the facility is threatened by the behavior of the participant, as documented by the facility.

Documentation of the emergency discharge shall be retained on file in the facility.

(l) After the participant has left the program or died, the program shall maintain the participant's record in the facility for ~~at least~~ one year, and then stored for ~~at least~~ two more years.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

1 10A NCAC 13E .0702 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0702 MEDICATION ADMINISTRATION COMPETENCY EVALUATION**

4 (a) Validation of each staff person's competency to administer medications shall be completed prior to administering
5 medications and shall include:

- 6 (1) documentation by a registered nurse pursuant to G.S. 90 Article 9A or a licensed pharmacist
7 pursuant to G.S. 90 Article ~~4A~~, 4A of a clinical skills validation on the Medication Administration
8 Skills Validation ~~Form, which is incorporated herein by reference, including all subsequent~~
9 ~~amendments and editions.~~ Form. Copies of this form may be accessed electronically free of charge
10 at <https://www.ncdhhs.gov/dhsr/acls/acforms.html#medtest>;
11 (2) successful completion of a standardized written exam established by the Division of Health Service
12 Regulation; or
13 (3) being listed as a medication aide on the NC Medication Aide Registry pursuant to G.S. 131E-270
14 and 10A NCAC 13O ~~.0201 incorporated herein by reference including subsequent amendments and~~
15 ~~editions.~~ .0201.

16 (b) The program shall ensure that a licensed health professional who is authorized to dispense, prescribe, or administer
17 medications is available for consultation with ~~staff if needed and any contact~~ staff. All such consultations shall be
18 documented in the participant's record.

19
20 *History Note: Authority G.S. 131D-6.1;*

21 *Eff. April 1, 2017.*

1 10A NCAC 13E .0703 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0703 MEDICATION ADMINISTRATION**

4 (a) Medications shall be administered according to current physician's or appropriate licensed health professional's
5 orders and the participant's medication schedule. The medication schedule shall list all medications with dosages and
6 times that medications are to be administered.

7 (b) A record of all ~~medications~~ medication given to each participant shall be ~~updated as needed and shall document~~
8 accurate and include the following:

- 9 (1) the participant's name;
10 (2) the name, dosage, quantity, and route of the medication;
11 (3) instructions for giving medication;
12 (4) the date and time medication is administered; and
13 (5) the name or initials of person giving the medication. If initials are used, a signature for those initials
14 shall be documented and maintained ~~on~~ in this record.

15 (c) Medications shall be kept in the original pharmacy containers in which they were dispensed. The containers shall
16 be labeled with the participant's full name, the name and strength of the medicine, and dosage and instructions for
17 administration. Medicines shall be kept in a locked location.

18
19 *History Note: Authority G.S. 131D-6.1;*
20 *Eff. April 1, 2017.*

1 10A NCAC 13E .0801 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **SECTION .0800 - NUTRITION AND FOOD SERVICE**
4

5 **10A NCAC 13E .0801 FOOD PROCUREMENT AND SAFETY**

6 (a) The kitchen, dining, and food storage areas shall be clean and ~~protected from contamination.~~ maintained in a
7 sanitary condition in accordance with Rules Governing the Sanitation of Residential Care Facilities (15A NCAC 18A
8 .1600) as promulgated by the North Carolina Division of Public Health, Environmental Health Services Section, which
9 are incorporated herein by reference including subsequent amendments and editions.

10 (b) All food and ~~beverage~~ beverages shall be procured, stored, prepared, or served by the facility under sanitary
11 conditions in accordance with Rules Governing the Sanitation of Residential Care Facilities (15A NCAC 18A ~~.1600~~)
12 ~~as promulgated by the North Carolina Division of Public Health, Environmental Health Services Section, which are~~
13 ~~incorporated herein by reference, including subsequent amendments and editions. Copies of these Rules may be~~
14 ~~obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no~~
15 ~~cost or can be accessed electronically free of charge at <http://ehs.ncpublichealth.com/rules.htm>.~~ .1600).

16 (c) All meat served to participants shall have been processed at a plant approved by the United States Department of
17 Agriculture ~~(USDA) approved processing plant.~~ (USDA).

18 (d) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food on site,
19 as indicated on the menus prepared as set forth in Rule .0802 of this Section, for both regular and therapeutic diets.
20

21 *History Note: Authority G.S. 131D-6.1;*

22 *Eff. April 1, 2017.*

1 10A NCAC 13E .0803 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0803 MENUS**

4 (a) Menus shall be prepared according to the U.S. Department of Health and Human Services (HHS) and the U.S.
5 Department of Agriculture (USDA) Dietary Guidelines for ~~Americans~~ Americans, which is incorporated by reference
6 with all subsequent amendments and editions and is available at no cost at <http://www.health.gov/dietaryguidelines>.

7 (b) Menus shall be maintained in the kitchen and identified as to the current menu ~~day~~ day, and cycle for any given
8 day for guidance of food service staff.

9 (c) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic ~~diets~~ diets, and
10 documented to indicate the foods actually served to participants.

11 (d) Menus shall be planned to take into account the food preferences and customs of the participants.

12 (e) A licensed ~~dietitian/nutritionist~~ dietitian or nutritionist, pursuant to G.S. 90, Article ~~25~~ 25, shall plan or review all
13 menus, including all therapeutic diets. The facility shall maintain verification of the licensed ~~dietitian/nutritionist's~~
14 dietitian or nutritionist's approval of the therapeutic ~~diets~~ diets, including an original signature by the licensed
15 ~~dietitian/nutritionist~~ dietitian or nutritionist and the licensure number of the licensed ~~dietitian/nutritionist~~, dietitian or
16 nutritionist.

17 (f) The facility shall have a matching therapeutic diet menu for all ~~physician-ordered~~ physician or appropriate licensed
18 health professional ordered therapeutic diets, for guidance of food service staff.

19
20 *History Note: Authority G.S. 131D-6.1;*

21 *Eff. April 1, 2017.*

10A NCAC 13F .1702 is adopted with changes as published in 31:06 NCR, pp. 474-478, as follows:

10A NCAC 13F .1702 ADVERSE ACTION ON CERTIFICATION

(a) The Department shall deny, suspend, or revoke the certification of an administrator ~~when~~ if the administrator or applicant administrator:

- (1) has not completed ~~30 hours biennially of~~ the continuing education credits as required by Rule .1703 of this Section;
- (2) has been convicted by any jurisdiction of a felony unless rights of citizenship have been restored and all of the following have been considered and determined by the Department to allow certification:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;
 - (C) the nexus between the criminal conduct of the person and ~~job duties;~~ the duties of an administrator; and
 - (D) the prison, jail, probation, parole, ~~rehabilitation~~ rehabilitation, and employment records of the person since the date the crime was committed;
- (3) has been convicted by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for said misdemeanor have been met and the following have been considered and determined by the Department to allow certification:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;
 - (C) the nexus between the criminal conduct of the person and ~~job duties;~~ the duties of an administrator; and
 - (D) the prison, jail, probation, parole, ~~rehabilitation~~ rehabilitation, and employment records of the person since the date the crime was committed;
- (4) was the administrator of an adult care home or family care home whose license was summarily suspended pursuant to G.S. ~~131D-2.7(e);~~ 131D-2.7(c) or a notice of revocation of the facility's license was issued pursuant to G.S. 131D-2.7(b). In these circumstances, the Department shall take into consideration the length of time the administrator was serving in that capacity at the facility and the nexus between the reason for the summary suspension or revocation of the facility's license and the job duties of the ~~administrator;~~ administrator in deciding whether to deny, suspend, or revoke the certification of an administrator;
- (5) is unable to perform as administrator with reasonable skill and safety to residents by reason of any observable or documented ~~condition~~ condition, such as dementia or other disease condition known to result in irreversible cognitive deterioration or drug or alcohol dependency, that impairs the individual in such a way that it endangers the health, safety, or welfare of ~~residents.~~ residents;

(6) tested positive for a controlled substance or refused to consent to drug testing according to G.S. 131D-45;

(7) prior or subsequent to applying for administrator certification, has a finding on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256; or

(8) fails to report any arrest or conviction for a felony or misdemeanor to the Department within ten days ~~any after such arrest or conviction for a felony or misdemeanor.~~ conviction.

(b) The Department shall suspend the certification of an administrator ~~due to any arrest with a~~ who has been arrested because of alleged criminal conduct, if the relationship between the alleged criminal conduct and ~~job~~ the administrator's duties that has been determined by the Department to indicate indicates a need to seek action in order to further protect facility residents pending adjudication by a court. Serving as an administrator while the administrator's certification is suspended shall be grounds for revocation of certification. Examples of criminal conduct the Department may consider in relation to ~~job~~ the administrator's duties ~~are~~ include fraud, physical assault, theft, abuse, neglect, exploitation, and drug diversion.

History Note: Authority G.S. 90-288.18; G.S. 131D-2.16; G.S. 131D-2.18; G.S. 131D-4.3; 143B-165; Eff. April 1, 2017.

10A NCAC 13F .1703 is adopted with changes as published in 31:06 NCR, pp. 474-478, as follows:

10A NCAC 13F. 1703 RENEWAL OF ADMINISTRATOR CERTIFICATION

~~Administrator certification shall be renewed by the Department pursuant to G.S. 90-288.15 based on the administrator's biennial submission of course completion certificates issued by the course provider, dated from last certification, initial or renewal, and totaling 30 hours of coursework related to long term care management or the care of aged and disabled persons, and a renewal fee of thirty dollars (\$30.00) pursuant to G.S. 90-288.15A. Examples of coursework related to long term care management or the care of aged and disabled persons are financial management, human resource management, medication administration, dementia care, diabetic care, managing aggressive behaviors and infection control.~~

(a) The Department shall renew an administrator's certification at the end of the year following the year of initial certification if the administrator submits documentation of completed coursework related to long term care management or the care of aged and disabled persons dated and issued by the course provider after certification. The required number of hours of coursework shall be prorated by the Department based on 30 hours of required continuing education biennially and the number of months from the date of the administrator's initial certification until December 31 of the next year following issuance.

(b) The Department shall continue to renew an administrator's certification biennially, pursuant to G.S. 90-288.15, based on an expiration date of December 31. For each renewal following initial renewal the administrator shall submit documentation totaling 30 hours of completed coursework related to long term care management or the care of aged and disabled persons dated and issued by the course provider within the current two-year certification period and a renewal fee of thirty dollars (\$30.00) pursuant to G.S. 90-288.15.

(c) For the purposes of this Rule, examples of coursework related to long term care management or the care of aged and disabled persons include financial management, human resource management, medication administration, dementia care, diabetic care, managing aggressive behaviors, and infection control.

*History Note: Authority G.S. 90-288.15; G.S. 90-288.15A; G.S. 131D-2.16; G.S. 131D-4.3; 143B-165;
Eff. April 1, 2017.*

10A NCAC 13G .1501 is adopted with changes as published in 31:06 NCR, pp. 474-478, as follows:

SECTION .1500 – ADMINISTRATOR APPROVAL AND RENEWAL

10A NCAC 13G .1501 ADMINISTRATOR APPROVAL

(a) Each family care home shall have an administrator that has been approved by the Department pursuant to this Rule.

(b) Applicant administrators shall meet the following qualifications:

- (1) be 21 years of age or older;
- (2) provide a satisfactory criminal background report by providing to the Department the submissions required by:
 - (A) ~~from the State Repository of Criminal Histories, that shall be provided by the State Bureau of Investigation upon its receiving fingerprints of the applicant from the Division of Health Service Regulation, unless~~ if the applicant has been a resident of this State for ~~less than five years, years or more; or~~
 - (B) ~~requiring the applicant to provide a satisfactory criminal background report from both the State and National Repositories of Criminal Histories; Histories, if the applicant has been a resident of this State for less than five years;~~
- (3) complete an approved administrator-in-training program listed on the website at <http://ncdhhs.gov/dhsr/acls/adminguidelines.html> and consisting of a minimum of 20 hours of instruction in N.C. Assisted Living laws and statutes, human ~~resources~~ resources, and business management, and a minimum of 100 hours of on-the-job training in an assisted living facility;
- (4) complete with 75 percent accuracy a written examination administered by the Department within 12 months of completing the administrator-in-training program; and
- (5) be at least a high school graduate or certified under the GED Program.

(c) For the purpose of this Rule, a satisfactory criminal background report means:

- (1) no conviction by any jurisdiction of a felony for which prison time was served unless rights of citizenship have been restored and all of the following have been considered and determined by the Department to allow approval:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;
 - (C) the nexus between the criminal conduct of the person and job duties; and
 - (D) the prison, jail, probation, parole, rehabilitation and employment records of the person since the date the crime was committed;
- (2) no conviction by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for said misdemeanor have been met and the following have been considered and determined by the Department to allow approval:

- 1 (A) the date of conviction;
- 2 (B) the circumstances surrounding the committing of the crime, if known;
- 3 (C) the nexus between the criminal conduct of the person and job duties; and
- 4 (D) the prison, jail, probation, parole, rehabilitation and employment records of the person
- 5 since the date the crime was committed.

6

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

8 *Eff. April 1, 2017.*

10A NCAC 13G .1502 is adopted with changes as published in 31:06 NCR, pp. 474-478, as follows:

10A NCAC 13G .1502 ADVERSE ACTION ON ADMINISTRATOR APPROVAL

(a) The Department shall deny, suspend, or revoke the approval of an administrator ~~when~~ if the administrator or applicant administrator:

- (1) has not completed ~~30 hours biennially of~~ the continuing education credits required by Rule .1503 of this Section;
- (2) ~~is~~ has been convicted by any jurisdiction of a felony unless rights of citizenship have been restored and all of the following have been considered and determined by the Department to allow approval:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;
 - (C) the nexus between the criminal conduct of the person and ~~job duties;~~ the duties of an administrator; and
 - (D) the prison, jail, probation, parole, ~~rehabilitation~~ rehabilitation, and employment records of the person since the date the crime was committed;
- (3) is convicted by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for said misdemeanor have been met and the following have been considered and determined by the Department to allow approval:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;
 - (C) the nexus between the criminal conduct of the person and ~~job duties;~~ the duties of an administrator; and
 - (D) the prison, jail, probation, parole, ~~rehabilitation~~ rehabilitation, and employment records of the person since the date the crime was committed;
- (4) was the administrator of an adult care home or family care home whose license was summarily suspended pursuant to G.S. ~~131D-2.7(e);~~ 131D-2.7(c) or a notice of revocation of the facility's license was issued pursuant to G.S. 131D-2.7(b). In these circumstances, the Department shall take into consideration the length of time the administrator was serving in that capacity at the facility and the nexus between the reason for the summary suspension or revocation of the facility's license and the job duties of the ~~administrator;~~ administrator in deciding whether to deny, suspend, or revoke the approval of an administrator;
- (5) is unable to perform as administrator with reasonable skill and safety to residents by reason of any observable or documented ~~condition~~ condition, such as dementia or other disease or condition known to result in irreversible cognitive deterioration or drug or alcohol dependency, that impairs the individual in such a way that it endangers the health, safety, or welfare of ~~residents.~~ residents;
- (6) tested positive for a controlled substance or refused to consent to drug testing according to G.S. 131D-45;

(7) prior or subsequent to applying to be an administrator, has a finding on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256; or

(8) fails to report any arrest or conviction for a felony or misdemeanor to the Department within 10 days ~~any~~ after such arrest or ~~conviction for a felony or misdemeanor.~~ conviction.

(b) The Department shall suspend the approval of an administrator ~~due to any arrest with a~~ who has been arrested because of alleged criminal conduct, if the relationship between the alleged criminal conduct and ~~job~~ the administrator's duties ~~that has been determined by the Department to indicate~~ indicates a need to seek action in order to further protect facility residents pending adjudication by a court. Serving as an administrator while the administrator's approval is suspended shall be grounds for revocation of approval. Examples of criminal conduct the Department may consider in relation to ~~job~~ the administrator's duties ~~are~~ include fraud, physical assault, theft, abuse, neglect, exploitation, and drug diversion.

History Note: Authority G.S. 131D-2.16; G.S. 131D-2.18; G.S. 131D-4.3; 143B-165;
Eff. April 1, 2017.

1 10A NCAC 13G .1503 is adopted ~~with changes~~ as published in 31:06 NCR, pp. 474-478, as follows:

2
3 **10A NCAC 13G .1503 RENEWAL OF ADMINISTRATOR APPROVAL**

4 ~~Beginning January 1, 2017, administrator approvals shall be renewed by the Department on a biennial basis with an~~
5 ~~expiration date of June 30 of the second year following issuance based on the administrator's submission of course~~
6 ~~completion certificates issued by the course provider, dated from last approval, initial or renewal, and totaling 30 hours~~
7 ~~of coursework related to long term care management or the care of aged and disabled persons. Examples of~~
8 ~~coursework related to long term care management or the care of aged and disabled persons are financial management,~~
9 ~~human resource management, medication administration, dementia care, diabetic care, managing aggressive behaviors~~
10 ~~and infection control.~~

11 (a) The Department shall renew an administrator's approval at the end of the year following the year of initial approval
12 if the administrator submits documentation of completed coursework related to long term care management or the
13 care of aged and disabled persons dated and issued by the course provider after approval. The required number of
14 hours or coursework shall be prorated by the Department based 30 hours of required continuing education biennially
15 and the number of months from the date of the administrator's initial approval until June 30 of the next year following
16 issuance.

17 (b) The Department shall continue to renew an administrator's approval biennially based on an expiration date of
18 June 30. For each renewal following initial renewal the administrator shall submit documentation totaling 30 hours of
19 completed coursework related to long term care management or the care of aged and disabled persons dated and issued
20 by the course provider within the current two-year approval period.

21 (c) For the purposes of this Rule, examples of coursework related to long term care management or the care of aged
22 and disabled persons include financial management, human resource management, medication administration,
23 dementia care, diabetic care, managing aggressive behaviors, and infection control.

24
25 *History Note: Authority G.S. 131D-2.16; G.S. 131D-4.3; 143B-165;*
26 *Eff. April 1, 2017.*