

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0101

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 14-15 – replace “means the provision of 24-hour supervision and personal care services to persons on a temporary basis for caregiver relief, not to” with “is defined in G.S. 131D-6.1 and shall not”

Line 15 – delete the comma after “days”

Line 16 – delete “and is provided by a program”

Line 21 – add “and” before “transferring”

Line 21 - replace “, and other personal care needs” with “from one place to another” if that is what is meant.

Line 23 – add a comma after “Services” and delete the comma after “131D-6”

Line 24 – replace “06R, or adult” with “06R, adult”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0101 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **SUBCHAPTER 13E – LICENSING OF OVERNIGHT RESPITE SERVICES**

4
5 **SECTION .0100 DEFINITIONS**

6
7 **10A NCAC 13E .0101 DEFINITIONS**

8 The following definitions apply throughout this Subchapter:

- 9 (1) ~~"Program" means a facility certified by the Department of Health and Human Services, Division of~~
10 ~~Aging and Adult Services to provide adult day care services pursuant to G.S. 131D-6, and 10A~~
11 ~~NCAC Chapter 06R, or adult day health services pursuant to 10A NCAC Chapter 06S, or both.~~
12 "Accident" means an unexpected, unintentional, or irregular event that results in injury or illness to
13 a participant or suspected injury or illness to a participant.
- 14 (2) "Overnight respite services" means the provision of 24-hour supervision and personal care services
15 to persons on a temporary basis for caregiver relief, not to exceed 14 consecutive days, or more than
16 60 total calendar days per individual participant in a 365-day period, and is provided by a program.
- 17 ~~(3) "Personal care" means tasks such as assistance with bathing, dressing, grooming, toileting, eating,~~
18 ~~ambulation, transferring, and other personal care needs.~~
- 19 ~~(4) (3)~~ (3) "Participant" means the recipient of the overnight respite services.
- 20 (4) "Personal care" means tasks such as assistance with bathing, dressing, grooming, toileting, eating,
21 ambulation, transferring, and other personal care needs.
- 22 (5) "Program" means a facility certified by the Department of Health and Human Services, Division of
23 Aging and Adult Services to provide adult day care services pursuant to G.S. 131D-6, and 10A
24 NCAC Chapter 06R, or adult day health services pursuant to 10A NCAC Chapter 06S, or both.
- 25 ~~(5) (6)~~ (6) "Responsible party" means the caretaker with primary day-to-day responsibility for a participant.
- 26 ~~(5) (7)~~ (7) "Supervision" means to oversee, manage, and direct for the determination and provision of
27 assistance to a participant.
- 28 ~~(6) "Accident" means an unexpected, unintentional, or irregular event that results in injury or illness to~~
29 ~~a participant or suspected injury or illness to a participant.~~

30
31 *History Note: Authority G.S. 131D-6.1;*

32 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0201

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 9-10 – replace “incorporated herein by reference including subsequent amendments and editions, and may be obtained online” with “available”

Line 14 – do you mean “operation” or “operational”?

Line 15 – add “the program’s” before “capacity”

Line 16 – replace “a” with “the” and delete “as”

Line 19 – replace “as an adult day care program pursuant to G.S. 131D-6” with “as a program as defined in Rule .0101 of this Subchapter”

Lines 22-23 – delete “a consultant of”

Line 23 – add “or its consultant” after “Section”

Lines 23-24 – delete this sentence, which is internal agency policy: “The consultant shall report findings and recommendations to the Adult Care Licensure Section following the pre-approval visit.”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

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

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4

SECTION .0200 – LICENSING

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 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;
14 (C) operation information; and
15 (D) capacity and scope of services;
- 16 (2) payment of a 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.

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. The consultant shall report findings and recommendations to the Adult
24 Care Licensure Section following the pre-approval visit. The Adult Care Licensure Section shall notify, in writing,
25 the Division of Aging and Adult Services and the applicant of the decision to approve or deny a license to provide
26 overnight respite services as a part of the adult day care program.

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28
29

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0202

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Consider revising as follows:

A license for an overnight respite services program shall not be issued to an applicant:

- (1) whose license was revoked until one year after the date of revocation; or
- (2) whose admissions were suspended until six months after the suspension is lifted.

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0202 is adopted 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 to an applicant who was the owner of an
5 overnight respite services program in the following circumstances until:

6 (1) for an applicant whose license was revoked, one year after the date of revocation; or

7 (2) for an applicant whose admissions were suspended, six months after the suspension is lifted.

8

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

10 *Eff. April 1, 2017.*

1 10A NCAC 13E .0203 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0203 THE LICENSE**

4 (a) The license shall be posted in a prominent location, accessible to public view, within the overnight respite portion
5 of the facility.

6 (b) The license shall be in effect for 12 months from the date of issuance unless revoked for cause or voluntarily or
7 involuntarily terminated.

8 (c) The license is not transferable or assignable.

9 (d) The license shall be terminated when the program is terminated.

10

11 *History Note: Authority G.S. 131D-2.4; 131D-6.1;*

12 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0204

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – specify which “licensure rules or statutes” you mean, at least by reference to sections, subchapters, or chapters.

Lines 7-8 – on what basis “may” the Department choose to either approve an extension or revoke a license? Is there another rule or statute that will provide clarity? Perhaps these factors from your original .0205 might help:

(b) In determining whether to renew a license under G.S. 131D-6.1, the Department shall take into consideration at least the following:

- (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.

Line 14 – do you mean “operation” or “operational”?

Line 15 – add “the program’s” before “capacity”

Line 16 – do you mean “invoice for” or “payment of”?

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0204 is adopted as published in 31:06 NCR, pp. 462-474, as follows:
2

3 **10A NCAC 13E .0204 RENEWAL OF LICENSE**

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

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

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

12 (1) applicant information;

13 (2) ownership information;

14 (3) operation information;

15 (4) capacity and scope of services; and

16 (5) invoice for the annual nonrefundable renewal licensure fee in accordance with G.S. 131D-6.1(i).
17

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

19 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0205

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – delete the comma after “Section”

Line 7 – if “their” refers to the participants, replace “the participants; and their responsible parties” with “and the participants and their responsible parties”

Line 8 – add “the” before “date”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0205 is adopted 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, at 2708 Mail Service Center,
6 Raleigh, NC 27699-2708; the Division of Aging and Adult Services at 2101 Mail Service Center, Raleigh, NC 27699-
7 2101; the participants; and their responsible party at least 30 days prior to the planned closing. Written notification
8 shall include date of closing.

9

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

11 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0206

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – replace “upon the applicant’s failure” with “if the applicant fails”

Lines 6-7 – consider revising as follows:

(b) The Division shall notify to the applicant of a denial of its application by certified mail stating the reasons for the denial.

Preceding line 9 – do you need a new paragraph (d) regarding notice of revocation? Or you could reverse Paragraphs (b) and (c) and revise new (c) as follows:

(c) The Division shall notify to the applicant of a denial of its application or revocation of its license by certified mail stating the reasons for the denial or revocation.

Line 10 – revise as follows: “participant and the participant’s responsible party of the notice and the reasons for the revocation.”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0206 is adopted 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 to
5 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.

8 (c) A license may be revoked by the Division in accordance with G.S. 131D-2.7 and G.S. 131D-6.1.

9 (d) When an overnight respite service provider receives a notice of revocation, the administrator shall inform each
10 participant and his or her responsible party of the notice and the basis on which the revocation was issued.

11

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

13 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0207

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – replace “will” with “shall”

Line 12 – replace “is” with “shall be”

Line 13 – delete the comma

Line 14 – add “based on the factors set forth in G.S. 131D.7(d)(2)” to the end of this line.

Line 17 – delete the last sentence of Paragraph (e) entirely.

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0207 is adopted 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 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 effective on the date specified in the notice of suspension. The suspension shall remain effective
13 for the period specified in the notice, or until the overnight respite service demonstrates to the Division that conditions
14 are no longer detrimental to the health and safety of the participants.

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

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

18
19 *History Note: Authority G.S. 131D-2.7; 131D-6.1;*
20 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0208

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – add “of participants” after “admissions”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0208 is adopted 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 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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0301

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 20 – replace “must” with “shall”

Line 22 – add a comma after “official”

Line 30 – replace “must” with “shall”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0301 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **SECTION .0300 - PHYSICAL PLANT RULES**

4
5 **10A NCAC 13E .0301 SUBMISSION OF INFORMATION TO THE DIVISION OF HEALTH SERVICE**
6 **REGULATION CONSTRUCTION SECTION**

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

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

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

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

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

34
35 *History Note: Authority G.S. 131D-6.1;*

36 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0302

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 4-5 – move “of greater than six participants” from line 5 to immediately after “capacity” on line 4.

Line 6 – replace “maintain” with “serve” or “house” or another more appropriate term.

Line 17 – delete the comma and delete “all”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0302 is adopted 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 for an
5 overnight respite services program of greater than six participants. For the purposes of this Rule, “capacity” means
6 the maximum number of participants that the overnight respite services program is licensed to maintain at any given
7 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, including all subsequent amendments and editions. Copies of this code may
18 be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost
19 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.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0303

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 22 and 26 – replace “For a” with “A”

Line 22 – add a comma after “construction”

Line 23 – delete the comma after “reference” and delete “all”

Line 30 – replace “total number of participants” with “capacity” if that is what is meant

Lines 31-32 – delete Paragraph (e) entirely

Line 35 – replace “Section approved” with “Section-approved”

Line 35 – define “Rule requirement” or specifically refer to a rule, section, subchapter, or chapter.

Line 36 – delete the comma after “requirement”

Line 37 – replace “If the following occurs, a” with “A” and add “if” after “equivalency”

Page 2, line 3 – delete the comma and replace “which” with “that”

Page 2, line 6 – delete this line entirely

Page 2, line 8 – do you really mean “most stringent” or do you intend the most protective requirement to apply?

Page 2, line 10 – replace “that has its” with “whose” and add “is” after “license”

Page 2, line 11 – delete “existing”

Jason Thomas
Commission Counsel
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Page 2, line 12 – replace “indicated in” with “required by”

Page 2, line 26 – delete “the level of”

Page 2, line 30 – what does “elopement” mean? Is this a term of art that is well-understood by the regulated public?

Page 2, line 33 – replace “on” with “about”

Page 2, line 35 – delete the comma

Page 3, line 7 – add “current” before “fire” if that is what is intended

Page 3, line 8 – replace “A” with “The building housing a facility shall be equipped with a” if that is what is intended.

Page 3, line 9 – delete “shall be installed” if Line 8 is changed as above.

Page 3, line 15 – delete “be” before “provided”

Page 3, lines 8-16 – generally, are the specific requirements set forth in this Paragraph (s) needed, or are they duplicative of the requirements in the Fire Code?

Page 3, line 17 – replace “the overnight respite services program and the adult day care or adult health care programs” with “a facility” if that is what is intended.

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

1 10A NCAC 13E .0303 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0303 DESIGN AND CONSTRUCTION**

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

5 (1) “facility” means a building or portion of a building housing an overnight respite services program
6 as defined in G.S. 131D-6.1(a);

7 (2) “proposed facility” means the new construction of a building for a facility, an addition or alteration
8 to an existing building for a facility, or the change in use of a building for a facility.

9 (3) “existing facility” means a currently licensed facility and a proposed facility that will be built
10 according to building plans approved by the Construction Section for compliance with the standards
11 established in this Section, prior to the effective date of this Rule; and

12 (4) “new facility” means a proposed facility that will be built according to building plans approved by
13 the Construction Section for compliance with the standards established in this Section, on or after
14 the effective date of this Rule.

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

16 (1) A new facility shall meet the standards established in this Section.

17 (2) An existing facility shall meet the standards established in this Section that were in existence at the
18 time of change in use of space, construction, addition, alteration, or repair.

19 (3) An existing building converted from another use that a program intends to use for an overnight
20 respite services program shall meet all the requirements of a new facility as indicated in
21 Subparagraph (1) of this Paragraph.

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

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

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

33 (f) The Construction Section may grant an equivalency to allow an alternate design or functional variation from the
34 requirements of the Rules contained in this Section. For the purposes of this Rule, an “equivalency” is a Construction
35 Section approved alternate design and functional variation to a Rule requirement that meets the intent of the Rule
36 requirement, but does not reduce the safety and operational effectiveness of the facility design and layout. If granted,
37 the equivalency shall apply to a specific facility. If the following occurs, a program shall be granted an equivalency:

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

3 (A) the Rule requirement, which will not be met;

4 (B) the justification for the equivalency; and

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

6 (2) the Construction Section reviews the equivalency request; and

7 (3) the program receives a written approval of the equivalency from the Construction Section.

8 (g) If any of the rules, codes, or standards contained in this Section conflict, the most stringent requirement shall
9 apply.

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

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

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

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

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

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

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

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

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

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

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

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

34 (q) The facility shall comply with the sanitation rules of the North Carolina Division of Public Health, Environmental
35 Health Services Section, which are incorporated herein by reference, including subsequent amendments and editions.
36 The “Rules Governing the Sanitation of Residential Care Facilities,” 15A NCAC 18A .1600 are available for
37 inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental

1 Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27509. Copies may be obtained from the
2 Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost or can be
3 accessed electronically free of charge at <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>.

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

6 (1) a current sanitation inspection report from the county health department; and

7 (2) a fire safety inspection report from the local fire marshal.

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

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

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

23 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0304

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 10 – replace “meet” with “comply with”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0304 is adopted 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 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.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0305

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 6-9 – if the intent of this Rule is to require a determination by the Division that the cited regulations have been met prior to combined use of the living area, consider revising as follows (the revision assumes that a written determination is required):

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

Lines 10-11 – the effect of Paragraph (c) is to allow a living room window to be no more than 3.2 square feet no matter how large the floor area. Is this what is intended?

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0305 is adopted 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 living area for the overnight respite care program required by Paragraph (a) of this
9 Rule may be combined with the adult day care program or adult day health program activities and craft areas.

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

12

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

14 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0306

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 6-9 – if the intent of this Paragraph (b) is to require a determination by the Division that the cited regulations have been met prior to combined use of the living area, consider revising as follows (the revision assumes that a written determination is required):

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

Lines 10-11 – the effect of Paragraph (c) is to allow a dining room window to be no more than 1.6 square feet no matter how large the floor area. Is this what is intended?

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0306 is adopted 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 dining area for the overnight respite care program required by Paragraph (a) of this
9 Rule may be combined with the adult day care program or adult day health program activities and craft areas.

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

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

14

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

16 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0307

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – what “size” will “provide for the preparation and preservation of food and the washing of dishes”?

Line 5 – what “program” – the adult day care program?

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0307 is adopted 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. The kitchen may be shared with the program.

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

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

9

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

11 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0308

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – are rooms “authorized” based on a rule or group of rules, or does the Construction Section merely exercise its discretion? What is the basis for authorization?

Line 7 – replace “where access is” with “accessed”

Line 10 – do you mean “100” or “160”?

Lines 12-13 – is the number of participants assigned to a bedroom “authorized” based on a rule or group of rules (such as Paragraph (d) of this Rule), or does the Construction Section merely exercise its discretion? What is the basis for authorization?

Lines 15-16 – the effect of Paragraph (c) is to allow a bedroom room window to be no more than 8 (or 12.8) square feet no matter how large the floor area. Is this what is intended?

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0308 is adopted 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.

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

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

12 (e) The total number of participants assigned to a bedroom shall not exceed the number authorized by the Construction
13 Section for that particular bedroom.

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

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

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

20

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

22 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0309

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – replace “The” with “An”

Line 5 (and elsewhere in this Rule) – generally, the term “water closet” means a compartment or room with a toilet, though it may have a somewhat different meaning in the building code. Are you sure the term “water closet” is what is intended? Is the term “curtain” consistent with “water closet”?

Line 6 – define or delete “ease of”

Line 8 – define or delete “easy”

Lines 10-13 Lines 6-9 – if the intent of this Rule is the require a determination by the Division that the cited regulations have been met prior to shared use of the bathroom, consider revising as follows (the revision assumes that a written determination is required):

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

Line 17 – replace “from” with “between” and “to” with “and”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

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

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

4 (a) The overnight respite services program shall have one bathroom for each six or fewer respite participants. A
5 bathroom shall contain a water closet, 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 bathroom required by Paragraph (a) of this Rule may be shared with the adult day
13 care program or adult day health program.

14 (c) A bathroom shall be designed to provide privacy. A bathroom with two or more water closets shall have privacy
15 partitions or curtains for each water closet. Each bathtub or shower shall have privacy partitions or curtains.

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

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

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

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

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

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

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

26 *Eff. April 1, 2017.*

1 10A NCAC 13E .0310 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0310 STORAGE AREAS**

4 (a) Storage areas shall be provided for the separate storage of clean linens, soiled linens, food and food service
5 supplies, and household supplies and equipment.

6 (b) Cleaning agents, bleaches, pesticides, and other substances that may be hazardous if ingested, inhaled, or handled
7 shall be stored in locked areas separate from other materials.

8

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

10 *Eff. April 1, 2017.*

1 10A NCAC 13E .0311 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0311 CORRIDOR**

4 (a) Corridors shall be lighted as required by Rule .0317(e)(3) of this Section.

5 (b) Corridors shall be free of equipment and other obstructions.

6

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

8 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0312

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – delete “or exit access” (if that phrase is not needed) and replace “door” with “doors”

Line 9 – add “and exit” after “enter” and add “to and” before “from” and delete “and to exit the building to the outdoors”

Line 19 – replace “All steps” with “Steps”

Line 21 – delete the comma after “professional”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 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 shall be located and constructed to minimize the possibility that both may be
6 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 the building 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, 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.*

1 10A NCAC 13E .0313 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0313 LAUNDRY ROOM**

4 If the facility uses laundry equipment, the equipment shall not be located in the living, dining, or bedroom areas.

5

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

7 *Eff. April 1, 2017.*

1 10A NCAC 13E .0314 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0314 FLOORS**

4 (a) All floors shall be of smooth, non-skid material and shall be cleanable.

5 (b) Scatter or throw rugs shall not be used.

6 (c) All floors shall be kept free of damage.

7

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

9 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0315

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 15 – delete the semicolon after “sheets”

Line 17 – is “commodes” the proper term?

Page 2, line 3 – replace “individual” with “a” (Paragraph (b) specifies “each” participant)

Page 2, line 6 – define or delete “functional”

Page 2, line 7 – define or delete “easily”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0315 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0315 HOUSEKEEPING AND FURNISHINGS**

4 (a) Each overnight respite services program shall:

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

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

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

- 1 (5) a minimum of one comfortable chair per participant, high enough from the floor for easy rising;
- 2 (6) additional chairs available, as needed, for use by visitors;
- 3 (7) individual clean towel, wash cloth, and towel bar within the bedroom or adjoining bathroom; and
- 4 (8) a wall-mounted light overhead of the bed or a lamp with a switch within reach of a person lying on
- 5 the bed. The light shall provide a minimum of 30 foot-candle power of illumination for reading.
- 6 (c) The living room shall have functional living room furnishings for the comfort of participants with coverings that
- 7 are easily cleanable.
- 8 (d) The dining room shall have the following furnishings:
- 9 (1) tables and chairs to seat all participants eating in the dining room; and
- 10 (2) chairs that are sturdy, non-folding, without rollers unless retractable or on front legs only, and
- 11 designed to minimize tilting.

12

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

14 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0316

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 8 – Add the following sentence: “The availability and cost of the Code is set forth in Rule .0302 of this Section.”

Line 9 – replace “Any” with “All”

Line 10 – replace “diagrammed drawing” with “diagram”

Lines 13-14 – how long must these records be maintained?

Line 18 – delete “at least”

Lines 19-20 – delete the last sentence.

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0316 is adopted 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.

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

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

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

16 (e) A written disaster plan that has the written approval of, or has been documented as submitted to, the local
17 emergency management agency and the local agency designated to coordinate special needs sheltering during disasters
18 shall be prepared and updated at least annually and shall be maintained in the program offering overnight respite care
19 services. This Paragraph applies to new and existing overnight respite services programs, adult day care programs,
20 and adult day health programs.

21

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

23 *Eff. April 1, 2017.*

1 10A NCAC 13E .0317 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0317 BUILDING SERVICE EQUIPMENT**

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

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

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

11 (d) The hot water tank shall be of such size to provide as much hot water as is needed by the kitchen, bathrooms, and
12 laundry. The hot water temperature at all fixtures used by participants shall be maintained at a minimum of 100 degrees
13 F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).

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

16 (1) 30 foot-candle of light at floor level in living rooms, dining rooms, bedrooms, and bathrooms;

17 (2) 10 foot-candle of light for general lighting; and

18 (3) one foot-candle of light at the floor for corridors at night.

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

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

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

26 *Eff. April 1, 2017.*

1 10A NCAC 13E .0318 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0318 OUTSIDE PREMISES**

4 (a) The outside grounds of the program shall be maintained in a clean and safe condition.

5 (b) If the facility has a fence around the premises, the fence shall not prevent participants from exiting or entering
6 freely and shall not be hazardous.

7 (c) Outdoor stairways and ramps shall be illuminated by no less than five foot candles of light at grade level.

8

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

10 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0401

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – delete the comma

Line 12 – delete “at least”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0401 is adopted 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, 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 .0402 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0402 SUPERVISOR-IN-CHARGE**

4 (a) The supervisor-in-charge is responsible to the administrator for the operation of the overnight respite services
5 program in the absence of the administrator.

6 (b) The supervisor-in-charge shall meet the same requirements as the administrator as set forth in Rule .0401(c) of
7 this Section.

8

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

10 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0403

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5, replace "is" with "shall be"

Lines 5-6 – Isn't Subparagraph (a)(1) a requirement of the program, not of a staff member? If so, please consider what rule it belongs in.

Line 20, only staff in charge has to be 18? Other employees, if not "in charge" may be under the age of 18?

Line 22 – replace "under" with "by" or "in"

Line 25 – replace "required by law" with "applicable to such services"

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0403 is adopted 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 and is signed by the
6 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 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.

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

28 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0404

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – delete the “and” before “Medic”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0404 is adopted 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.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0501

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

There appear to be two different rules that address medical policies, at least in part - .0501, and .0701. Are both of these rules necessary and useful? Are the rules perfectly consistent with each other? At the very least, they should be cross-referenced.

Line 11 – replace “under” with “by”

Lines 11-12 – delete “incorporated herein by reference including subsequent amendments and editions,”

Line 34 – add commas after “Documentation of” and “receipt of”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0501 is adopted 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 10A NCAC 06R .0201, incorporated herein by
12 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 receipt of and agreement to abide by the program policies by the applicant, responsible party,
35 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.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0601

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – delete the comma after “enrollment”

Line 13 – add “shall be” before “maintained”

Lines 16, 26, 28, and 31 – delete or define “appropriate”

Line 19 – replace the comma with “or”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0601 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **SECTION .0600 - ENROLLMENT AND SERVICE PLANNING**

4
5 **10A NCAC 13E .0601 ENROLLMENT OF PARTICIPANTS**

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

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

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

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

18 (c) Individuals shall not be admitted:

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

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

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

33 (f) The program shall assure that the participant has been tested for tuberculosis disease within the past 12 months of
34 each admission for overnight respite services in accordance with the NC Division of Public Health's Tuberculosis
35 Policy Manual, incorporated herein by reference including any subsequent amendments and editions, and shall be free
36 of active tuberculosis. This manual may be accessed free of charge at
37 <http://epi.publichealth.nc.gov/cd/lhds/manuals/tb/toc.html>.

1

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

3 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0602

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 11-12 – when is the review done? Please clarify

Page 2, line 1 – add a comma after “participant”

Page 2, line 3 – delete the comma after “incident”

Page 2, line 9 – add “shall” before “document”

Page 2, line 19 – delete or define “appropriate”

Page 2, line25 – delete “at least” twice

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0602 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2
3 **10A NCAC 13E .0602 PLANNING SERVICES FOR INDIVIDUAL PARTICIPANTS**

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

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

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

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

22 (d) The participant's record shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

26

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

28 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0701

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

There appear to be two different rules that address medical policies, at least in part - .0501, and .0701. Are both of these rules necessary and useful? Are the rules perfectly consistent with each other? At the very least, they should be cross-referenced.

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0701 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3

SECTION .0700 – MEDICATION ADMINISTRATION

4

10A NCAC 13E .0701 MEDICATION ADMINISTRATION POLICIES AND PROCEDURES

6 There shall be written policies and procedures developed and implemented regarding:

7

(1) medication administration;

8

(2) documentation of medication administration;

9

(3) maintenance of documentation;

10

(4) documentation and reporting of medication errors; and

11

(5) medication storage and disposition.

12

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

14 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0702

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7 – delete the comma after “4A”

Line 8 – delete “, which is incorporated by reference including subsequent amendments and revisions”

Line 13 – add “being” before “listed”

Line 14 – delete “, incorporated by reference including subsequent amendments and editions”

Line 16 – replace “with staff and any contact shall” with “with staff. All such consultations shall”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0702 is adopted 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, of a clinical skills validation on the Medication Administration Skills
8 Validation Form, which is incorporated herein by reference, including all subsequent amendments
9 and editions. Copies of this form may be accessed electronically free of charge at
10 <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) listed as a medication aide on the NC Medication Aide Registry pursuant to G.S. 131E-270 and 10A
14 NCAC 13O .0201 incorporated herein by reference including subsequent amendments and editions.

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

18

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0703

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – delete or define “appropriate”

Line 6 – add “that” after “times”

Line 7 – what does “as needed” mean? When shall the record be updated?

Line 9 – what does “route” mean?

Line 13 – replace “on” with “in”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 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 medications are to be administered.

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

8 (1) the participant's name;

9 (2) the name, dosage, quantity, and route of the medication;

10 (3) instructions for giving medication;

11 (4) the date and time medication is administered; and

12 (5) the name or initials of person giving the medication. If initials are used, a signature for those initials
13 shall be documented and maintained on this record.

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

17

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

19 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0801

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 6-12 – consider revising as follows, if this does not change the meaning of Paragraphs (a) and (b):

(a) The kitchen, dining, and food storage areas shall be clean and maintained in a sanitary condition in accordance with Rules Governing the Sanitation of Residential Care Facilities (15A NCAC 18A .1600) as promulgated by the North Carolina Division of Public Health, Environmental Health Services Section, which are incorporated herein by reference including subsequent amendments and editions. Copies of these Rules may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost or can be accessed electronically free of charge at <http://ehs.ncpublichealth.com/rules.htm>.

(b) All food and beverages shall be procured, stored, prepared, or served by the facility under sanitary conditions in accordance with Rules Governing the Sanitation of Residential Care Facilities (15A NCAC 18A .1600).

Line 13 – add “plant approved by the” after “processed at a”

Line 14 – delete “approved processing plant”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0801 is adopted 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.

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

13 (c) All meat served to participants shall have been processed at a United States Department of Agriculture (USDA)
14 approved processing plant.

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

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

1 10A NCAC 13E .0802 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0802 FOOD PREPARATION AND SERVICE**

4 (a) Staff, space, and equipment shall be provided for safe and sanitary food storage, preparation, and service.

5 (b) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon,
6 plate, and beverage containers. Exceptions may be made on an individual basis and shall be based on documented
7 needs or preferences of the participant.

8 (c) If participants require assistance with eating, food shall be maintained at serving temperature until assistance is
9 provided.

10

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

12 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0803

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – add a comma after “Americans”

Line 7 – add a comma after “day”

Line 9 – add a comma after “diets”

Line 12 – add commas before “pursuant” and after “25”

Lines 12, 13, 14, and 15 - elect either a “dietitian” or “nutritionist” or add “or” in place of the backslash

Line 14 – add a comma after “diets”

Line 16 – delete or define “appropriate”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 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 which is incorporated by reference with all
6 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 and cycle for any given day
8 for guidance of food service staff.

9 (c) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic 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 pursuant to G.S. 90, Article 25 shall plan or review all menus, including all
13 therapeutic diets. The facility shall maintain verification of the licensed dietitian/nutritionist's approval of the
14 therapeutic diets including an original signature by the licensed dietitian/nutritionist and the licensure number of the
15 licensed dietitian/nutritionist.

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

18

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

20 *Eff. April 1, 2017.*

1 10A NCAC 13E .0804 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0804 FOOD REQUIREMENTS**

4 (a) A minimum of three meals a day shall be served.

5 (b) Foods and beverages that are appropriate to overnight respite participants' diets shall be offered or made
6 available to overnight respite participants as snacks between each meal for a total of three snacks per day and shall
7 be shown on the menu as snacks.

8

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

10 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0805

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 11 – delete or define “appropriate”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0805 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0805 THERAPEUTIC DIETS**

4 (a) All therapeutic diet orders, including thickened liquids, shall be in writing from the participant's ~~physician.~~
5 physician or appropriate licensed health professional.

6 (b) Where applicable, the therapeutic diet order shall be specific to calorie, gram, or consistency, such as for calorie-
7 controlled American Diabetic Association diets, low sodium diets, or thickened liquids, unless there are written orders
8 that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a licensed
9 dietitian or nutritionist.

10 (c) The facility shall maintain an accurate and current listing of overnight respite participants with ~~physician-ordered~~
11 physician or appropriate licensed health professional ordered therapeutic diets for guidance of food service staff.

12

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

14 *Eff. April 1, 2017.*

1 10A NCAC 13E .0806 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0806 ASSISTANCE WITH EATING**

4 (a) Staff shall provide assistance with eating as needed.

5 (b) Food shall be maintained at serving temperature until assistance with eating is provided.

6 (c) Participants needing assistance with eating shall be assisted upon receipt of the meal and the assistance shall be
7 unhurried and in a manner that maintains or enhances each participant's dignity.

8

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

10 *Eff. April 1, 2017.*

1 10A NCAC 13E .0807 is adopted as published in 31:06 NCR, pp. 462-474, as follows:

2

3 **10A NCAC 13E .0807 ACCOMMODATION OF PARTICIPANT NEEDS AND PREFERENCES**

4 Variations from the required three meals to meet individualized needs or preferences of participants shall be
5 documented in the participant's record.

6

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

8 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13E .0901

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 9 – delete or define “appropriate”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 27, 2017

1 10A NCAC 13E .0901 is adopted with changes as published in 31:06 NCR, pp. 462-474, as follows:

2

3

SECTION .0900 - PROGRAM ACTIVITIES

4

10A NCAC 13E .0901 ACTIVITIES PROGRAM

6 (a) There shall be a program of activities designed to promote the participants' active involvement with each other,
7 their families, and the community.

8 (b) If there is a question about a participant's ability to participate in an activity, the participant, the participant's
9 ~~physician,~~ physician or appropriate licensed health professional, family, or responsible party shall be consulted to
10 obtain a statement regarding the participant's capabilities.

11

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

13 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F.1702

DEADLINE FOR RECEIPT: Tuesday, March 7, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – replace “when” with “if”

Line 6 – replace “30 hours biennially of” with “the” and delete “as”

Lines 11-14 and 19-22 – begin each line with “the”

Lines 13 and 21 – replace “job duties” with “the duties of an administrator”

Lines 14 and 22 – add a comma after “rehabilitation”

Line 25 – delete the comma

Line 29 – at the end of the line, add “in deciding whether to deny, suspend, or revoke the certification of an administrator.”

Line 31 – what “observable of documented condition” would “impair” an individual such that residents would be endangered? Can you give examples to list factors that might give meaning to this ambiguous phrase?

Page 2, line 1-2 – revise as follows:

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

Page 2, line 3 – replace “due to any arrest with a” with “who has been arrested because of alleged criminal conduct, if the”

Page 2, lines 4 and 7 – replace “job duties” with “the administrator’s duties”

Page 2, line 7 – replace “are” with “include”

Jason Thomas
Commission Counsel

Date submitted to agency: February 21, 2017

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 21, 2017

1 10A NCAC 13F .1702 is adopted as published in 31:06 NCR, pp. 474-478, as follows:

2
3 **10A NCAC 13F .1702 ADVERSE ACTION ON CERTIFICATION**

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

6 (1) has not completed 30 hours biennially of continuing education credits as required by Rule .1703 of
7 this Section;

8 (2) has been convicted by any jurisdiction of a felony unless rights of citizenship have been restored
9 and all of the following have been considered and determined by the Department to allow
10 certification:

11 (A) date of conviction;

12 (B) circumstances surrounding the committing of the crime, if known;

13 (C) nexus between the criminal conduct of the person and job duties; and

14 (D) prison, jail, probation, parole, rehabilitation and employment records of the person since
15 the date the crime was committed;

16 (3) has been convicted by any jurisdiction of a misdemeanor unless all terms of the judgment imposed
17 for said misdemeanor have been met and the following have been considered and determined by the
18 Department to allow certification:

19 (A) date of conviction;

20 (B) circumstances surrounding the committing of the crime, if known;

21 (C) nexus between the criminal conduct of the person and job duties; and

22 (D) prison, jail, probation, parole, rehabilitation and employment records of the person since
23 the date the crime was committed;

24 (4) was the administrator of an adult care home or family care home whose license was summarily
25 suspended pursuant to G.S. 131D-2.7(c), or a notice of revocation of the facility's license was issued
26 pursuant to G.S. 131D-2.7(b). In these circumstances, the Department shall take into consideration
27 the length of time the administrator was serving in that capacity at the facility and the nexus between
28 the reason for the summary suspension or revocation of the facility's license and the job duties of
29 the administrator;

30 (5) is unable to perform as administrator with reasonable skill and safety to residents by reason of any
31 observable or documented condition that impairs the individual in such a way that it endangers the
32 health, safety, or welfare of residents.

33 (6) tested positive for a controlled substance or refused to consent to drug testing according to G.S.
34 131D-45;

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

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

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

9
10 *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;*
11 *Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .1703

DEADLINE FOR RECEIPT: Tuesday, March 7, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 – this rule requires “biennial submission of course completion certificates.” How does that square with GS 90-288.15(b), which requires that applications for renewal be “accompanied by documentation of the certificate holder’s completion of the annual continuing education requirements”? It appears that the statute contemplates a 12-month continuing education requirement, but the Commission has a 24-month requirement. Yet, GS 90-288.15A clearly intends a biennial fee for renewal.

Line 5-6 – what does “dated from last certification” mean? The revision below incorporates one possible meaning.

Line 8 – the revision below replaces “are” with “includes”

Line 9 – the revision below adds a comma after “behaviors”

Lines 10-11 – the revision below refers to adverse actions pursuant to .1702, borrowing the concept from 10A NCAC 13F .0208. Otherwise, .1703 would appear to forbid adverse actions that are squarely authorized by .1702.

Assuming that the biennial submission is within the statutory authority of the Commission, consider revising this rule as follows:

The Department shall renew an administrator’s certification biennially, pursuant to G.S. 90-288.15, if:

- (1) the administrator submits certificates of courses completed after the administrator’s most recent certification, issued by the course provider, totaling 30 hours of coursework related to long term care management or the care of aged and disabled persons;
- (2) the administrator submits a renewal fee of thirty dollars (\$30.00), pursuant to G.S. 90-288.15A; and

Jason Thomas
Commission Counsel
Date submitted to agency: February 21, 2017

(3) the Department has not taken adverse action pursuant to Rule .1702 of this Section.

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.

Finally, do you intend to issue renewals to an administrator whose certification has lapsed for a period prior to the renewal?

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 21, 2017

1 10A NCAC 13F .1703 is adopted as published in 31:06 NCR, pp. 474-478, as follows:

2

3 **10A NCAC 13F. 1703 RENEWAL OF ADMINISTRATOR CERTIFICATION**

4 Administrator certification shall be renewed by the Department pursuant to G.S. 90-288.15 based on the
5 administrator's biennial submission of course completion certificates issued by the course provider, dated from last
6 certification, initial or renewal, and totaling 30 hours of coursework related to long term care management or the care
7 of aged and disabled persons, and a renewal fee of thirty dollars (\$30.00) pursuant to G.S. 90-288.15A. 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

12 *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;*

13 *Eff. April 1, 2017.*

1 10A NCAC 13G .0401 is repealed as published in 31:06 NCR, pp. 474-478, as follows:

2

3 **10A NCAC 13G .0401 QUALIFICATIONS OF ADMINISTRATOR**

4

5 *History Note: Authority G.S. 131D-2; 143B-153;*

6 *Eff. January 1, 1977;*

7 *Readopted Eff. October 31, 1977;*

8 *Amended Eff. July 1, 1990; September 1, 1987; April 1, 1987; April 1, 1984;*

9 *ARRC Objection Lodged January 18, 1991;*

10 *Amended Eff. August 1, ~~1991~~ 1991;*

11 *Repealed Eff. April 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13G .1501

DEADLINE FOR RECEIPT: Tuesday, March 7, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 10 – replace “provide” with “obtain”

Lines 11-12 – is the following phrase needed: “that shall be provided by the State Bureau of Investigation upon its receiving fingerprints of the applicant from the Division of Health Service Regulation”? If not, delete it.

Lines 10-14 – consider revising as follows:

- (2) obtain a satisfactory criminal background report:
 - (a) from the State Repository of Criminal Histories, if the applicant has been a resident of this State for five years or more; or
 - (b) from both the State and National Repositories of Criminal Histories, if the applicant has been a resident of this State for less than five years.

Line 17 – add a comma after “resources”

Lines 26-29 and 34-36 and Page 2, line 1 – begin each line with “the”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 21, 2017

1 10A NCAC 13G .1501 is adopted as published in 31:06 NCR, pp. 474-478, as follows:

2
3 **SECTION .1500 – ADMINISTRATOR APPROVAL AND RENEWAL**

4
5 **10A NCAC 13G .1501 ADMINISTRATOR APPROVAL**

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

8 (b) Applicant administrators shall meet the following qualifications:

9 (1) be 21 years of age or older;

10 (2) provide a satisfactory criminal background report from the State Repository of Criminal Histories,
11 that shall be provided by the State Bureau of Investigation upon its receiving fingerprints of the
12 applicant from the Division of Health Service Regulation, unless the applicant has been a resident
13 of this State for less than five years, requiring the applicant to provide a satisfactory criminal
14 background report from both the State and National Repositories of Criminal Histories;

15 (3) complete an approved administrator-in-training program listed on the website at
16 <http://ncdhhs.gov/dhsr/acls/adminguidelines.html> and consisting of a minimum of 20 hours of
17 instruction in N.C. Assisted Living laws and statutes, human resources and business management,
18 and a minimum of 100 hours of on-the-job training in an assisted living facility;

19 (4) complete with 75 percent accuracy a written examination administered by the Department within
20 12 months of completing the administrator-in-training program; and

21 (5) be at least a high school graduate or certified under the GED Program.

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

23 (1) no conviction by any jurisdiction of a felony for which prison time was served unless rights of
24 citizenship have been restored and all of the following have been considered and determined by the
25 Department to allow approval:

26 (A) date of conviction;

27 (B) circumstances surrounding the committing of the crime, if known;

28 (C) nexus between the criminal conduct of the person and job duties; and

29 (D) prison, jail, probation, parole, rehabilitation and employment records of
30 the person since the date the crime was committed;

31 (2) no conviction by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for
32 said misdemeanor have been met and the following have been considered and determined by the
33 Department to allow approval:

34 (A) date of conviction;

35 (B) circumstances surrounding the committing of the crime, if known;

36 (C) nexus between the criminal conduct of the person and job duties; and

1 (D) prison, jail, probation, parole, rehabilitation and employment records of the person since
2 the date the crime was committed.

3

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13G .1502

DEADLINE FOR RECEIPT: Tuesday, March 7, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4 – replace “when” with “if”

Line 6 – replace “30 hours biennially of” with “the”

Line 8 – replace “is” with “has been”

Lines 10-13 and 18-21 – begin each line with “the”

Lines 12 and 20 – replace “job duties” with “the duties of an administrator”

Lines 13 and 21 – add a comma after “rehabilitation”

Line 24 – delete the comma

Line 28 – at the end of the line, add “in deciding whether to deny, suspend, or revoke the approval of an administrator.”

Line 30 – what “observable of documented condition” would “impair” an individual such that residents would be endangered? Can you give examples to list factors that might give meaning to this ambiguous phrase?

Line 36 – revise as follows:

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

Page 2, line 1 – replace “due to any arrest with a” with “who has been arrested because of alleged criminal conduct, if the”

Page 2, lines 2 and 5 – replace “job duties” with “the administrator’s duties”

Jason Thomas
Commission Counsel

Date submitted to agency: February 21, 2017

Page 2, line 5 – replace “are” with “include”

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 21, 2017

1 10A NCAC 13G .1502 is adopted as published in 31:06 NCR, pp. 474-478, as follows:

2
3 **10A NCAC 13G .1502 ADVERSE ACTION ON ADMINISTRATOR APPROVAL**

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

6 (1) has not completed 30 hours biennially of continuing education credits required by Rule .1503 of this
7 Section;

8 (2) is convicted by any jurisdiction of a felony unless rights of citizenship have been restored and all of
9 the following have been considered and determined by the Department to allow approval:

10 (A) date of conviction;

11 (B) circumstances surrounding the committing of the crime, if known;

12 (C) nexus between the criminal conduct of the person and job duties; and

13 (D) prison, jail, probation, parole, rehabilitation and employment records of the person since
14 the date the crime was committed;

15 (3) is convicted by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for said
16 misdemeanor have been met and the following have been considered and determined by the
17 Department to allow approval:

18 (A) date of conviction;

19 (B) circumstances surrounding the committing of the crime, if known;

20 (C) nexus between the criminal conduct of the person and job duties; and

21 (D) prison, jail, probation, parole, rehabilitation and employment records of the person since
22 the date the crime was committed;

23 (4) was the administrator of an adult care home or family care home whose license was summarily
24 suspended pursuant to G.S. 131D-2.7(c), or a notice of revocation of the facility's license was issued
25 pursuant to G.S. 131D-2.7(b). In these circumstances, the Department shall take into consideration
26 the length of time the administrator was serving in that capacity at the facility and the nexus between
27 the reason for the summary suspension or revocation of the facility's license and the job duties of
28 the administrator;

29 (5) is unable to perform as administrator with reasonable skill and safety to residents by reason of any
30 observable or documented condition that impairs the individual in such a way that it endangers the
31 health, safety, or welfare of residents.

32 (6) tested positive for a controlled substance or refused to consent to drug testing according to G.S.
33 131D-45;

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

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

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

7

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13G .1503

DEADLINE FOR RECEIPT: Tuesday, March 7, 2017

NOTE WELL: This request extends several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6 – what does “dated from last approval” mean? The revision below incorporates one possible meaning.

Line 8 – the revision below replaces “are” with “includes”

Line 9 – the revision below adds a comma after “behaviors”

Lines 10-11 – the revision below refers to adverse actions pursuant to .1502, borrowing the concept from 10A NCAC 13F .0208. Otherwise, .1503 would appear to forbid adverse actions that are squarely authorized by .1502.

Consider revising this rule as follows:

The Department shall renew an administrator’s approval biennially, which shall expire on June 30 of the second year following issuance, if:

- (1) the administrator submits certificates of courses completed after the administrator’s most recent certification, issued by the course provider, totaling 30 hours of coursework related to long term care management or the care of aged and disabled persons; and
- (2) the Department has not taken adverse action pursuant to Rule .1502 of this Section.

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.

Finally, do you intend to issue renewals to an administrator whose approval has lapsed for a period prior to the renewal?

Jason Thomas
Commission Counsel
Date submitted to agency: February 21, 2017

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

Jason Thomas
Commission Counsel
Date submitted to agency: February 21, 2017

1 10A NCAC 13G .1503 is adopted 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

12

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

14

Eff. April 1, 2017.