

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .3102

DEADLINE FOR RECEIPT: Wednesday, March 13, 2019

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

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

In reviewing these Rules, the staff recommends the following technical changes be made:

Just so I'm clear, there are essentially four times that they have to get approval in accordance with this rule? First for construction, then if any changes are made during construction, prior to licensure, then if the approval expires? If so, I think it's fine, I just want to be sure I'm on the same page.

In (e), (j), (k), and (l), are the approval standards set forth elsewhere in rule or statute? If so, I think it's fine, I just want to make sure that this information is somewhere. If it's not somewhere, please provide the information in Rule (I assume that it's as simple as something like "The Construction Section shall approve the facility upon a finding that the facility is in compliance with the applicable laws" (and provide what those laws are as best you can.)

(h) seems to be missing something. When is the governing body to do this? Do (h) and (g) go together?

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

Amber May
Commission Counsel
Date submitted to agency: February 26, 2019

10A NCAC 13B .3102 is readopted as published in 33:05 NCR 493-498 as follows:

10A NCAC 13B .3102 PLAN APPROVAL

(a) For the purposes of this Rule, the Guidelines for the Design and Construction of Hospitals and Outpatient Facilities that is incorporated by reference in Rule .6105 of this Subchapter shall be referred to as the "FGI Guidelines."

(b) The definitions as set forth in Rule .6003 of this Subchapter shall apply to this Rule.

~~(a) (c)~~ The facility design and construction shall be in accordance with ~~the construction standards of the Division, the North Carolina Building Code, and local municipal codes.~~ this Rule and the standards set forth in Sections .6000 through .6200 of this Subchapter.

~~(b) Submission of Plans:~~

(1) ~~Before construction is begun, color marked plans and specifications covering construction of the new buildings, alterations or additions to existing buildings, or any change in facilities shall be submitted to the Division for approval.~~

(2) ~~The Division shall review the plans and notify the licensee that said buildings, alterations, additions, or changes are approved or disapproved. If plans are disapproved the Division shall give the applicant notice of deficiencies identified by the Division.~~

(3) ~~In order to avoid unnecessary expense in changing final plans, as a preliminary step, proposed plans in schematic form shall be submitted by the applicant to the Division for review.~~

(4) ~~The plans shall include a plot plan showing the size and shape of the entire site and the location of all existing and proposed facilities.~~

(5) ~~Plans shall be submitted in triplicate in order that the Division may distribute a copy to the Department of Insurance for review of North Carolina State Building Code requirements and to the Department of Environment and Natural Resources for review under state sanitation requirements.~~

~~(c) (d) Location:~~ The site where the facility is located shall:

(1) ~~The site for new construction or expansion shall be approved by the Division.~~ Construction Section prior to the construction of a new facility or the construction of an addition to an existing facility;

(2) ~~Hospitals shall be so located that they are free from noise from railroads, freight yards, main traffic arteries, and schools and children's playgrounds.~~ playgrounds; and

(3) ~~The site shall not be exposed to smoke, foul odors, or dust from industrial plants.~~

(4) ~~The area of the site shall be sufficient to permit future expansion and to provide parking facilities.~~

(5) ~~Available paved roads, water, sewage and power lines shall be taken into consideration in selecting the site.~~

(e) Prior to the construction of a new facility or the construction of an addition or alteration to an existing facility, the governing body shall submit paper copies of the following to the Construction Section for review and approval:

(1) one set of schematic design drawings;

(2) one set of design development drawings; and

(3) one set of construction documents and specifications.

(f) If the North Carolina State Building Code Administrative Code and Policies requires the North Carolina Department of Insurance to review and approve the construction documents and specifications, the governing body shall submit a copy of the construction documents and specifications to the North Carolina Department of Insurance.

(g) The governing body shall submit a functional program that complies with Section 1.2-2 Functional Program of the FGI Guidelines with each submittal cited in Paragraph (e) of this Rule.

(h) The governing body shall:

(1) prepare any component of the safety risk assessment required by Section 1.2-3 Safety Risk Assessment of the FGI Guidelines; and

(2) submit any component of the safety risk assessment prepared to the Construction Section with each submittal cited in Paragraph (e) of this Rule.

(i) In order to maintain compliance with the standards established in this Rule and Sections .6000 through .6200 of this Subchapter, the governing body shall obtain written approval from the Construction Section for any changes made during the construction of the facility in the same manner as set forth in Paragraph (e) of this Rule.

(j) Two weeks prior to the anticipated construction completion date, the governing body shall notify the Construction Section of the anticipated construction completion date in writing either by U.S. Mail at the Division of Health Service Regulation, Construction Section, 2705 Mail Service Center, Raleigh, NC, 27699-2705 or by e-mail at DHSR.Construction.Admin@dhhs.nc.gov.

(k) Construction documents and building construction, including the operation of all building systems, shall be approved in writing by the Construction Section prior to licensure or patient occupancy.

(l) When the Construction Section approves the construction documents and specifications, they shall provide the governing body with an approval letter. The Construction Section's approval of the construction documents and specifications shall expire 12 months after the issuance of the approval letter, unless the governing body has obtained a building permit for construction. If the Construction Section's approval has expired, the governing body may obtain a renewed approval of the construction documents and specifications from the Construction Section as follows:

(1) If the standards established in this Rule and Sections .6000 through .6200 of this Subchapter have not changed, the governing body shall request a renewed approval of the construction documents and specifications from the Construction Section.

(2) If the standards established in this Rule and Sections .6000 through .6200 of this Subchapter have changed, the governing body shall:

(A) submit revised construction documents and specifications meeting the current standards established in this Rule and Sections .6000 through .6200 of this Subchapter to the Construction Section; and

(B) obtain written approval of the revised construction documents and specifications from the Construction Section.

~~(d) (m) The bed capacity and services provided in a facility shall be in compliance with G.S. 131E, Article 9 regarding Certificate of Need. A facility shall be licensed for no more beds than the number for which required physical space and other required facilities are available. Neonatal Level II, III and IV beds are considered part of the licensed bed~~

1 ~~capacity. Level I bassinets are not considered part of the licensed bed capacity however, no more bassinets shall be~~
2 ~~placed in service than the number for which required physical space and other required facilities are available.~~
3 Bassinets in a Neonatal Level I nursery as specified in Rule .6228 of this Subchapter shall not be included in a facility's
4 bed capacity; however, no more bassinets shall be placed in service than the number allowed by the requirements set
5 forth in Rule .6228 of this Subchapter. Beds in Neonatal Level II, III, and IV nurseries as specified in Rule .6228 of
6 this Subchapter shall be included in a facility's bed capacity.

7
8 *History Note: Authority G.S. 131E-77; ~~G.S. 131E-79~~;*
9 *Eff. January 1, 1996;*
10 *Temporary Amendment Eff. March 15, 2002;*
11 *Amended Eff. April 1, ~~2003~~; 2003;*
12 *Readopted Eff. April 1, 2019.*

10A NCAC 13B .6101 is readopted as published in 33:05 NCR 493-498 as follows:

SECTION .6100 – GENERAL REQUIREMENTS

10A NCAC 13B .6101 GENERAL LIST OF REFERENCED CODES, RULES, REGULATIONS, AND STANDARDS

~~The design, construction, maintenance and operation of a facility shall be in accordance with those codes and standards listed in Rule .6102, LIST OF REFERENCED CODES AND STANDARDS of this Section, and codes, ordinances, and regulations enforced by city, county, or other state jurisdictions with the following requirements:~~

- ~~(1) — Notify the Division when all construction or renovation has been completed, inspected and approved by the architect and engineer having responsibility, and the facility is ready for a final inspection. Prior to using the completed project, the facility shall receive from the Division written approval for use. The approval shall be based on an on site inspection by the Division or by documentation as may be required by the Division;~~
- ~~(2) — In the absence of any requirements by other authorities having jurisdiction, develop a master fire and disaster plan with input from the local fire department and local emergency management agency to fit the needs of the facility. The plan shall require:~~
 - ~~(a) — Training of facility employees in the fire plan implementation, in the use of fire fighting equipment, and in evacuation of patients and staff from areas in danger during an emergency condition;~~
 - ~~(b) — Conducting of quarterly fire drills on each shift;~~
 - ~~(c) — A written record of each drill shall be on file at the facility for at least three years;~~
 - ~~(d) — The testing and evaluation of the emergency electrical system(s) once each year by simulating a utility power outage by opening of the main facility electrical breaker(s). Documentation of the testing and results shall be completed at the time of the test and retained by the facility for three years; and~~
 - ~~(e) — Disaster planning to fit the specific needs of the facility's geographic location and disaster history, with at least one documented disaster drill conducted each year.~~

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

- (1) the North Carolina State Building Codes with copies that may be purchased from the International Code Council online at <http://shop.iccsafe.org/> at a cost of five hundred seventy-one dollars (\$571.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>;
- (2) 42 CFR Part 482.41, Condition of Participation: Physical Plant, that is incorporated herein by reference including all subsequent amendments and editions; however, Part 482.41(c)(1) shall not

be incorporated by reference. Copies of this regulation may be accessed free of charge at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-41.xml> or purchased online at <https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7> for a cost of seventy-seven dollars (\$77.00);

(3) the following National Fire Protection Association standards, codes, and guidelines with copies of these standards, codes, and guidelines that may be accessed electronically free of charge at <https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards> or may be purchased online at <https://catalog.nfpa.org/Codes-and-Standards-C3322.aspx> for the costs listed:

(a) NFPA 22, Standard for Water Tanks for Private Fire Protection for a cost of fifty-four dollars (\$54.00);

(b) NFPA 53, Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres for a cost of fifty-three dollars (\$53.00);

(c) NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas for a cost of fifty-four dollars (\$54.00);

(d) NFPA 255, Standard Method of Test of Surface Burning Characteristics of Building Materials for a cost of forty-two dollars (\$42.00);

(e) NFPA 407, Standard for Aircraft Fuel Servicing for a cost of forty-nine dollars (\$49.00);

(f) NFPA 705, Recommended Practice for a Field Flame Test for Textiles and Films for a cost of forty-two dollars (\$42.00);

(g) NFPA 780, Standard for the Installation of Lightning Protection Systems for a cost of sixty-three dollars and fifty cents (\$63.50);

(h) NFPA 801, Standard for Fire Protection for Facilities Handling Radioactive Materials for a cost of forty-nine dollars (\$49.00); and

(i) Fire Protection Guide to Hazardous Materials for a cost of one hundred and thirty-five dollars and twenty-five cents (\$135.25);

(4) 42 CFR Part 482.15 Condition of participation: Emergency preparedness with copies of this regulation that may be accessed free of charge at <https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-15.xml> or purchased online at <https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7> for a cost of seventy-seven dollars (\$77.00);

(5) the "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other Institutions" 15A NCAC 18A .1300 with copies of these rules that may be accessed electronically free of charge at <http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20a/15a%20ncac%2018a%20.1301.pdf>; and

(6) the rules for ambulatory surgical facilities in 10A NCAC 13C, Licensing of Ambulatory Surgical Facilities with copies of these rules that may be accessed electronically free of charge at <http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20c/subchapter%20c%20rules.pdf>.

*History Note: Authority G.S. 131E-79;
Eff. January 1, ~~1996~~. 1996;
Readopted Eff. April 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .6102

DEADLINE FOR RECEIPT: Wednesday, March 13, 2019

NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

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

In reviewing these Rules, the staff recommends the following technical changes be made:

In (a), on line 15-16, you've said "codes, regulations, rules, and standards", but on line 18, you've said "codes and standards" Please be consistent where you can.

In (a), how can the past versions of the codes and standards be found? Are they available at your office?

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

Amber May
Commission Counsel
Date submitted to agency: February 26, 2019

10A NCAC 13B .6102 is readopted as published in 33:05 NCR 493-498 as follows:

10A NCAC 13B .6102 ~~LIST OF REFERENCED CODES AND STANDARDS~~ GENERAL

The following codes and standards are adopted by reference including subsequent amendments. Copies of these publications can be obtained from the various organizations at the addresses listed:

- (1) ~~The North Carolina State Building Code, current edition, all volumes including subsequent amendments. Copies of this code may be purchased from the N.C. Department of Insurance Engineering and Codes Division located at 410 North Boylan Avenue, Raleigh, NC 27603 at a cost of two hundred fifty dollars (\$250.00).~~
- (2) ~~The National Fire Protection Association codes and standards listed in this Paragraph, current editions including subsequent amendments. Copies of these codes and standards may be obtained from the National Fire Protection Association, 1 Batterymarch Park, PO Box 9101, Quincy, MA 02269 9101 at the cost shown for each code or standard listed.~~
 - (a) ~~10 Portable Fire Extinguishers (\$22.50)~~
 - (b) ~~12 Carbon Dioxide Extinguishing Systems (\$20.25)~~
 - (c) ~~12A Halon 1301 Fire Extinguishing Systems (\$22.25)~~
 - (d) ~~12B Halon 1211 Fire Extinguishing Systems (\$20.25)~~
 - (e) ~~13 Installation of Sprinkler Systems (\$28.50)~~
 - (f) ~~13D Installation of Sprinkler Systems in One and Two Family Dwellings and Manufactured Homes (\$20.25)~~
 - (g) ~~13R Installation of Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height (\$20.25)~~
 - (h) ~~14 Installation of Standpipe and Hose Systems (\$20.25)~~
 - (i) ~~15 Water Spray Fixed Systems (\$20.25)~~
 - (j) ~~17 Dry Chemical Extinguishing Systems (\$20.25)~~
 - (k) ~~17A Wet Chemical Extinguishing Systems (\$16.75)~~
 - (l) ~~20 Installation of Centrifugal Fire Pumps (\$20.25)~~
 - (m) ~~22 Water Tanks for Private Fire Protection (\$22.25)~~
 - (n) ~~25 Water Based Fire Protection Systems (\$22.25)~~
 - (o) ~~30 Flammable and Combustible Liquids Code (\$22.25)~~
 - (p) ~~31 Installation of Oil Burning Equipment (\$20.25)~~
 - (q) ~~37 Stationary Combustion Engines and Gas Turbines (\$16.75)~~
 - (r) ~~45 Fire Protection for Laboratories Using Chemicals (\$20.25)~~
 - (s) ~~49 Hazardous Chemicals Data (\$26.50)~~
 - (t) ~~50 Bulk Oxygen Systems at Consumer Sites (\$16.75)~~
 - (u) ~~53 Fire Hazards in Oxygen Enriched Atmospheres (\$22.50)~~

1	(v)	54	National Fuel Gas Code	(\$26.50)
2	(w)	55	Compressed and Liquefied Gases in Portable Cylinders	(\$16.75)
3	(x)	58	Storage and Handling of Liquefied Petroleum Gases	(\$26.50)
4	(y)	59A	Liquefied Natural Gas (LNG)	(\$20.25)
5	(z)	72	National Fire Alarm Code	(\$32.25)
6	(aa)	80	Fire Doors and Windows	(\$22.50)
7	(bb)	82	Incinerators, Waste and Linen Handling Systems	
8			and Equipment	(\$16.75)
9	(cc)	88A	Parking Structures	(\$16.75)
10	(dd)	90A	Installation of Air Conditioning and Ventilating Systems	(\$20.25)
11	(ee)	90B	Installation of Warm Air Heating and Air Conditioning	
12			Systems	(\$16.75)
13	(ff)	92A	Smoke Control Systems	(\$20.25)
14	(gg)	92B	Smoke Management Systems in Malls, Atria, Large Areas	(\$20.25)
15	(hh)	96	Ventilation Control and Fire Protection of Commercial	
16			Cooking Operations	(\$20.25)
17	(ii)	99	Health Care Facilities	(\$32.25)
18	(jj)	99B	Hypobaric Facilities	(\$20.25)
19	(kk)	101	Safety to Life from Fire in Buildings and Structures	(\$39.50)
20	(ll)	101M	Alternative Approaches to Life Safety	(\$22.25)
21	(mm)	105	Smoke Control Door Assemblies	(\$16.75)
22	(nn)	110	Emergency and Standby Power Systems	(\$20.25)
23	(oo)	111	Stored Electrical Energy Emergency and Standby	
24			Power Systems	(\$16.75)
25	(pp)	204M	Smoke and Heat Venting	(\$20.25)
26	(qq)	220	Types of Building Construction	(\$16.75)
27	(rr)	221	Fire Walls and Fire Barrier Walls	(\$16.75)
28	(ss)	241	Construction, Alteration, and Demolition Operations	(\$20.25)
29	(tt)	251	Fire Tests of Building Construction and Materials	(\$20.25)
30	(uu)	255	Test of Surface Burning Characteristics of Building	
31			Materials	(\$16.75)
32	(vv)	321	Basic Classification of Flammable and Combustible	
33			Liquids	(\$16.75)
34	(ww)	325	Fire Hazard Properties of Flammable Liquids, Gases,	
35			and Volatile Solids	(\$22.25)
36	(xx)	407	Aircraft Fuel Servicing	(\$20.25)
37	(yy)	418	Roof top Heliport Construction and Protection	(\$16.75)

~~(zz) 704 Identification of the Fire Hazards of Materials (\$16.75)~~

~~(aaa) 705 Field Flame Test for Textiles and Films (\$16.75)~~

~~(bbb) 780 Lightning Protection Code (\$20.25)~~

~~(ccc) 801 Facilities Handling Radioactive Materials (\$20.25)~~

~~(3) American Society of Heating, Refrigerating & Air Conditioning Engineers Inc., (ASHRAE) HVAC APPLICATIONS, current edition including subsequent amendments. Copies of this document may be obtained from the American Society of Heating, Refrigerating & Air Conditioning Engineers, Inc. at 1791 Tullie Circle NE, Atlanta, GA 30329 at a cost of one hundred nineteen dollars (\$119.00).~~

~~(4) Rules and Statutes Governing the Licensure of Ambulatory Surgical Facilities, current edition including subsequent amendments. Copies of this document may be obtained from the N.C. Department of Health and Human Services, Division of Health Service Regulation, Licensure and Certification Section, 2711 Mail Service Center, Raleigh, NC 27699 2711 at a cost of three dollars (\$3.00).~~

(a) A new facility or any addition or alteration to an existing facility whose construction documents were approved by the Construction Section on or after April 1, 2019 shall comply with the requirements provided in the codes, regulations, rules, and standards incorporated by reference in Items (1) through (3) of Rule .6101 of this Section. An existing facility whose construction documents were approved by the Construction Section prior to April 1, 2019 shall comply with the codes and standards incorporated by reference in Items (1) through (3) of this Rule that were in effect at the time construction documents were approved by the Construction Section.

(b) The facility shall develop and maintain an emergency preparedness program as required by 42 CFR Part 482.15 Condition of Participation: Emergency Preparedness. The emergency preparedness program shall be developed with input from the local fire department and local emergency management agency. Documentation required to be maintained by 42 CFR Part 482.15 shall be maintained at the facility for at least three years and shall be made available to the Division during an inspection upon request.

(c) The facility shall comply with the "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other Institutions," 15A NCAC 18A .1300 of the North Carolina Division of Public Health, Environmental Health Services Section.

*History Note: Authority G.S. 131E-79;
Eff. January 1, 1996, 1996;
Readopted Eff. April 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .6103

DEADLINE FOR RECEIPT: Wednesday, March 13, 2019

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

In reviewing these Rules, the staff recommends the following technical changes be made:

In (a), what factors are to be used in determining whether the equivalency will be granted? Do you mean something like the following:

(a) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements in Rule .3102 and the Rules contained in Sections .6000 through .6200 of this Subchapter. The equivalency may be granted by the Division if a governing body submits a written equivalency request to the Division that ~~[indicates]~~ provides the following:

(1) the rule citation and the rule requirement that will not be met;

(2) the justification for the equivalency; and

(3) how the proposed equivalency meets the intent of the corresponding rule ~~[requirement; and] requirement.~~

~~[(4) a statement by the governing body that the]~~

In determining whether to grant an equivalency request the Division shall consider whether the request will ~~[not]~~ reduce the safety and operational effectiveness of the facility design and layout.

On line 24, please change "indicates" to either "states" or "provides"

In (a)(3), how will the intent be determined?

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

Amber May
Commission Counsel
Date submitted to agency: February 26, 2019

10A NCAC 13B .6103 is readopted as published in 33:05 NCR 493-498 as follows:

10A NCAC 13B .6103 APPLICATION OF PHYSICAL PLANT REQUIREMENTS EQUIVALENCY AND CONFLICTS WITH REQUIREMENTS

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

- (1) ~~New construction shall comply with the requirements of Section .6000 of this Subchapter;~~
- (2) ~~Existing buildings shall meet licensure and code requirements in effect at the time of construction, alteration, or modification;~~
- (3) ~~New additions, alterations, modifications, and repairs shall meet the technical requirements of Section .6000 of this Subchapter, however, where strict conformance with current requirements would be impractical, the authority having jurisdiction may approve alternative measures where the facility can demonstrate to the Division's satisfaction that the alternative measures do not reduce the safety or operating effectiveness of the facility;~~
- (4) ~~Rules contained in Section .6000 of this Subchapter are minimum requirements and not intended to prohibit buildings, systems or operational conditions that exceed minimum requirements;~~
- (5) ~~Equivalency: Alternate methods, procedures, design criteria, and functional variations from the physical plant requirements, because of extraordinary circumstances, new programs, or unusual conditions, may be approved by the authority having jurisdiction when the facility can effectively demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility; and~~
- (6) ~~Where rules, codes, or standards have any conflict, the most stringent requirement shall apply.~~

(a) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements in Rule .3102 and the Rules contained in Sections .6000 through .6200 of this Subchapter. The equivalency may be granted by the Division if a governing body submits a written equivalency request to the Division that indicates the following:

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

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

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

*History Note: Authority G.S. 131E-79;
Eff. January 1, 1996. 1996;
Readopted Eff. April 1, 2019.*

1 10A NCAC 13B .6207 is readopted as published in 33:05 NCR 493-498 as follows:

2
3 **10A NCAC 13B .6207 OUTPATIENT SURGICAL FACILITIES**

4 (a) ~~When~~ If a facility elects to share outpatient surgical facilities with inpatient surgical facilities, the outpatient
5 operating room and support areas shall meet the ~~same physical plant~~ requirements ~~as inpatient, general operating~~
6 ~~rooms and support areas,~~ set forth in Sections .6000 through .6200 of this Subchapter.

7 (b) ~~When~~ If a facility elects to provide separate, non-sharable outpatient surgical facilities, the operating rooms and
8 support areas shall meet the ~~physical plant construction~~ requirements ~~of Outpatient Surgical Licensure requirements~~
9 ~~of~~ set forth in 10A NCAC 13C .1400.

10
11 *History Note: Authority G.S. 131E-79;*

12 *Eff. January 1, ~~1996~~. 1996;*

13 *Readopted Eff. April 1, 2019.*