



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: N.C. Medical Care Commission
2. Rule citation & name: 10A NCAC 13B .6003 DEFINITIONS
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: 9/20/17 b. Proposed Temporary Rule published on the OAH website: 9/27/17 c. Public Hearing date: 10/18/17 d. Comment Period: 9/28/17 – 10/19/17 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 9/20/17 f. Adoption by agency on: 11/03/17 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 12/01/17 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: n/a
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.  <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: N.C.G.A. Session Law 2017-174, s. 1.(c); (Senate Bill 42) Effective date: 7/21/17 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:
<b>Explain:</b> The proposed temporary adoptions for the rules in 10A NCAC 13B <i>Licensing of Hospitals</i> are in response to a recent act of the General Assembly, Session Law 2017-174, "An Act Directing the Medical Care Commission to Adopt the Recommendations of the American Society of Healthcare Engineering's Facility Guidelines Institute" that became effective on July 21, 2017. Section 1.(c) of this Act, Implementation and Rule-Making Authority, requires the N.C. Medical Care Commission to repeal the existing hospital facilities rules in 10A NCAC 13B and adopt, with means of temporary rules, the recommendations of the American Society of Healthcare Engineering's Facility Guidelines Institute (FGI) for hospital facilities. The proposed temporary rules replace the Hospital Facility Rules being repealed and incorporate by reference all applicable rules, standards and requirements of the FGI.

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

To maintain compliance with the Session law directing adoption of temporary rules and the filing requirements of G.S. 150B for temporary rules, immediate adoption of the rule is required. In addition, incorporating the FGI in the proposed temporary rules for licensed hospitals in North Carolina will allow for the design and construction of these facilities to be in compliance with a national standard of practice. This is of significant importance to the citizens of North Carolina for the quality of physical plant safety provided in these facilities. The time frame for the repeal of the existing hospital facilities rules has been mandated by the General Assembly in S.L. 2017-174 at 120 days, therefore it is essential to have replacement temporary rules in effect rather than be without replacement rules and rely on the non-binding FGI guidelines themselves as the Session Law states.

The proposed temporary rule addresses the definitions used for the standards for design and construction of a hospital facility. Maintaining structurally safe hospital facilities with up-to-date standards is important to North Carolinians. This proposed rule is the first step to achieving it in a manner that is meaningful and useful to the public.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

Yes  
Agency submitted request for consultation on:  
Consultation not required. Cite authority:

No

**9. Rule-making Coordinator: Nadine Pfeiffer**

Phone: 919-855-3811

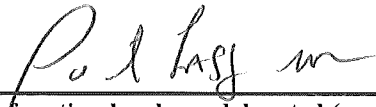
E-Mail: Nadine.pfeiffer@dhhs.nc.gov

**Agency contact, if any: Steven Lewis, Section Chief**

Phone: 919-855-3709

E-Mail: steven.lewis@dhhs.nc.gov

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Dr. John A. Fagg, M.D.

Title: Chair, N.C. Medical Care Commission

E-Mail: drfagg@forsythplasticsurgery.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

Date returned to agency:

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2017**

**SESSION LAW 2017-174**  
**SENATE BILL 42**

AN ACT DIRECTING THE MEDICAL CARE COMMISSION TO ADOPT THE  
RECOMMENDATIONS OF THE AMERICAN SOCIETY OF HEALTHCARE  
ENGINEERING'S FACILITY GUIDELINES INSTITUTE.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Definitions. – For purposes of this section and its implementation:

- (1) Commission or Medical Care Commission. – The Medical Care Commission created by Part 10 of Article 3 of Chapter 143B of the General Statutes.
- (2) Hospital Facilities Rules. – Means all of the following:
  - a. 10A NCAC 13B .6001 – Physical Plant: Location.
  - b. 10A NCAC 13B .6002 – Physical Plant: Roads and Parking.
  - c. 10A NCAC 13B .6104 – General Requirements: Access and Safety.
  - d. 10A NCAC 13B .6201 – Construction Requirements: Medical, Surgical, and Post-Partum Care Unit.
  - e. 10A NCAC 13B .6202 – Construction Requirements: Special Care Unit.
  - f. 10A NCAC 13B .6203 – Construction Requirements: Neonatal Level I and Level II Nursery Unit.
  - g. 10A NCAC 13B .6204 – Construction Requirements: Neonatal Level III and Level IV Nursery.
  - h. 10A NCAC 13B .6205 – Construction Requirements: Psychiatric Unit.
  - i. 10A NCAC 13B .6206 – Construction Requirements: Surgical Department Requirements.
  - j. 10A NCAC 13B .6207 – Construction Requirements: Obstetrical Department Requirements.
  - k. 10A NCAC 13B .6209 – Construction Requirements: Emergency Services.
  - l. 10A NCAC 13B .6210 – Construction Requirements: Imaging Services.
  - m. 10A NCAC 13B .6211 – Construction Requirements: Laboratory Services.
  - n. 10A NCAC 13B .6212 – Construction Requirements: Morgue.
  - o. 10A NCAC 13B .6213 – Construction Requirements: Pharmacy Services.
  - p. 10A NCAC 13B .6214 – Construction Requirements: Dietary Services.
  - q. 10A NCAC 13B .6215 – Construction Requirements: Administration.
  - r. 10A NCAC 13B .6216 – Construction Requirements: Medical Records Services.



- s. 10A NCAC 13B .6217 – Construction Requirements: Central Medical and Surgical Supply Services.
  - t. 10A NCAC 13B .6218 – Construction Requirements: General Storage.
  - u. 10A NCAC 13B .6219 – Construction Requirements: Laundry Services.
  - v. 10A NCAC 13B .6220 – Construction Requirements: Physical Rehabilitation Services.
  - w. 10A NCAC 13B .6221 – Construction Requirements: Engineering Services.
  - x. 10A NCAC 13B .6222 – Construction Requirements: Waste Processing.
  - y. 10A NCAC 13B .6223 – Construction Requirements: Details and Finishes.
  - z. 10A NCAC 13B .6224 – Construction Requirements: Elevator Requirements.
  - aa. 10A NCAC 13B .6225 – Construction Requirements: Mechanical Requirements.
  - bb. 10A NCAC 13B .6226 – Construction Requirements: Plumbing and Other Piping Systems Requirements.
  - cc. 10A NCAC 13B .6227 – Construction Requirements: Electrical Requirements.
- (3) Guidelines. – The American Society for Healthcare Engineering's Facility Guidelines Institute "Guidelines for Design and Construction of Hospitals and Outpatient Facilities."

**SECTION 1.(b)** Repeal Hospital Facilities Rules. – The Secretary of Health and Human Services and the Medical Care Commission shall repeal the Hospital Facilities Rules within 120 days after this act becomes law.

**SECTION 1.(c)** Implementation and Rule-Making Authority. – Before the effective date of the repeal of the Hospital Facilities Rules required pursuant to subsection (b) of this section, the Medical Care Commission shall adopt temporary rules to replace the Hospital Facilities Rules and incorporate by reference all applicable rules, standards, and requirements of the most current edition of the Guidelines. If temporary rules are not adopted before the repeal of the Hospital Facilities Rules required pursuant to subsection (b) of this section, the Commission shall utilize the 2014 Edition of the Guidelines until such time as temporary rules are adopted. Furthermore, the Commission shall adopt permanent rules pursuant to this section.

**SECTION 1.(d)** Additional Rule-Making Authority. – The Medical Care Commission shall adopt rules to replace the Hospital Facilities Rules. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall conform to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in subsection (b1) of G.S. 150B-21.3 as though 10 or more written objections had been received as provided by subsection (b2) of G.S. 150B-21.3. Furthermore, rules adopted pursuant to this section shall be exempt from the provisions of Chapter 150B of the General Statutes that require the preparation of fiscal notes for any rule proposed to incorporate the Guidelines by reference.

**SECTION 1.(e)** Exemption From Periodic Review. – Until such time as the Hospital Facilities Rules are repealed pursuant to subsection (b) of this section, the Hospital Facilities Rules shall be exempt from the periodic review process required pursuant to G.S. 150B-21.3A.

**SECTION 2.** This act is effective when it becomes law and applies to any licensee or prospective applicant who seeks to make specified types of alterations or additions to its hospital facilities or to construct new hospital facilities and who submits plans and specifications to the Department of Health and Human Services pursuant to Article 5 of Chapter 113E of the General Statutes on or after January 1, 2016.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of June, 2017.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 11:48 a.m. this 21<sup>st</sup> day of July, 2017

1 10A NCAC 13B .6003 is adopted under temporary procedures as follows:

2

3 **10A NCAC 13B .6003 DEFINITIONS**

4 In addition to the definitions set forth in G.S. 131E-76, the following definitions shall apply in Sections .6000 through  
5 .6200 of this Subchapter:

6 (1) “Construction documents” means final building plans and specifications for the construction of a  
7 facility that a governing body submits to the Construction Section for approval as specified in Rule  
8 .3102 of this Subchapter.

9 (2) “Construction Section” means the Construction Section of the Division of Health Service  
10 Regulation.

11 (3) “Division” means the Division of Health Service Regulation of the North Carolina Department of  
12 Health and Human Services.

13 (3) “Facility” means a hospital as defined in G.S. 131E-76.

14

15 *History Note: Authority G.S. 131E-76; 131E-79; S.L. 2017-174;*

16 *Temporary Adoption Eff. December 1, 2017.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: N.C. Medical Care Commission
2. Rule citation & name: 10A NCAC 13B .6105 INCORPORATION BY REFERENCE AND APPLICATION OF THE REQUIREMENTS OF THE GUIDELINES
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input type="checkbox"/> Yes      Effective date: <input checked="" type="checkbox"/> No
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: 9/20/17 b. Proposed Temporary Rule published on the OAH website: 9/27/17 c. Public Hearing date: 10/18/17 d. Comment Period: 9/28/17 – 10/19/17 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 9/20/17 f. Adoption by agency on: 11/03/17 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 12/01/17 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: n/a
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.  <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: N.C.G.A. Session Law 2017-174, s. 1.(c); (Senate Bill 42) Effective date: 7/21/17 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:
<b>Explain:</b> The proposed temporary adoptions for the rules in 10A NCAC 13B <i>Licensing of Hospitals</i> are in response to a recent act of the General Assembly, Session Law 2017-174, "An Act Directing the Medical Care Commission to Adopt the Recommendations of the American Society of Healthcare Engineering's Facility Guidelines Institute" that became effective on July 21, 2017. Section 1.(c) of this Act, Implementation and Rule-Making Authority, requires the N.C. Medical Care Commission to repeal the existing hospital facilities rules in 10A NCAC 13B and adopt, with means of temporary rules, the recommendations of the American Society of Healthcare Engineering's Facility Guidelines Institute (FGI) for hospital facilities. The proposed temporary rules replace the Hospital Facility Rules being repealed and incorporate by reference all applicable rules, standards and requirements of the FGI.

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

To maintain compliance with the Session law directing adoption of temporary rules and the filing requirements of G.S. 150B for temporary rules, immediate adoption of the rule is required. In addition, incorporating the FGI in the proposed temporary rules for licensed hospitals in North Carolina will allow for the design and construction of these facilities to be in compliance with a national standard of practice. This is of significant importance to the citizens of North Carolina for the quality of physical plant safety provided in these facilities. The time frame for the repeal of the existing hospital facilities rules has been mandated by the General Assembly in S.L. 2017-174 at 120 days, therefore it is essential to have replacement temporary rules in effect rather than be without replacement rules and rely on the non-binding FGI guidelines themselves as the Session Law states.

The proposed temporary rule addresses the incorporation by reference of the Guidelines for the Design of Construction of Hospitals and Outpatient Facilities. The rule also includes the Chapters of the Guidelines that are exceptions to the incorporated reference. Maintaining structurally safe hospital facilities with up-to-date standards is important to North Carolinians. This proposed rule is the first step to achieving it in a manner that is meaningful and useful to the public.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

Yes  
Agency submitted request for consultation on:  
Consultation not required. Cite authority:

No

**9. Rule-making Coordinator: Nadine Pfeiffer**

Phone: 919-855-3811

E-Mail: Nadine.pfeiffer@dhhs.nc.gov

**Agency contact, if any: Steven Lewis, Section Chief**

Phone: 919-855-3709

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**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Dr. John A. Fagg, M.D.

Title: Chair, N.C. Medical Care Commission

E-Mail: drfagg@forsythplasticsurgery.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

Date returned to agency:



1 10A NCAC 13B .6105 is adopted under temporary procedures with changes as follows:

2  
3 **10A NCAC 13B .6105 INCORPORATION BY REFERENCE AND APPLICATION OF THE**  
4 **REQUIREMENTS OF THE GUIDELINES**

5 (a) The Guidelines for the Design and Construction of Hospitals and Outpatient Facilities are incorporated herein by  
6 reference, including all subsequent amendments and editions; however, the following chapters of the Guidelines shall  
7 not be incorporated herein by reference:

- 8 (1) Chapter 2.6;  
9 (2) Chapter 3.1;  
10 (3) Chapter 3.2;  
11 (4) Chapter 3.3;  
12 (5) Chapter 3.4;  
13 (6) Chapter 3.5;  
14 (7) Chapter 3.6;  
15 (8) Chapter 3.7;  
16 (9) Chapter 3.8;  
17 (10) Chapter 3.9;  
18 (11) Chapter 3.10;  
19 (12) Chapter 3.11;  
20 (13) Chapter 3.12; and  
21 (14) Chapter 3.14.

22 (b) The Guidelines for the Design and Construction of Hospitals and Outpatient Facilities incorporated by this Rule  
23 may be purchased from the Facility Guidelines Institute online at [https://www.fgiguilines.org/guidelines-](https://www.fgiguilines.org/guidelines-main/purchase/)  
24 [main/purchase/](https://www.fgiguilines.org/guidelines-main/purchase/) at a cost of two hundred dollars (\$200.00) or accessed electronically free of charge at  
25 <https://www.fgiguilines.org/guidelines/2014-hospital-outpatient/read-only-copy/>.

26 (c) A new facility or any additions or alterations to an existing facility whose construction documents were approved  
27 by the Construction Section on or after January 1, 2018 shall meet the standards established ~~in Sections .6000 through~~  
28 ~~.6200 of this Subchapter. in:~~

- 29 (1) Sections .6000 through .6200 of this Subchapter; and  
30 (2) the edition of the Guidelines for the Design and Construction of Hospitals and Outpatient Facilities  
31 that was in effect at the time the construction documents were approved by the Construction Section.

32 (d) An existing facility whose construction documents were approved by the Construction Section prior to January 1,  
33 2018 shall meet those standards established in Sections .6000 through .6200 of this Subchapter that were in effect at  
34 the time the construction documents were approved by the Construction Section.

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

37

- 1 *History Note: Authority G.S. 131E-79; S.L. 2017-174;*
- 2 *Temporary Adoption Eff. December 1, 2017.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

**OAH USE ONLY**

VOLUME:

ISSUE:

1. Rule-Making Agency: N.C. Medical Care Commission
2. Rule citation & name: 10A NCAC 13B .6228 NEONATAL LEVEL I, II, III, AND IV NURSERIES
3. Action: <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input type="checkbox"/> Yes                      Effective date: <input checked="" type="checkbox"/> No
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: 9/20/17 b. Proposed Temporary Rule published on the OAH website: 9/27/17 c. Public Hearing date: 10/18/17 d. Comment Period: 9/28/17 – 10/19/17 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 9/20/17 f. Adoption by agency on: 11/03/17 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 12/01/17 h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]: n/a
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.  <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: N.C.G.A. Session Law 2017-174, s. 1.(c); (Senate Bill 42) Effective date: 7/21/17 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:
<b>Explain:</b> The proposed temporary adoptions for the rules in 10A NCAC 13B <i>Licensing of Hospitals</i> are in response to a recent act of the General Assembly, Session Law 2017-174, "An Act Directing the Medical Care Commission to Adopt the Recommendations of the American Society of Healthcare Engineering's Facility Guidelines Institute" that became effective on July 21, 2017. Section 1.(c) of this Act, Implementation and Rule-Making Authority, requires the N.C. Medical Care Commission to repeal the existing hospital facilities rules in 10A NCAC 13B and adopt, with means of temporary rules, the recommendations of the American Society of Healthcare Engineering's Facility Guidelines Institute (FGI) for hospital facilities. The proposed temporary rules replace the Hospital Facility Rules being repealed and incorporate by reference all applicable rules, standards and requirements of the FGI.

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

To maintain compliance with the Session law directing adoption of temporary rules and the filing requirements of G.S. 150B for temporary rules, immediate adoption of the rule is required. In addition, incorporating the FGI in the proposed temporary rules for licensed hospitals in North Carolina will allow for the design and construction of these facilities to be in compliance with a national standard of practice. This is of significant importance to the citizens of North Carolina for the quality of physical plant safety provided in these facilities. The time frame for the repeal of the existing hospital facilities rules has been mandated by the General Assembly in S.L. 2017-174 at 120 days, therefore it is essential to have replacement temporary rules in effect rather than be without replacement rules and rely on the non-binding FGI guidelines themselves as the Session Law states.

The proposed temporary rule addresses the standards for design and construction of Level I, II, III, and IV Neonatal Nurseries in hospital facilities by the incorporation by reference of the Guidelines for the Design of Construction of Hospitals and Outpatient Facilities. Maintaining structurally safe hospital facilities with up-to-date standards is important to North Carolinians. This proposed rule is the first step to achieving it in a manner that is meaningful and useful to the public.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

Yes

Agency submitted request for consultation on:  
Consultation not required. Cite authority:

No

**9. Rule-making Coordinator: Nadine Pfeiffer**

Phone: 919-855-3811

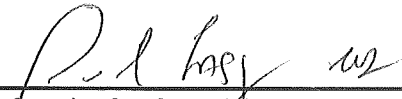
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**Agency contact, if any: Steven Lewis, Section Chief**

Phone: 919-855-3709

E-Mail: steven.lewis@dhhs.nc.gov

**10. Signature of Agency Head\*:**



\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Dr. John A. Fagg, M.D.

Title: Chair, N.C. Medical Care Commission

E-Mail: drfagg@forsythplasticsurgery.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

Date returned to agency:

1 10A NCAC 13B .6228 is adopted under temporary procedures as follows:

2

3 **10A NCAC 13B .6228 NEONATAL LEVEL I, II, III, AND IV NURSERIES**

4 A facility that provides neonatal services as specified in Rule .4305 of this Subchapter shall meet the requirements of  
5 the Guidelines for the Design and Construction of Hospitals and Outpatient Facilities, as incorporated by reference in  
6 Rule .6105 of this Subchapter, as follows:

7 (1) a Neonatal Level I nursery shall comply with the requirements of Section 2.2- 2.12;

8 (2) a Neonatal Level II nursery shall comply with the requirements of Sections 2.2-2.12 and 2.2-  
9 2.12.3.3;

10 (3) a Neonatal Level III nursery shall comply with the requirements of Section 2.2- 2.10; and

11 (4) a Neonatal Level IV nursery shall comply with the requirements of Section 2.2- 2.10.

12

13 *History Note: Authority G.S. 131E-79; S.L. 2017-174;*

14 *Temporary Adoption Eff. December 1, 2017.*