

Burgos, Alexander N

Subject: FW: Group C 10A NCAC 13F and 13G Rules

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Friday, January 31, 2025 12:50 PM

To: Black, Shanah <shanah.black@dhhs.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: Re: Group C 10A NCAC 13F and 13G Rules

Shanah,

Please get me revisions by February 14th . Thanks.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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From: Black, Shanah <shanah.black@dhhs.nc.gov>

Sent: Friday, January 31, 2025 12:25 PM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Subject: RE: Group C 10A NCAC 13F and 13G Rules

Seth,

Do you have a deadline for when you would like to see the revisions on these rules in February?

Thanks

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, January 31, 2025 10:19 AM
To: Black, Shanah <shanah.black@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Group C 10A NCAC 13F and 13G Rules

Good morning,

Attached, please find a letter regarding the extension granted for these rules at yesterday's RRC meeting.

Also, as of February 3, Seth will be taking over as the reviewing counsel on both the 13F and 13G rules, so please direct all further correspondence on the 13G rules to him.

Thanks!
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
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(984)236-1948
brian.liebman@oah.nc.gov

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From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Tuesday, January 28, 2025 3:03 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Group C 10A NCAC 13F and 13G Rules

Good afternoon,

These are the 13F and 13G rules for the agenda at the RRC meeting this week. For rules in Group A and Group B rules of 13F and 13G, we have requested an extension.

Thank you for all of your assistance.

Shanah Black
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](https://www.ncdhhs.gov/)

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Office: 919-855-3481
Fax: 919-733-2757
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Burgos, Alexander N

Subject: FW: Group C 10A NCAC 13F and 13G Rules

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Friday, January 31, 2025 10:24 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Group C 10A NCAC 13F and 13G Rules

Thank you all for your help with these rules. Brian, congratulations on the new position.

Have a great weekend.

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, January 31, 2025 10:19 AM
To: Black, Shanah <shanah.black@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Group C 10A NCAC 13F and 13G Rules

Good morning,

Attached, please find a letter regarding the extension granted for these rules at yesterday's RRC meeting.

Also, as of February 3, Seth will be taking over as the reviewing counsel on both the 13F and 13G rules, so please direct all further correspondence on the 13G rules to him.

Thanks!
Brian

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brian.liebman@oah.nc.gov

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From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Tuesday, January 28, 2025 3:03 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Group C 10A NCAC 13F and 13G Rules

Good afternoon,

These are the 13F and 13G rules for the agenda at the RRC meeting this week. For rules in Group A and Group B rules of 13F and 13G, we have requested an extension.

Thank you for all of your assistance.

Shanah Black
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](#)

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Burgos, Alexander N

Subject: FW: adult care rules

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Tuesday, January 28, 2025 12:56 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: adult care rules

Good afternoon,

Correct. I will get those rules to you shortly.

Thanks

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, January 28, 2025 12:31 PM
To: Black, Shanah <shanah.black@dhhs.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: adult care rules

Hi Shanah,

We copy your request for an extension. To be clear, you are requesting an extension on all of the 13F and 13G rules other than the .1600 rules, correct?

Also, please send the final versions of the 13F and 13G .1600 rules to oah.rules@oah.nc.gov, and copy me, Alex, and Seth, so we can get those up on the agenda as the final rules, and filed before RRC.

Thanks!
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

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Burgos, Alexander N

Subject: FW: adult care rules

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Tuesday, January 28, 2025 11:00 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: adult care rules

Thanks for all of your assistance.

The adult care and construction groups want the extension. They would like to proceed with having RRC rule on the Group C rules this week, 10A NCAC 13F .1601 - .1605, and 10A NCAC 13G .1601 - .1605.

They would like to know when you would need the responses to them that you requested yesterday.

Thanks

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Tuesday, January 28, 2025 10:49 AM
To: Black, Shanah <shanah.black@dhhs.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: Re: adult care rules

Yes, that's fine with me. I will get the 13F rules up shortly.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Tuesday, January 28, 2025 10:18 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: adult care rules

No, there would be no interconnectivity with the other rules. Seth, would this be ok with the 13F rules?

Thanks

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, January 28, 2025 8:40 AM
To: Black, Shanah <shanah.black@dhhs.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: Re: adult care rules

I don't want to speak for Seth, but I don't see a problem with that for my 13G rules. Would there be any interconnectivity issues between the star rating rules and the other rules you would potentially take an extension on?

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

[\(984\)236-1948](tel:(984)236-1948)

brian.liebman@oah.nc.gov

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From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Tuesday, January 28, 2025 8:27:20 AM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: adult care rules

One more question from the team:

Could we go ahead and send the star rating rules to RRC for approval since there were no issues with those? This would be 13F .1601-.1605 and 13G .1601-.1605.

These rules will require an update of our database system and we need to get these rules approved so our IT team can develop the program and have it ready by the effective date of the rules. This is a time-sensitive project.

Thanks

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Tuesday, January 28, 2025 8:16 AM
To: Black, Shanah <shanah.black@dhhs.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: Re: adult care rules

Shanah,

In general, yes, before RRC approves them, you can specify a later effective date for your rules. However, once RRC reviews and approves the effective date, you would need to go through rulemaking again to change it.

Thanks,
Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984)236-1948

brian.liebman@oah.nc.gov

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From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Tuesday, January 28, 2025 8:02:34 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: adult care rules

Good morning,

The Adult Care section and the Construction section wanted me to pass this message along. We have a scheduled meeting at 10, but this will effect the outcome.

Thanks,

Thank you for working with us on this extensive rule package and we appreciate your additional feedback. Due to the time constraints, we are considering requesting an extension, but have a question about the effective dates. Would we be able to change the effective date of the rules? This would also include an

amendment to update the reference to the effective date of the rule in rule 13F .1304 Special Care Unit Physical Environment Requirements. Will it be okay to update the dates in this rule?

Shanah Black
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](#)

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Burgos, Alexander N

Subject: FW: Responses 10A NCAC 13F

From: Black, Shanah <shanah.black@dhhs.nc.gov>

Sent: Monday, January 27, 2025 3:24 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Liebman, Brian R <brian.liebman@oah.nc.gov>

Subject: RE: Responses 10A NCAC 13F

Thank you Seth, I will get back to you ASAP.

Burgos, Alexander N

Subject: FW: Responses 10A NCAC 13F
Attachments: Request for Changes RRC 13F Seth Ascher Response.docx

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, January 27, 2025 3:21 PM
To: Black, Shanah <shanah.black@dhhs.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Cc: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: Re: Responses 10A NCAC 13F

Shanah,

I have reviewed the changes you proposed and attempted to coordinate with Brian to address consistent rules consistently.

Attached are my updated requests for changes, highlighted in red. Note that for my rules, I only had additional requests for 13F .301 and 13 F .801.

Given the tight timeline with the meeting coming up on Thursday, I would need updates by 5:00 PM tomorrow. I recognize that may not be possible, particularly with the issue in .301, and would be happy to support a request for an extension to have these resolved at the February meeting.

Let us know if you have any questions.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0206

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

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

In reviewing this Rule, the staff recommends the following changes be made:

As written, I don't think item (c) make sense, particularly line 7. Do you mean something more straightforward like "The Department shall not grant a license to a facility for more beds than permitted by the Rules of this Subchapter."? *Changed to the suggestion above.*

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

In reviewing your request for changes, we also made changes in response to the requests/recommendations received from Counsel Brian Liebman for the 13G rules since most of our rules mirror each other. Please see the requests below with the corresponding rule number.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0301 (13G .0301)

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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

In reviewing this Rule, the staff recommends the following changes be made:

In (3), line 18, why is “for” left out of the title of “Minimum and Desired Standards and Regulations” for “Family Care Homes”? Was that intentional? Yes, this was intentional as the actual title of the rule is a title with a subtitle.

Also, in (3), are you incorporating “Minimum and Desired Standards” by reference? If so, you haven’t said that. See 150B-21.6 for the requirements of incorporating something by reference. . . Change made including making it clear these are the physical plant requirements only.

Incorporating the 1971 standards from your own agency isn’t going to work here. The 1971 standards were passed prior to the APA and are not in the code. Incorporating them effectively gets them into the modern code without going through the APA procedures, in contradiction of G.S. 150B-18’s charge that “A rule is not valid unless it is adopted in substantial compliance with [the APA].”

You’ve got a couple ways to resolve this problem. You could remove all of item (3), as it appears to effectively be covered in item (2) requiring existing facilities to meet “the licensure and code requirements in effect at the time of licensure.” You could also add the specific requirements from the 1971 into the code either here or in a different rule, through the normal rulemaking process.

In (7)(a)(ii), p2 line 4, please define “extraordinary circumstances” in your rule. Changes made by adding a definition for “extraordinary circumstances”.

In (7)(a)(iv), p2 line 6, please define “unusual conditions” in your rule, and pay particular attention to how an “unusual condition” is different from an “extraordinary

Seth Ascher

Commission Counsel

Date submitted to agency: January 9, 2025

In reviewing your request for changes, we also made changes in response to the requests/recommendations received from Counsel Brian Liebman for the 13G rules since most of our rules mirror each other. Please see the requests below with the corresponding rule number.

*circumstance”, as it seems to me they would encompass similar if not identical events.
“Unusual conditions” was removed from the Rule.*

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

In reviewing your request for changes, we also made changes in response to the requests/recommendations received from Counsel Brian Liebman for the 13G rules since most of our rules mirror each other. Please see the requests below with the corresponding rule number.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0302 (13G .0302)

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

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

In reviewing this Rule, the staff recommends the following changes be made:

On line 4, would a closed facility still be licensed? Yes. A closed facility could still be licensed and not serving residents when the owner has not surrendered the license or beds. If not, consider “formerly licensed adult care home”. No changes made.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0304

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

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

In reviewing this Rule, the staff recommends the following changes be made:

Are “construction documents” defined somewhere? How will the licensee know which documents to include? To be consistent throughout this rule, “documents” was changed to “drawings” to better clarify the information needed.

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

In reviewing your request for changes, we also made changes in response to the requests/recommendations received from Counsel Brian Liebman for the 13G rules since most of our rules mirror each other. Please see the requests below with the corresponding rule number.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0305 (13G .0305; .0306; .0308; .0309; .0312; .0317; .0318)

DEADLINE FOR RECEIPT: January 23, 2025

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In reviewing this Rule, the staff recommends the following changes be made:

Item (d)(2), lines 27 and 28, what is this item doing? Requirement (d)(2) is making it clear that live-in staff is only permitted in Adult Care Homes with a capacity of 7-12 residents if the requirements of Section .0600 are met. This was added for clarity since this rule is about bedroom requirements for all Adult Care Homes regardless of licensed capacity. Are there different requirements for facilities with different capacities? Yes. Live-in staff is not permitted in Adult Care Homes with more than 12 residents. Are the .0600 requirements in addition to the other requirements in (d)? Requirements of (d)(2) are specific to having live-in staff in facilities with a capacity of 7-12 residents. Section .0600 are staffing requirements which includes some specific requirement for facilities with live-in staff.

On p. 3, line 11, are there definitions for “water closets” and “commodes” that you are using somewhere? Do you just mean toilet? Yes. All references to “water closets” and “commodes” have been changed to “toilets”.

Note that throughout these rules, you use the term commode, which sounds outdated to me. Unless you are using this for a specialized definition, consider using toilet instead. Agree and changes made throughout the rules.

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

Seth Ascher
Commission Counsel
Date submitted to agency: January 9, 2025

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0309

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

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

In reviewing this Rule, the staff recommends the following changes be made:

On p. 3, line 14, what are the requirements of a tabletop exercise? A definition has been added in the rule for clarity.

On p. 3, line 35, why do you use "should" be a last resort? Do you intend this to mean something different than "shall"? Either clarify, or change to shall. Changed to "shall"

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0801

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

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

In reviewing this Rule, the staff recommends the following changes be made:

In (b), p.1 line 19, rule .0508 refers to the training required for those giving the assessment, and doesn't say how to complete the assessment. Do you mean for this rule to be about who can complete the assessment or is there another rule you wanted to refer to? The rule is meant to be about the individual completing the assessment having the proper training required. The rule language has been changed for clarity.

On p. 1, Line 23 and line 30 repeat a list of activities of daily living. Do you need to list this twice? No, the language has been updated to remove the ADLs to avoid being repetitive.

On p. 1 line 33, what is "social history"? A definition has been included for clarity.

In (c), p. 2 lines 10-11, is the definition of "significant change" necessary? It seems to me that you already define the term in (c)(1)(A)-(M). The definition for "significant change" has been removed.

In (c), p.2 line 11, please define "major decline". Is it different from the listed items in (c)(1)? The term "major decline" has been removed.

In (c), p. 2 line 11, add "a" between "to" and "factor". N/A; the definition for "significant change" has been removed.

On p.2 line 20, how many falls are necessary for recurrent falls over several days to weeks? Is two falls over two weeks enough? Consider adding more detail. This language has been rephrased for clarity.

In item (c)(1)(b), lines 23 and 24, the repetition of "repeated falls" is confusing. You define "repeated falls" as more than one on the same day on line 23, but on line 24 you have repeated falls that occur over several days. If you mean for the second element to be one or more falls a day over several days, consider on line 24 "multiple falls that occur over several days" instead.

Seth Ascher
Commission Counsel

Date submitted to agency: January 9, 2025

On p.2 line 21, delete or between “identifiable cause” and “a fall”. Done

On p. 2 line 22, who is making findings suggesting an injury? This language has been rephrased for clarity.

On p.2 line 24, eliminate “and/or”. Done

On p. 2 line 28, define “significant” agitation. The term significant has been removed.

On p.3, line 1, who decides that a condition is “likely” to affect the resident’s wellbeing, and under what criteria? The term “likely” has been removed for clarity.

On p. 3 line 11, what is a slight upward or downward movement in status? Does this mean something other than changes not included in the list of significant changes? This language has been updated for clarity.

The rule still doesn’t help me distinguish between slight and significant changes. Do you mean something like “changes that suggest improvement or deterioration in the resident’s status, but are not a significant change under item 1.”?

On p. 3, line 13, what are “easily” reversible causes? This language has been deleted to avoid ambiguity. The current proposed language regarding significant change addresses the intent of this language.

On p.3, line 17, instead of “predictive”, did you mean “predictable”? Done

On p.3, line 29-31, Brian caught an issue that I missed the first time around. I agree with his suggestion: either specify which significant changes, as defined in (c)(1)(A)-(M) “pose an immediate risk to the health and safety of the resident...”, or, if all of them have a possibility of posing an immediate risk, specify who makes that determination.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0802

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

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

In reviewing this Rule, the staff recommends the following changes be made:

On line 11, you have a typo “development [f]of his or her”. Done

On line 12-13, is “responsible person” defined somewhere? Yes, clarified to reference Rule .0102.

On line 18, “[Services] services”. Done

What authority allows the State Human Resources Commission to determine what disciplinary action is permitted here? If there is statutory authority, please include it in the history note. We are unable to determine where in this rule this question would apply as we do not reference the State Human Resources Commission, please clarify.

This was a mistake on my part. Apologies for the confusion.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .1501

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

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

In reviewing this Rule, the staff recommends the following changes be made:

On line 34, is "responsible person" defined somewhere? Updated to add reference to Rule .0102

On p 2., line 1, you leave off "responsible person". Was that intentional? Yes, it was intentional. As long as a resident is able to make their decisions they would do so, the legal representative would have the authority to refuse restraints. The rule language has been updated clarify when a responsible person

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .1602

DEADLINE FOR RECEIPT: January 23, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

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

In reviewing this Rule, the staff recommends the following changes be made:

What is the "worksheet" on line 4? Is this a required form? If so, are the contents substantive requirements specified somewhere? This is the document the division uses to meet the requirement of 131D-10(e), demonstrating the basis for calculating each facility star rating. We have clarified this form in Rule .1601.

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

Burgos, Alexander N

From: Black, Shanah
Sent: Thursday, January 23, 2025 2:08 PM
To: Ascher, Seth M; Jones, Shalisa R; Burgos, Alexander N
Cc: Liebman, Brian R
Subject: Responses 10A NCAC 13F
Attachments: 10A NCAC 13F .0206.docx; 10A NCAC 13F .0301.docx; 10A NCAC 13F .0302.docx; 10A NCAC 13F .0304.docx; 10A NCAC 13F .0305.docx; 10A NCAC 13F .0306.docx; 10A NCAC 13F .0309.docx; 10A NCAC 13F .0310.docx; 10A NCAC 13F .0311.docx; 10A NCAC 13F .0801.docx; 10A NCAC 13F .0802.docx; 10A NCAC 13F .1501.docx; 10A NCAC 13F .1601.docx; 10A NCAC 13F .1602.docx; Additional Changes-13F Seth Ascher.docx; Request for Changes RRC 13F Seth Asher.docx

Good afternoon,

Please see attached rule text and corresponding responses to your requested changes.

Thanks

Shanah Black
Rule-making Coordinator
Division of Health Service Regulation
[NC Department of Health and Human Services](#)

Work Cell: 919-896-9371
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In reviewing your request for changes, we also made changes in response to the requests/recommendations received from Counsel Brian Liebman for the 13G rules since most of our rules mirror each other. We also included G.S. 131D-2.15 into the history note for 13F.0801 and 13F .0802. Please see the requests below with the corresponding rule number.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0315 (13F .0306)

...

In (a)(1), line 5, please define “good repair”. Changed to “clean, safe, and functional” to remove ambiguity.

In (2), line 6, how is this determined? Does the MCC speak to the residents or otherwise collect reports on chronic and unpleasant odors? This would be determined through interview with residents during a survey completed by DHSR staff.

In (2), line 6, what is a “chronic” odor? Changed rule language to clarify “chronic”

In (4), generally, please fix your incorporation by reference. What are you incorporating? The rule as written incorporates the classification, not the “Rules Governing the Sanitation of Residential Care Facilities”. Changed the incorporation by reference to reference the rules instead of the classification.

In (6), line 16, are you requiring any supply? Does one bar of soap for six people comply with this Rule? The amount of supply would be difficult to quantify as some residents may use bar soap or liquid soap, the facility has to have enough supply of soap for all residents for their own use in order to maintain personal hygiene. Bar soap should not be shared. The language was updated to include “for each resident to use”.

Also in (6), line 16, what does it mean to be “on hand”? Present in the home? Stored in a nearby storage unit? Changed “on hand” to “available in the facility”

In (6), line 17, what is a “cover”? Removed “covers” to state “bedspread, comforter, or quilt” to remove ambiguity.

In (7), generally, what are you requiring? Please revise for better clarity. Changed language in Paragraph (7) for clarity.

In (11), line 30, please revise into a grammatically correct list: “...the living room, the dining room, or the dining area”. Revised to be grammatically correct.

In (b)(1), lines 33-34, I do not know what you are requiring. The sentence seems to be requiring some kind of mattress and some kind of support, but it isn’t clear. Please revise for clarity. Changed sentence to provide clarify the mattress requirements.

In (b)(1), line 34, define “appropriately”. [Removed “appropriately.”](#)

In (e), you say this Rule shall apply to new and existing homes. As a reminder, in .0301, you deleted the word “existing”. Moreover, .0301(b) states that homes currently under license should comply with the “licensure and code requirements in effect at the time of licensure” etc. If your intention is to make exceptions to that rule, you need to say that in .0301 (i.e. “except as otherwise required by the Rules in this Section), or say here “notwithstanding the requirements of Rule .0301”. [The rule language has been changed for clarity.](#)

RULE CITATION: 10A NCAC 13G .0316 (13F .0309)

In (e), line 25, please define “legible print.” [Changed sentence to only state “legible.” “print removed for clarity.](#)

In (g)(3), p.2, line 35, please capitalize “state” when referring only to the State of North Carolina. [Done](#)

In (h), p.3, line 3, are you saying the plan shall include the documentation showing it was submitted? Please clarify. [No, the plan shall have written approval of the local emergency management or documentation showing it has been submitted to the local emergency management. The language has been updated for clarity.](#)

In (j), line 14, I think you need to add “be” after the last “and” at the end of the line. “...maintained in the facility and be accessible...” [Done](#)

In (s), line 12, are you requiring that evacuation to a public shelter be the last resort? Otherwise, I’m not sure this language meets the definition of a rule. [Yes, we included the word “shall” instead of “should” based on RRC counsel recommendation.](#)

In (u), you say this Rule shall apply to new and existing homes. As a reminder, in .0301, you deleted the word “existing”. Moreover, .0301(b) states that homes currently under license should comply with the “licensure and code requirements in effect at the time of licensure” etc. If your intention is to make exceptions to that rule, you need to say that in .0301 (i.e. “except as otherwise required by the Rules in this Section), or say here “notwithstanding the requirements of Rule .0301”. [The rule language has been changed for clarity.](#)

RULE CITATION: 10A NCAC 13G .0801

In (c), p.2, line 7, delete the second “.pdf”. [Done](#)

In (c)(1)(B), line 22, what are the “findings” necessary to suggest an injury? Who shall make these findings? [This language has been rephrased for clarity.](#)

In (d), lines 23-24, what “significant changes . . . pose an immediate risk to the health and safety of the resident” etc? Added “as defined in Paragraph (c)” for clarity.

In (c)(6), line 23, is “physician extender” defined elsewhere in these rules? Consider a cross-reference if so. Added cross reference to 13G .0102 for clarity.

In (c)(6), line 24, did you mean to say that the care plan should “specify” the “medical diagnoses justifying the tasks specified in the care plan”? Changed language to align with the Adult Care Home Personal Care Physician Authorization and Care Plan form (DMA 3050R)

In (c)(6), lines 25-29, I do not understand what you’re requiring in the last two sentences of this sub-item. Can you rephrase for clarity? Rule language updated to include reference to 131D-2.15 for clarity.

RULE CITATION: 10A NCAC 13G .1601 (13F .1601)

In (a)(5), line 22, correct “scare” to “score.” Done

RULE CITATION: 10A NCAC 13G .1602 (13F.1602)

In (a), line 6, what is a “timely request”? G.S. 131D-2.11 does not specify a timeline. Removed “timely” for clarity.

10A NCAC 13F .0206 is amended with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .0206 CAPACITY

(a) The licensed capacity of adult care homes licensed pursuant to this Subchapter is seven or more residents.

(b) The total number of residents shall not exceed the number shown on the license.

(c) ~~A facility shall be licensed for no~~ The Department shall not grant a license to a facility for more beds than the number for which the required physical space and other required facilities in the building are available. [permit in accordance with] permitted by the Rules of this Subchapter.

(d) The facility's bed capacity and services provided shall comply with the Certificate of Need issued to the facility in accordance ~~be in compliance~~ with G.S. 131E, ~~Article 9, Article 9. regarding the certificate of need.~~

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

Eff. January 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. April 1, 1984;

Temporary Amendment Eff. July 1, 2003;

Amended Eff. June 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018. 2018;

Amended Eff. February 1, 2025.

10A NCAC 13F .0301 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

~~The physical plant requirements for each adult care home shall be applied as follows~~ Adult Care Homes shall apply the following physical plant requirements:

- (1) New construction shall comply with the requirements of this Section.
- (2) Except where otherwise specified, existing licensed facilities or portions of existing licensed facilities shall meet the licensure and code requirements in effect at the time of licensure, construction, change in service or bed count, addition, modification, renovation, or alteration; ~~alteration. however, in no case shall the requirements for any licensed facility, where no addition or renovation has been made, be less than those requirements found in the 1971 "Minimum and Desired Standards and Regulations" for "Homes for the Aged and Infirm", copies of which are available at the Division of Health Service Regulation, 701 Barbour Drive, Raleigh, North Carolina, 27603 at no cost;~~
- (3) ~~In no case shall the~~ physical plant requirements for a licensed facility, where no addition or renovation has been made, be less than those physical plant requirements found in the 1971 "Minimum and Desired Standards and Regulations" for "Homes for the Aged and Infirm", Section III, C, [copies of which are available at the Division of Health Service Regulation, 1800 Umstead Drive, Raleigh, North Carolina, 27603] which are hereby incorporated by reference and are available on the Construction Section website at <https://info.ncdhhs.gov/dhsr/const/pastrules.html> at no cost.
- ~~(3)(4)~~ (4) New additions, alterations, ~~modifications~~ modifications, and repairs shall meet the ~~technical~~ requirements of this ~~Section;~~ Section.
- ~~(4)(5)~~ (5) Effective July 1, 1987, resident bedrooms and resident services shall not be permitted on the second floor of ~~any~~ a facility licensed for seven or more beds prior to April 1, 1984 and classified as two-story wood frame construction by the North Carolina State Building ~~Code;~~ Code.
- ~~(5)(6)~~ (6) Rules contained in this Section are minimum requirements and are not intended to prohibit buildings, ~~systems~~ systems, or operational conditions that exceed minimum ~~requirements;~~ requirements.
- ~~(6)~~ ~~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;~~
- (7) ~~Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements shall be approved by the Division when the facility can effectively demonstrate 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 The Division may grant an equivalency to allow alternate methods, procedures, design criteria, or functional variation from the~~

requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a facility submits a written equivalency request to the Division that states the following:

(a) the rule citation and the rule requirement that will not be met because strict conformance with current requirements would be:

(i) impractical;

(ii) unable to be met due to extraordinary circumstances. For the purpose of this rule, “extraordinary circumstances” means situations that are unexpected and beyond the control of the facility; or

(iii) unable to be met due to new [programs; or] programs.

~~[(iv) — unable to be met due to unusual conditions.]~~

(b) the justification for the equivalency; and

(c) how the proposed equivalency meets the intent of the corresponding rule requirement.

(8) In determining whether to grant an equivalency request, the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility. The governing body shall maintain a copy of the approved equivalence issued by the Division.

~~(8)(9)~~ Where rules, codes codes, or standards have any a conflict, the most more stringent requirement shall apply and any conflicting requirement shall not apply.

*History Note: Authority G.S. 131D-2.16; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Eff. July 1, 2005- 2005;
Readopted Eff. February 1, 2025.*

10A NCAC 13F .0302 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .0302 DESIGN AND CONSTRUCTION

(a) ~~Any~~ A building licensed for the first time as an adult care home or a licensed adult care home that is closed or vacant and not serving residents for more than one year for reasons other than approved construction or remodeling shall meet the requirements of the North Carolina State Building ~~Code~~ Codes for new construction. All new construction, ~~additions~~ additions, alterations, repairs, modifications, and renovations to existing buildings shall meet the requirements of the North Carolina State Building ~~Code~~ Codes for I-2 Institutional Occupancy if the facility houses 13 or more residents or the North Carolina State Building ~~Code~~ [Codes] requirements Code: Building Code, ~~for~~ Large Residential Care Facilities Section if the facility houses seven to twelve residents. The North Carolina State Building ~~Code, all applicable volumes,~~ Codes, which is are incorporated by reference, including ~~all~~ subsequent amendments and editions, may be purchased from the ~~Department of Insurance Engineering Division located at 322 Chapanoke Road, Suite 200, Raleigh, North Carolina 27603 at a cost of three hundred eighty dollars (\$380.00).~~ International Code Council online at <https://shop.iccsafe.org/> at a cost of eight hundred fifty-eight dollars (\$858.00) or accessed electronically free of charge at <https://codes.iccsafe.org/codes/north-carolina>. Licensed facilities shall meet the North Carolina State Building Codes in effect at the time of licensure, construction, or remodeling. The facility shall also meet all of the rules of this Section.

(b) ~~Each facility shall be planned, constructed, equipped and maintained to provide the services offered in the facility.~~ A facility shall not offer services for which the facility was not planned, constructed, equipped, or maintained.

(c) ~~Any~~ An existing building converted from another use to an adult care home shall meet all requirements of ~~a new facility.~~ Paragraph (a) of this Rule.

(d) ~~Any existing licensed facility that is closed or vacant for more than one year shall meet all requirements of a new facility.~~

~~(e)(d)~~ The sanitation, water supply, sewage ~~disposal~~ disposal, and dietary facilities for facilities with a licensed capacity of 13 or more residents shall comply with ~~the rules of the North Carolina Division of Environmental Health, which are incorporated by reference, including all subsequent amendments.~~ The "Rules Governing the Sanitation of Hospitals, Nursing and Rest Homes, Sanitariums, Sanatoriums, and Educational and Other Institutions", Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions set forth in 15A NCAC 18A .1300 .1300, which are available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, North Carolina 27699 1632 at no cost. are hereby incorporated by reference, including subsequent amendments and editions. The sanitation, water supply, sewage disposal, and dietary facilities for facilities with a licensed capacity of 7 to 12 residents shall comply with Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600, which are hereby incorporated by reference, including subsequent amendments and editions. Copies of these rules may be accessed online free of charge at <https://www.oah.nc.gov/>.

1 ~~(f)(c)~~ The facility shall maintain in the facility and have available for review current sanitation and fire ~~and building~~
2 safety inspection ~~reports which shall be maintained in the home and available for review.~~ reports.

3
4 *History Note: Authority G.S. 131D-2.16; 143B-165;*
5 *Eff. January 1, 1977;*
6 *Readopted Eff. October 31, 1977;*
7 *Amended Eff. July 1, 1990; September 1, 1986; April 1, 1984;*
8 *Temporary Amendment Eff. September 1, 2003;*
9 *Amended Eff. June 1, 2004;*
10 *Temporary Amendment Eff. July 1, 2004;*
11 *Amended Eff. July 1, 2005- 2005;*
12 *Readopted Eff. February 1, 2025.*

10A NCAC 13F .0304 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .0304 PLANS AND SPECIFICATIONS

(a) When construction or remodeling of an adult care home is planned, ~~two copies~~ the adult care licensee or licensee's appointed representative shall submit one copy of ~~Construction Documents~~ construction ~~[documents]~~ drawings and specifications shall be submitted by the applicant or appointed representative to the Division for review and approval. As a preliminary step to avoid last minute difficulty with final plan approval, Schematic Design Drawings design drawings and Design Development Drawings design development drawings may be submitted for review and approval prior to the required submission of ~~Construction Documents~~ construction ~~[documents]~~ drawings.

(b) Approval of ~~Construction Documents~~ construction ~~[documents]~~ drawings and specifications shall be obtained from the Division prior to licensure. Approval of ~~Construction Documents~~ construction ~~[documents]~~ drawings and specifications shall expire after one year after the date of approval unless a building permit for the construction has been obtained. ~~obtained prior to the expiration date of the approval of construction~~ ~~[documents]~~ drawings and specifications.

(c) If an approval expires, renewed approval shall be issued by the Division, provided revised ~~Construction Documents~~ construction ~~[documents]~~ drawings and specifications meeting all current regulations, codes and standards the rules established in this Section are submitted by the applicant or appointed adult care licensee or licensee's appointed representative and reviewed by the Division.

(d) ~~Any changes made during construction shall require the approval of the Division to assure that licensing requirements are maintained.~~ An adult care licensee or licensee's appointed representative shall submit changes made during construction to the Division for review and approval to ensure compliance with the rules established in this Section.

(e) Completed construction or remodeling shall conform to the requirements of this Section including the operation of all building systems and shall be approved in writing by the Division prior to licensure or occupancy. ~~Within 90 days following licensure, the owner or licensee shall submit documentation to the Division that "as built" drawings have been received from the builder.~~

(f) ~~The applicant or designated agent shall notify the Division when actual construction or remodeling starts and at points when construction is 50 percent, 75 percent and 90 percent complete and upon final completion. The adult care licensee or licensee's appointed representative shall notify the Division in writing either by U.S. Mail or e-mail when construction or remodeling is complete.~~

*History Note: Authority G.S. 131D-2.16; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Eff. July 1, 2005; 2005;
Readopted Eff. February 1, 2025.*

10A NCAC 13F .0305 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .0305 PHYSICAL ENVIRONMENT

(a) An adult care home shall provide living arrangements ~~to meet the individual needs of~~ for the residents, the live-in ~~staff~~ staff, and other live-in persons.

(b) The requirements for ~~each~~ a living room and recreational area are:

- (1) ~~Each~~ a living room and recreational area shall be located off a lobby or ~~corridor~~. ~~At least 50 percent of required living and recreational areas shall be enclosed with walls and doors; [corridor;] corridor.~~ For the purpose of this Rule, a “living room” is a space enclosed by walls used for social activities, such as reading, talking or watching television. For the purpose of this Rule, a “recreational area” is a space within the facility that may be opened to adjacent spaces and is designated to be used for social activities, such as reading, talking or watching television.
- (2) ~~In~~ in buildings with a licensed capacity of 15 or less, there shall be a minimum area of 250 square feet;
- (3) ~~In~~ in buildings with a licensed capacity of 16 or more, there shall be a minimum of 16 square feet per resident; and
- (4) ~~Each~~ a required living room and recreational area shall have ~~windows~~. windows with views to the outside. The total gross window area shall not be less than eight percent of the gross floor area of the room. The window shall be openable from the inside and shall have insect-proof screens.

(c) The requirements for the dining room are:

- (1) ~~The~~ the dining room shall be located off a lobby or ~~corridor and enclosed with walls and doors; [corridor;] corridor.~~ For the purposes of this Rule, a “dining room” is a space enclosed by walls used for eating meals.
- (2) ~~In~~ in buildings with a licensed capacity of 15 or less, there shall be a minimum of 200 square feet;
- (3) ~~In~~ in building with a licensed capacity of 16 or more, there shall be a minimum of 14 square feet per resident; and
- (4) ~~The~~ the required dining room shall have ~~windows~~. windows with views to the outside. The total gross window area shall not be less than eight percent of the gross floor area of the room. The window shall be openable from the inside and shall have insect-proof screens.

(d) The requirements for the bedroom are:

- (1) ~~The~~ the number of resident beds set up shall not exceed the licensed capacity of the facility;
- (2) live-in staff shall be permitted in facilities with a capacity of 7 to 12 residents provided all of the requirements of Section .0600 of these Rules are met;
- (2) ~~There shall be bedrooms sufficient in number and size to meet the individual needs according to age and sex of the residents, any live-in staff and other persons living in the home. Residents shall not share bedrooms with staff or other live-in non-residents;~~

- (3) there shall be separate bedrooms for any live-in staff and other persons living in the facility. Residents shall not share bedrooms with live-in staff and other live-in non-residents;
- (5) live-in staff shall not occupy a licensed bed or live in a licensed bed;
- (6) residents shall reside in bedrooms with residents of the same sex unless other arrangements are made with each resident's consent;
- ~~(3)~~(7) Only only rooms authorized by the Division of Health Service Regulation as bedrooms shall be used for residents' bedrooms;
- ~~(4)~~(8) Bedrooms bedrooms shall be located on an outside wall and off a corridor. A room where access is through a bathroom, kitchen, or another bedroom shall not be approved for as a resident's bedroom;
- ~~(5)~~(9) There shall be a minimum area of 100 square feet excluding vestibule, closet or wardrobe space in rooms occupied by one person and a minimum area of 80 square feet per bed, excluding vestibule, closet or wardrobe space, in rooms occupied by two people; private [residents'] resident bedrooms shall have not less than 100 square feet of occupiable floor area excluding accessory areas such as vestibules, closets, or [wardrobes;] wardrobes. For the purpose of this rule, "private resident bedroom" is a resident bedroom occupied by one resident.
- (10) semi-private [residents']-resident bedrooms shall have not less than 80 square feet of occupiable floor area per bed excluding accessory areas such as vestibules, closets, or [wardrobes;] wardrobes. For the purpose of this rule, "semi-private resident bedroom" is a resident bedroom occupied by two residents.
- ~~(6)~~(11) The the total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of Health Service Regulation for that particular bedroom;
- ~~(7)~~(12) A a bedroom may not be occupied by more than two residents-residents;
- ~~(8)~~(13) Resident [residents']-resident bedrooms shall be designed to accommodate all required furnishings;
- ~~(9)~~(14) Each resident bedroom [residents']-resident bedrooms shall be ventilated with one or more windows which are maintained operable and well-lighted. operable. The window area shall be equivalent to at least not be less than eight percent of the floor space and be provided equipped with insect insect-proof screens. The window opening may be restricted to a six-inch opening to inhibit resident elopement or suicide. The windows shall be low enough to see outdoors from the bed and chair, with a maximum 36 inch sill height; and
- ~~(10)~~(15) Bedroom closets or wardrobes shall be large enough to provide each resident with a minimum of 48 cubic feet of clothing storage space (approximately two feet deep by three feet wide by eight feet high) of which at least one half shall be for hanging clothes with an adjustable height hanging bar. Residents' bedrooms shall have one closet or wardrobe per resident. A closet or wardrobe shall have clothing storage space of not less than 48 cubic feet per bed. approximately two feet deep by three feet wide by eight feet high, of which one-half of this space shall be for hanging with an adjustable height hanging bar;

(e) ~~The requirements for bathrooms and toilet rooms~~ bathrooms, toilet rooms, bathtubs, showers, a manufactured walk-in tub, or a similar manufactured bathtub, and central bathing rooms are:

- (1) ~~Minimum~~ minimum bathroom and toilet ~~facilities~~ rooms shall include a toilet and a hand lavatory for each ~~5 residents~~ residents, and a ~~tub or shower bathtub, shower, a manufactured walk-in tub, or a similar manufactured bathtub~~ for each 10 residents or portion thereof; thereof. The hand lavatory shall be trimmed with valves that can be operated without hands. If the hand lavatory is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the hand lavatory faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (2) ~~Entrance~~ entrance to the bathroom ~~bathrooms and toilet rooms~~ shall not be through a kitchen, another person's bedroom, or another bathroom;
- (3) ~~Toilets~~ toilet rooms and ~~baths~~ bathrooms for staff and visitors shall be in accordance with the North Carolina State Building ~~[Code,] Code:~~ Plumbing Code;
- (4) ~~Bathrooms~~ bathrooms and ~~toilets~~ toilet rooms accessible to the physically handicapped shall be provided as required by ~~Volume I-C, the~~ North Carolina State Building ~~Code, Accessibility Code;~~ Codes;
- (5) ~~The~~ bathrooms and toilet rooms shall be designed to provide privacy. Bathrooms and toilet rooms with two or more ~~[water closets (commodes)]~~ toilets shall have privacy partitions or curtains for each ~~[water closet,] toilet.~~ Each ~~tub or shower bathtub, shower, a manufactured walk-in tub, or a similar manufactured bathtub~~ shall have privacy partitions or ~~curtains;~~ curtains. Notwithstanding the requirements of Rule .0301, [The] the requirements of this Paragraph shall apply to new and existing facilities.
- (6) ~~Hand~~ hand grips shall be installed at all ~~commodes, tubs and showers used by or accessible to residents;~~ toilets, bathtubs, showers, a manufactured walk-in tub, and similar manufactured bathtubs;
- (7) ~~Each home shall have at least one bathroom opening off the corridor with:~~
 - (A) ~~a door of three feet minimum width;~~
 - (B) ~~a three feet by three feet roll in shower designed to allow the staff to assist a resident in taking a shower without the staff getting wet;~~
 - (C) ~~a bathtub accessible on at least two sides;~~
 - (D) ~~a lavatory; and~~
 - (E) ~~a toilet.~~
- (7) there shall be one central bathing room opening off the corridor in a facility. In multi-level facilities, each resident floor shall contain a minimum of one central bathing room opening off the corridor. Central bathing room(s) shall have the following:

- 1 (A) a door of three feet minimum width;
- 2 (B) a roll-in shower designed to allow the staff to ~~assist~~ **help** a resident in taking a shower
- 3 without the staff getting wet. The roll-in shower shall be designed and equipped for
- 4 unobstructed ease of shower chair entry and use. If a bathroom with a roll-in shower
- 5 designed and equipped for unobstructed ease of shower chair entry adjoins each resident
- 6 bedroom in the facility, the central bathing area is not required to have a roll-in shower;
- 7 (C) a bathtub, a manufactured walk-in tub, or a similar manufactured bathtub designed for easy
- 8 transfer of residents into the tub. Bathtubs shall be accessible on three sides. Manufactured
- 9 walk-in tubs or a similar manufactured bathtub shall be accessible on at least two sides.
- 10 Staff shall not be required to reach over or through the tub faucets and other fixture fittings
- 11 to assist the resident in the tub;
- 12 (D) a toilet and a lavatory trimmed with valves that can be operated without hands. If the
- 13 lavatory is equipped with blade handles, the blade handles shall not be less than four and
- 14 one half inches in length. If the lavatory faucet depends on the building electrical service
- 15 for operation, the faucet shall have an emergency power source or battery backup
- 16 capability. If the faucet has battery operated sensors, the facility shall have a maintenance
- 17 policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- 18 and
- 19 (E) individual cubicle curtain enclosing each toilet, bathtub, shower, manufactured walk-in
- 20 tub, or a similar manufactured bathtub and shower. A closed cubicle curtain at one of these
- 21 plumbing fixtures shall not restrict access to the other plumbing fixtures.
- 22 (8) If ~~where~~ the tub and shower are in separate rooms, each room shall have a lavatory and a ~~toilet~~;
- 23 toilet. The lavatory shall be trimmed with valves that can be operated without hands. If the lavatory
- 24 is equipped with blade handles, the blade handles shall not be less than four and one half inches in
- 25 length. If the lavatory faucet depends on the building electrical service for operation, the faucet must
- 26 have an emergency power source or battery backup capability. If the faucet has battery operated
- 27 sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable
- 28 batteries on premises for the faucets;
- 29 (9) Bathrooms and toilet rooms shall be located as conveniently as possible to the residents' bedrooms;
- 30 in facilities where resident bedrooms do not have direct access to a bathroom or toilet room,
- 31 bathrooms and toilet rooms shall be evenly distributed throughout the facility for residents' use;
- 32 (10) ~~Resident~~ ~~resident~~ toilet rooms and bathrooms shall not be ~~utilized~~ **used** for storage or ~~purposes~~ other
- 33 than those indicated in Item (4) of this Rule; ~~purposes~~;
- 34 (11) Toilets ~~toilet rooms~~ and ~~baths~~ **bathrooms** shall be well ~~lighted and mechanically ventilated at two~~
- 35 cubic feet per minute. The mechanical ventilation requirement does not apply to facilities licensed
- 36 before April 1, 1984, with natural ventilation; ~~lighted~~;

(12) toilet rooms and bathrooms shall have an exhaust system per the North Carolina State Building ~~[Code.] Codes~~. Exhaust vents shall be vented directly to the outdoors;

~~(12)(13) Nonskid nonskid~~ surfacing or strips shall be installed in ~~showers~~ showers, and bath ~~areas; areas~~, and bathtubs; and

~~(13)(14) The~~ the floors of the bathrooms and toilet rooms shall ~~have be~~ be water-resistant ~~covering~~, and slip-resistant.

(f) The requirements for storage rooms and closets are:

(1) ~~General Storage for the Home. A~~ a facility shall have a minimum area of five square feet (40 cubic feet) per licensed capacity shall be provided. capacity for general storage for the facility. This storage space shall be either in the facility or within 500 feet of the facility on the same site;

~~(2) Linen Storage. Storage areas shall be adequate in size and number for separate storage of clean linens and separate storage of soiled linens. Access to soiled linen storage shall be from a corridor or laundry room;~~

~~(2)~~ separate storage room or area shall provide for the storage of clean linens. Clean linens shall not be stored in the same room or area as soiled linens;

~~(3)~~ separate storage room shall provide for the storage of soiled linens. Access to soiled linen storage shall be from a corridor or laundry room. If space for the storage of soiled linen is provided in the soiled utility room, a separate soiled linen room is not required;

~~(3)(4) Food Storage. Space there shall be provided space for the storage of dry, refrigerated refrigerated, and frozen food items to items, and shall comply with sanitation rules; Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions set forth in 15A NCAC 18A .1300, which is incorporated by reference including subsequent amendments and editions, for facilities with a licensed capacity of 13 or more residents, and Rules Governing the Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600, which is incorporated by reference including subsequent amendments and editions, for facilities with a licensed capacity of 7 to 12 residents;~~

~~(4)(5) Housekeeping the requirements for housekeeping storage requirements are:~~

(A) ~~A~~ a housekeeping closet, with mop sink or mop floor receptor, shall be provided at the rate of one per 60 residents or portion thereof; and thereof. In multi-level facilities, each resident floor shall have a housekeeping closet; and

(B) ~~There~~ there shall be separate locked areas for storing cleaning agents, bleaches, pesticides, and other substances which may be hazardous if ingested, ~~inhaled~~ inhaled, or handled. Cleaning supplies shall be monitored while in use;

~~(5)(6) Handwashing facilities with wrist type lever handles~~ there be a sink which can be operated without the use of hands located shall be provided immediately adjacent to the drug storage area; area. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must

1 have battery backup capability or an emergency power source. If the faucet has battery operated
 2 sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable
 3 batteries on premises for the faucets;

4 ~~(6)(7)~~ Storage for Resident's Articles. Some means for residents to lock personal articles within the home
 5 shall be provided; and the facility shall have locked storage for residents' personal articles within
 6 the facility; and

7 ~~(7)(8)~~ Staff Facilities. Some means for staff to lock personal articles within the home shall be provided.
 8 the facility shall have some means for staff to lock personal articles within the facility.

9 (g) The requirements for corridors are:

- 10 (1) ~~Doors~~ doors to spaces other than reach-in closets shall not swing into the corridor;
- 11 (2) ~~Handrails~~ handrails shall be provided on both sides of corridors at 36 inches above the floor and be
 12 capable of supporting a 250 pound concentrated load;
- 13 (3) ~~Corridors~~ corridors shall be lighted with night lights providing 1 foot-candle power at the floor; and
- 14 (4) ~~Corridors~~ corridors shall be free of all equipment and other obstructions.

15 (h) The requirements for outside entrances and exits are:

- 16 (1) Service entrances shall not be through resident use areas;
- 17 (2) All steps, porches, ~~stoops~~ stoops, and ramps shall ~~be provided with~~ have handrails and ~~guardrails;~~
 18 guards. Handrails shall be on both sides of steps and ramps including sides bordered by the facility
 19 wall. Handrails shall extend the full length of steps and ramps. Guards shall be on all open sides of
 20 steps, porches, stoops, and ramps. For the purposes of this Rule, "guards" are [building components
 21 or a system of building components] rails or barriers located at or near the open side of elevated
 22 walking surfaces that minimizes the possibility of a fall from a walking surface to any adjacent
 23 change in elevation;
- 24 (3) All exit door locks shall ~~be easily operable, by a single hand motion,~~ operate from the inside at all
 25 times by a single hand motion without ~~keys; and~~ keys, tools or special knowledge; and
- 26 (4) In ~~[homes]~~ facilities, with at least one resident who is determined by a physician or is otherwise
 27 ~~[known]~~ observed by staff to be ~~disoriented or a wanderer,~~ disoriented or exhibits wandering
 28 behavior, each exit door accessible by residents shall be equipped with a continuously sounding
 29 device that is activated when the door is opened. opened shall be located on each exit door that
 30 opens to the outside. The sound shall be of sufficient [such] volume that it can be heard by staff.
 31 audible in the facility. If a central system of remote sounding devices is provided, the control panel
 32 ~~for the system~~ shall be powered by the facility's electrical system, and be located in the office of the
 33 administrator or in a location accessible only to by staff authorized by the administrator to operate
 34 the control panel. Notwithstanding the requirements of Rule .0301, [The] the requirements of this
 35 Paragraph shall apply to new and existing facilities.

36 (i) The requirements for floors are:

- 37 (1) All floors shall be of smooth, non-skid material and so constructed as to be easily cleanable;

(2) Scatter or throw rugs shall not be used; and

(3) All floors shall be kept in good repair.

(j) ~~Soil Utility Room. A separate room shall be provided and equipped for the cleaning and sanitizing of bed pans and shall have handwashing facilities.~~ The requirements for soiled utility rooms are:

(1) for facilities with a licensed capacity of 13 or more residents, a separate soiled utility room shall be provided and equipped for the cleaning and sanitizing of bed pans as required by 15A NCAC 18A .1312, which is incorporated by reference including subsequent amendments and editions. The soiled utility room shall have a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have battery backup capability or an emergency power source. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets; and

(2) for facilities with a licensed capacity of 7 to 12 residents, a separate soiled utility room shall be provided and equipped for the cleaning and sanitizing of bed pans. The soiled utility room shall have a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have battery backup capability or an emergency power source. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets.

(k) ~~Office. There~~ The facility shall be have an area within the ~~home~~ facility large enough to accommodate normal administrative functions.

(l) The requirements for laundry facilities are:

(1) Laundry facilities shall be large enough to accommodate washers, dryers, and ironing equipment or work tables;

(2) These facilities shall be located where soiled linens will not be carried through the kitchen, dining, clean linen storage, living rooms or recreational areas; and

(3) A minimum of one residential type washer and dryer each shall be provided in a separate room ~~which that~~ is accessible by staff, residents residents, and family, even if all laundry services are contracted. In multi-level facilities, each resident floor shall have a minimum of one residential type washer and dryer each in a separate room which is accessible by staff, residents, and family.

(m) The requirements for outside premises are:

(1) The outside grounds of new and existing facilities shall be maintained in a clean and safe ~~condition;~~ condition. For the purpose of this rule, "clean and safe condition" means free from debris, trash, uneven surfaces, and similar conditions as not to attract rodents and vermin and provide for safe movement throughout facility grounds. Creeks, ravines, ponds, pools, and other similar areas shall

1 have safety ~~[protection;]~~ protection. For the purpose of this rule, "safety protection" means
 2 preventive measures, such as barriers, to block access to such areas.

- 3 (2) If the ~~home~~ facility has a fence around the premises, the fence shall not prevent residents from
 4 exiting or entering freely or ~~be hazardous; and have sharp edges, rusting posts, or other similar~~
 5 ~~conditions that may cause injury; and~~

- 6 (3) Outdoor walkways and drives shall be illuminated by no less than five foot-candles of light at ground
 7 level.

8 ~~(n) Alternate methods, procedures, design criteria and functional variations from the physical environment~~
 9 ~~requirements, because of extraordinary circumstances, new programs or unusual conditions, shall be approved by the~~
 10 ~~Division when the facility can effectively demonstrate to the Division's satisfaction that the intent of the physical~~
 11 ~~environment requirements are met and the variation does not reduce the safety or operational effectiveness of the~~
 12 ~~facility.~~

13
 14 *History Note: Authority G.S. 131D-2.16; 143B-165;*
 15 *Eff. January 1, 1977;*
 16 *Readopted Eff. October 31, 1977;*
 17 *Amended Eff. July 1, 1990; April 1, 1987; July 1, 1984; April 1, 1984;*
 18 *Temporary Amendment Eff. December 1, 1999;*
 19 *Amended Eff. July 1, 2000;*
 20 *Recodified from Rule .0303 Eff. July 1, 2004;*
 21 *Temporary Amendment Eff. July 1, 2004;*
 22 *Amended Eff. July 1, 2005; 2005;*
 23 *Readopted Eff. February 1, 2025.*

10A NCAC 13F .0306 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .0306 HOUSEKEEPING AND FURNISHINGS

(a) Adult care homes shall:

- (1) have walls, ceilings, and floors or floor coverings kept clean and in good repair; that are clean, safe, and functional;
- (2) have no ~~chronic unpleasant odors;~~ persistent and recurring odors that are considered by the residents to be [chronic and] unpleasant;
- (3) have furniture clean and in good repair; that is clean, safe, and functional;
- (4) have a sanitation report in accordance with one of the following: North Carolina Division of Environmental Health approved sanitation classification at all times in facilities with 12 beds or less and North Carolina Division of Environmental Health sanitation scores of 85 or above at all times in facilities with 13 beds or more;
 - (A) A North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Section approved sanitation classification at all times in facilities with 12 beds or less, pursuant to the [which are incorporated by reference including all subsequent amendments. The] “Rules Governing the Sanitation of Residential Care Facilities”, 15A NCAC 18A .1600, which are incorporated by reference including all subsequent amendments and can be accessed electronically free of charge at <http://ehs.dph.ncdhhs.gov/rules.htm>; and
 - (B) A North Carolina Department of Health and Human Services Division of Public Health, and Environmental Health Section sanitation scores of 85 or above at all times in facilities with 13 beds or more. The “Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other Institutions”, 15A NCAC 18A .1300, can be accessed electronically free of charge at <http://ehs.dph.ncdhhs.gov/rules.htm>.
- (5) be maintained in an uncluttered, ~~clean~~ clean, and orderly manner, free of all obstructions and hazards;
- (6) have a supply [on hand] available in the facility at all times of bath soap, clean towels, washcloths, sheets, pillowcases, blankets, and additional ~~coverings adequate covers~~ such as a bedspread, comforter, or quilt for each resident to use on hand at all times; use;
- (7) make available the following items as needed ~~through any means other than~~ at no additional charge to the personal funds of recipients of State-County Special Assistance:
 - (A) sheets protective mattress covers, and clean, absorbent, soft, soft, and smooth mattress pads;
 - (B) bedpans, urinals, hot water bottles, and ice caps; bedpans and urinals; and
 - (C) bedside commodes, walkers, and wheelchairs.
- ~~(8)~~(9) have one television and one radio, ~~each~~ in good working order;

- 1 ~~(9)~~(10) have curtains, ~~draperies~~ draperies, or blinds at windows in resident use areas to provide for resident
- 2 privacy;
- 3 ~~(10)~~(11) have recreational equipment, supplies for games, books, ~~magazines~~ magazines, and a current
- 4 newspaper available for residents;
- 5 ~~(11)~~(12) have a clock that has numbers at least 1½ inches tall in ~~an area commonly used by the residents; the~~
- 6 living [room] room, [or in] the dining [room] room, or dining area; and
- 7 (12) have at least one telephone that does not ~~depend on~~ require electricity or cellular service to operate.
- 8 (b) Each bedroom shall have the following furnishings in good repair and clean for each resident:
- 9 (1) A bed equipped with either a box springs and with a mattress or solid link springs and with a foam
- 10 mattress or a mattress designed to prevent sagging, no sag innerspring or foam mattress. Hospital
- 11 bed appropriately equipped with all accessories required for use shall be arranged for as needed. A
- 12 waterbed is allowed if requested by a resident and permitted by the ~~home.~~ facility. Each bed shall
- 13 have the following:
- 14 (A) at least one pillow with clean pillowcase;
- 15 (B) a clean top and bottom sheets sheet on the bed, with bed changed ~~as often as necessary~~ but
- 16 at least once a week; and week and when soiled; and
- 17 (C) clean bedspread and other clean coverings as needed.
- 18 (2) a bedside type table;
- 19 (3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double
- 20 dresser for two residents;
- 21 (4) a wall or dresser mirror that ~~can~~ may be used by each ~~resident; resident in each bedroom;~~
- 22 (5) a minimum of one ~~comfortable chair (rocker or straight, arm or without arms, as preferred by~~
- 23 ~~resident), high enough from floor for easy rising; chair that is comfortable as preferred by the~~
- 24 resident, which may include a rocking or straight chair, with or without arms, that is high enough
- 25 for the resident to easily rise without discomfort;
- 26 (6) additional chairs available, as needed, for use by visitors;
- 27 (7) individual clean towel, wash ~~cloth~~ cloth, and towel bar in the bedroom or an adjoining bathroom;
- 28 and
- 29 (8) a light overhead of bed with a switch within reach of person lying on bed; or a lamp. The light shall
- 30 provide a minimum of 30 foot-candle power of illumination for reading.
- 31 (c) The living room shall have ~~functional~~ functional living room furnishings ~~for the comfort of aged and disabled persons; that~~
- 32 are in good working order and provide comfort as preferred by residents with coverings that are easily cleanable.
- 33 (d) The dining room shall have the following furnishings:
- 34 (1) small tables serving from two to eight persons and chairs to seat all residents eating in the dining
- 35 room; tables and chairs equal to the resident capacity of the home shall be on the premises; and
- 36 (2) chairs that are sturdy, without rollers unless retractable or on front legs only, non-folding and
- 37 designed to minimize tilting.

1 (e) **Notwithstanding the requirements of Rule .0301, this** ~~[This]~~ Rule shall apply to new and existing facilities.

2
3 *History Note: Authority G.S. 131D-2.16; 143B-165;*
4 *Eff. January 1, 1977;*
5 *Readopted Eff. October 31, 1977;*
6 *Amended Eff. April 1, 1987; April 1, 1984;*
7 *Temporary Amendment Eff. September 1, 2003.*
8 *Amended Eff. June 1, 2004;*
9 *Recodified from Rule .0304 Eff. July 1, 2004;*
10 *Temporary Amendment Eff. July 1, 2004;*
11 *Amended Eff. July 1, ~~2005~~. 2005;*
12 *Readopted Eff. February 1, 2025.*

10A NCAC 13F .0309 is readopted with changes as published in 39:06 NCR 282-316 as follows:

**10A NCAC 13F .0309 FIRE SAFETY AND EMERGENCY PREPAREDNESS PLANS ~~PLAN FOR~~
~~EVACUATION~~**

(a) ~~A~~ Each facility shall have a written fire evacuation plan (including a diagrammed drawing) that includes a diagram of the facility floor plan including evacuation routes. The plan shall have ~~which has~~ the written approval of the local Code Enforcement Official ~~fire code enforcement official. The approved diagram shall be~~ prepared in large legible print ~~and be posted in a central location on each floor of an adult care home. the facility in a location visible to staff, residents, and visitors. The fire evacuation plan and diagram shall be reviewed with each resident~~ on ~~upon~~ admission and shall be ~~a part of~~ included in the orientation for all new staff.

(b) There shall be unannounced fire drills ~~rehearsals~~ of the fire plan conducted quarterly on each shift in accordance with the requirement of the local ~~Fire Prevention Code Enforcement Official.~~ fire prevention code enforcement official and the 2018 North Carolina Building Code: Fire Prevention Code, which is hereby incorporated by reference and includes all subsequent editions, available at <https://codes.iccsafe.org/content/NCFC2018>.

(c) ~~Records of rehearsals~~ Documentation of fire drills shall be maintained by the administrator or their designee in the facility and copies furnished to the county department of social services annually. ~~be made available upon request to the Division of Health Service Regulation, county department of social services, and local officials.~~ The records shall include the date and time of the ~~rehearsals,~~ drills, the shift, staff members present, and a short description of ~~what~~ the rehearsal involved: drill.

(d) ~~A~~ Each facility shall develop and implement an emergency preparedness plan to ensure resident health and safety and continuity of care and services during an emergency. The emergency preparedness plan shall include the following: written disaster plan, which has the written approval of or has been documented as submitted to the local emergency management agency and the local agency designated to coordinate special needs sheltering during disasters, shall be prepared and updated at least annually and shall be maintained in the facility.

(1) Procedures to address the following threats and hazards that may create an emergency for the facility:

(A) weather events including hurricanes, tornadoes, ice storms, and extreme heat or cold;

(B) fires;

(C) utility failures, to include power, water, and gas;

(D) equipment failures, to include fire alarm, automatic sprinkler systems, HVAC systems;

(E) interruptions in communication including phone service and the internet;

(F) unforeseen widespread communicable public health and emerging infectious diseases;

(G) intruders and active assailants; and

(H) other potential threats to the health and safety of residents as identified by the facility or the local emergency management agency.

(2) The procedures outlined in Subparagraph (d)(1) shall address the following:

(A) provisions for the care of all residents in the facility before, during, and after an emergency such as required emergency supplies including water, food, resident care items, medical supplies, medical records, medications, medication records, emergency power, and emergency equipment;

(B) provisions for the care of all residents when evacuated from the facility during an emergency, such as evacuation procedures, procedures for the identification of residents, evacuation transportation arrangements, and sheltering options that are safe and suitable for the resident population served;

(C) identification of residents with Alzheimer's disease and related dementias, residents with mobility limitations, and any other residents who may have specialized needs such as dialysis, oxygen, tracheostomy, and gastrostomy feeding tubes, special medical equipment, or accommodations either at the facility or in case of evacuation;

(D) strategies for staffing to meet the needs of the residents during an emergency and for addressing potential staffing issues; and

(E) procedures for coordinating and communicating with the local emergency management agency and local law enforcement.

(3) The emergency preparedness plan shall include contact information for [state] State and local resources for emergency response, local law enforcement, facility staff, residents and responsible parties, vendors, contractors, utility companies, and local building officials such as the fire marshal and local health department.

~~(e) A facility that elects to be designated as a special care shelter during an impending disaster or emergency event shall follow the guidelines established by the latest Division of Social Services' State of North Carolina Disaster Plan which is available at no cost from the N.C. Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401. The facility shall contact the Division of Health Service Regulation to determine which licensure rules may be waived according to G.S. 131D-7 to allow for emergency care shelter placements prior to sheltering during the emergency event.~~

(e) The [facility's] facility shall maintain documentation that the emergency preparedness plan [shall have the] has written approval of or documentation that the plan has been submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters.

(f) The facility's emergency preparedness plan shall be reviewed at least annually and updated as needed by the administrator and shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters. Any changes to the plan shall be submitted to the local emergency management agency and the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters within 60 days of the change. For the purpose of this Rule, correction of grammatical or spelling errors do not constitute a

1 change. Documentation of submissions shall be maintained at the facility and made available for review upon request
2 to the Division of Health Service Regulation and county department of social services.

3 (g) The emergency preparedness plan outlined in Paragraph (d) of this Rule shall be maintained in the facility and
4 accessible to staff working in the facility.

5 (h) Newly licensed facilities and facilities that have changed ownership shall submit an emergency preparedness plan
6 to the local emergency management agency and the local agency designated to coordinate and plan for the provision
7 of access to functional needs support services in shelters during disasters within 30 days after obtaining the new
8 license. Documentation of submissions shall be maintained at the facility and made available for review upon request
9 to the Division of Health Service Regulation and county department of social services.

10 (i) The facility's emergency preparedness plan shall be made available upon request to the Division of Health Service
11 Regulation, county department of social services, and emergency management officials.

12 (j) The administrator shall ensure staff are trained on their roles and responsibilities related to emergencies in
13 accordance with the facility's emergency preparedness plan as outlined in Paragraph (d) of this Rule. Staff shall be
14 trained upon employment and annually in accordance with Rule .1211 of this Subchapter.

15 (k) The facility shall conduct at least one drill per year to test the facility's emergency preparedness plan. The drill
16 may be conducted as a tabletop exercise. For the purposes of this Rule "tabletop exercise" means a discussion-based
17 session led by the administrator and includes other facility staff as designated by the administrator that reviews a
18 potential emergency scenario, and the roles and responsibilities of staff based on the facility's emergency preparedness
19 plan and procedures. The facility shall maintain documentation of the annual drill which shall be made available upon
20 request to the Division of Health Service Regulation, county department of social services, and emergency
21 management officials.

22 (l) If the facility evacuates residents for any reason, the administrator or their designee shall report the evacuation to
23 the local emergency management agency, the local county department of social services, and the Division of Health
24 Service Regulation Adult Care Licensure Section within four hours or as soon as practicable of the decision to evacuate
25 and shall notify the agencies within four hours of the return of residents to the facility.

26 (m) Any damage to the facility or building systems that disrupts the normal care and services provided to residents
27 shall be reported to the Division of Health Service Regulation Construction Section within four hours or as soon as
28 practicable of the incidence occurring.

29 (n) If a facility is ordered to evacuate residents by the local emergency management or public health official due to
30 an emergency, the facility shall not re-occupy the building until local building or public health officials have given
31 approval to do so.

32 (o) In accordance with G.S. 131D-7, if a facility intends to shelter residents from an evacuating adult care home or
33 desires to temporarily increase the facility's licensed bed capacity, the facility shall request a waiver from the Division
34 of Health Service Regulation prior to accepting the additional residents into the facility or as soon as practicable but
35 no later than 48 hours after the facility has accepted the residents for sheltering. The waiver request form can be found
36 on the Division of Health Service Regulation Adult Care Licensure Section website at
37 <https://info.ncdhhs.gov/dhsr/acls/acforms.html#resident>.

(p) If a facility evacuates residents to a public emergency shelter, the facility remains responsible for the care, supervision, and safety of each resident, including providing required staffing and supplies in accordance with the Rules of this Subchapter. Evacuation to a public emergency shelter ~~[should]~~ **shall** be a last resort, and the decision shall be made in consultation with the local emergency management agency, or the local agency designated to coordinate and plan for the provision of access to functional needs support services in shelters during disasters. If a facility evacuates residents to a public emergency shelter, the facility shall notify the Division of Health Service Regulation Adult Care Licensure Section and the county department of social services within four hours of the decision to evacuate or as soon as practicable.

(q) Where a fire alarm or automatic sprinkler system is out of service, the facility shall immediately notify the fire department, the fire marshal, and the Division of Health Service Regulation Construction Section and, where required by the fire marshal, a fire watch shall be conducted until the impaired system has been returned to service as approved by the fire marshal. The facility will adhere to the instructions provided by the fire marshal related to the duties of staff performing the fire watch. The facility will maintain documentation of fire watch activities which shall be made available upon request to the DHSR Construction Section and fire marshal. The facility shall notify the DHSR Construction Section when the facility is no longer conducting a fire watch as directed by the fire marshal.

~~(r)~~ **Notwithstanding the requirements of Rule .0301, this** Rule shall apply to new and existing facilities.

History Note: Authority G.S. 131D.2.16; 143B-165;
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1987; April 1, 1984;
Recodified from Rule .0307 Eff. July 1, 2004;
Temporary Amendment Eff. July 1, 2004;
Amended Eff. July 1, 2005- 2005;
Readopted Eff. May 1, 2025.

1 10A NCAC 13F .0310 is amended as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13F .0310 ELECTRICAL OUTLETS**

4
5 *History Note: Authority G.S. 131D-2.16; 143B-165;*

6 *Eff. January 1, 1977;*

7 *Readopted Eff. October 31, 1977;*

8 *Amended Eff. April 1, 1984;*

9 *Recodified from Rule .0308 Eff. July 1, 2004;*

10 *Temporary Amendment July 1, 2004;*

11 *Amended Eff. July 1, 2005;*

12 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*

13 ~~*2018. 2018;*~~

14 *Repealed Eff. February 1, 2025.*

10A NCAC 13F .0311 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .0311 OTHER REQUIREMENTS

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment in an adult care home shall be maintained in a safe and operating condition.

(b) ~~There shall be a heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions.~~

~~In addition, the~~ The following shall apply to heaters and cooking ~~appliances.~~ appliances:

(1) ~~Built-in~~ built-in electric heaters, if used, shall be installed or protected so as to avoid burn hazards to residents and room ~~furnishings.~~ furnishings:

(2) ~~Unvented~~ unvented fuel burning room heaters and portable electric heaters are ~~prohibited.~~ prohibited:

(3) ~~Fireplaces,~~ fireplaces, fireplace ~~inserts~~ inserts, and wood stoves shall be designed ~~or~~ and installed so as to avoid a burn hazard to residents. Fireplace inserts and wood stoves shall be U.L. ~~listed.~~ listed:

(4) ~~Ovens, ranges and the power supply for ovens, ranges, microwaves, cook tops~~ ovens, ranges, microwaves, cook tops ~~tops, and other domestic cooking appliances~~ located in resident activity or recreational areas ~~shall not be used except under facility staff supervision. The degree of staff supervision shall be based on the facility's assessment of the capabilities of each resident. The operation of the equipment shall have a locking feature provided, that shall be controlled by staff.~~ shall have a locking feature provided that shall be controlled by staff. These appliances shall not be used except under facility staff supervision.

(5) ~~Ovens, ranges and the power supply for ovens, and ranges, microwaves, cook tops~~ ovens, ranges, microwaves, cook tops ~~tops, and other domestic cooking appliances~~ located in resident rooms shall have a locking feature provided ~~that shall be controlled by staff, to limit the use of the equipment by residents who have been assessed by the facility to be incapable of operating the equipment in a safe manner.~~ staff. Each resident shall be assessed by the administrator or their designee to determine the resident's capability to operate the appliances in a safe manner, and the degree of staff supervision necessary to ensure safe operation of the appliances.

(c) ~~Air conditioning or at least one fan per resident bedroom and living and dining areas shall be provided when the temperature in the main center corridor exceeds 80 degrees F (26.7 degrees C).~~ The facility shall have heating and cooling systems such that environmental temperature controls shall be capable of maintaining temperatures in the facility at 75 degrees F minimum in the heating season, and not exceed 80 degrees F during the non-heating season.

(d) The hot water system shall ~~be of such size to provide an adequate supply of hot water to the kitchen, bathrooms, laundry, housekeeping closets~~ closets, and ~~soil~~ soiled utility room. The hot water temperature at all fixtures used by residents shall be maintained at a minimum of 100 degrees F (~~38 degrees C~~) and shall not exceed 116 degrees F (~~46.7 degrees C~~). F. Notwithstanding the requirements of Rule .0301, [The] the requirements of this Paragraph shall apply to new and existing facilities.

(e) ~~All multi-story~~ Multi-story facilities shall be equipped with elevators.

(f) In addition to the required emergency lighting, minimum lighting shall be as follows:

- (1) 30 foot-candle power for ~~reading; reading; and~~
- (2) 10 foot-candle power for general ~~lighting; and lighting.~~
- (3) ~~1 foot candle power at the floor for corridors at night.~~

(g) The spaces listed in this Paragraph shall ~~be provided with~~ have an exhaust ~~ventilation~~ system per the North Carolina State Building Code. Exhaust vents shall be vented directly to the outdoors: at the rate of two cubic feet per minute per square foot. foot of floor area. ~~This requirement does not apply to facilities licensed before April 1, 1984, with natural ventilation in these specified spaces:~~

- (1) soiled linen storage;
- (2) ~~soil~~ soiled utility room;
- (3) bathrooms and toilet rooms;
- (4) housekeeping closets; and
- (5) laundry area.

(h) In facilities licensed for ~~7-12-7~~ to 12 residents, ~~an electrically operated call system shall be provided connecting each resident bedroom to the live-in staff bedroom. The resident call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of the resident lying on the bed.~~ there shall be an electrically operated call system meeting the following requirements:

- (1) the call system shall connect residents' bedrooms and bathrooms to the live-in staff bedroom. Where there are no live-in staff for the facility, the call system shall connect residents' bedrooms and bathrooms to a location accessible to staff;
- (2) residents' bedrooms shall have a resident call system activator at the resident's bed;
- (3) the resident call system activator shall be within reach of a resident lying on the bed;
- (4) the resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at point of origin; and
- (5) when activated, the call system shall activate an audible and visual signal in the live-in staff bedroom, in a location accessible to staff, or register with the floor staff.

(i) In ~~newly~~ licensed facilities without live-in staff, ~~an electrically operated call system shall be provided connecting each resident bedroom and bathroom to a staff station. The resident call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of the resident lying on the bed.~~ there shall be an electrically operated call system meeting the following requirements:

- (1) the call system shall connect residents' bedrooms and bathrooms to a location accessible to staff;
- (2) residents' bedrooms shall have a resident call system activator at the resident's bed;
- (3) the resident call system activator shall be within reach of a resident lying on the bed;
- (4) the resident call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff at point of origin; and

1 (5) when activated, the call system shall activate an audible and visual signal in a location accessible to
 2 staff.

3 (j) Except where otherwise specified, existing facilities housing persons unable to evacuate without staff assistance
 4 shall provide those residents with hand bells or other signaling devices.

5 ~~(k) This Rule shall apply to new and existing facilities with the exception of Paragraph (c) which shall not apply to~~
 6 ~~existing facilities.~~

7
 8 *History Note: Authority G.S. 131D-2.16; 143B-165;*
 9 *Eff. January 1, 1977;*
 10 *Readopted Eff. October 31, 1977;*
 11 *Amended Eff. July 1, 1990; April 1, 1987; April 1, 1984;*
 12 *Temporary Amendment Eff. December 1, 1999;*
 13 *Amended Eff. July 1, 2000;*
 14 *Recodified from Rule .0309 Eff. July 1, 2004;*
 15 *Temporary Amendment Eff. July 1, 2004;*
 16 *Amended Eff. July 1, 2005- 2005;*
 17 *Readopted Eff. February 1, 2025.*

10A NCAC 13F .0801 is readopted with changes as published in 39:06 NCR 282-316 as follows:

SECTION .0800 - RESIDENT ASSESSMENT AND CARE PLAN

10A NCAC 13F .0801 RESIDENT ASSESSMENT

~~(a) An adult care home shall assure that an initial assessment of each resident is completed within 72 hours of admission using the Resident Register.~~

~~(b)(a) The facility shall assure complete an assessment of each resident is completed within 30 days following admission and at least annually thereafter thereafter, using an assessment instrument established by the Department or an instrument approved by the Department based on it containing at least the same information as required on the established instrument. The assessment to be completed within 30 days following admission and annually thereafter shall be a functional assessment to determine a resident's level of functioning to include psychosocial well-being, cognitive status and physical functioning in activities of daily living. Activities of daily living are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating. The assessment shall indicate if the resident requires referral to the resident's physician or other licensed health care professional, provider of mental health, developmental disabilities or substance abuse services or community resource.~~

(b) The facility shall use the assessment instrument and instructional manual established by the Department or an instrument developed by the facility that contains at least the same information as required on the instrument established by the Department. The assessment shall be completed by an individual who has met the requirements of [in accordance with] Rule .0508 of this Subchapter. If the facility develops its own assessment instrument, the facility shall ensure that the individual responsible for completing the resident assessment has completed training on how to conduct the assessment using the facility's assessment instrument. The assessment shall be a functional assessment to determine the resident's level of functioning to include psychosocial well-being, cognitive status, and physical functioning in activities of daily living. [Activities of daily living are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating.] The assessment instrument established by the Department shall include the following:

- (1) resident identification and demographic information;
- (2) current diagnoses;
- (3) current medications;
- (4) the resident's ability to self-administer medications;
- (5) the resident's ability to perform activities of daily living, including bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating;
- (6) mental health history;
- (7) social [history;] history to include family structure, previous employment and education, lifestyle habits and activities, interests related to community involvement, hobbies, religious practices, and cultural background;
- (8) mood and behaviors;

- (9) nutritional status, including specialized diet or dietary needs;
- (10) skin integrity;
- (11) memory, orientation and cognition;
- (12) vision and hearing;
- (13) speech and communication;
- (14) assistive devices needed; and
- (15) a list of and contact information for health care providers or services used by the resident.

The assessment instrument established by the Department is available on the Division of Health Service Regulation website at https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms/dma-3050r-adult-care-home-personal-care-physician/@@@display-file/form_file/dma-3050R.pdf.pdf at no cost.

(c) When a facility identifies a change in a resident's baseline condition based upon the factors listed in Subparagraph (1)(A) through (M) of this Paragraph, the facility shall monitor the resident's condition for no more than 10 days to determine if a significant change in the resident's condition has occurred. For the purposes of this rule, "significant change" means a major decline or improvement in a resident's status related to factor in Subparagraph (1)(A) through (M) of this Paragraph. The facility shall assure conduct an assessment of a resident is completed within 10 three days following after the facility identifies that a significant change in the resident's baseline condition has occurred. The facility shall use ~~using~~ the assessment instrument required in Paragraph (b) of this Rule. For the purposes of this Subchapter, significant change in the resident's condition is determined as follows:

- (1) Significant change is one or more of the following:
 - (A) deterioration in two or more activities of daily ~~living~~; living including bathing, dressing, personal hygiene, toileting, or eating;
 - (B) change in ability to walk or ~~transfer~~; transfer, including falls if the resident experiences repeated [falls] falls, meaning more than one, on the same day, [recurrent falls overall] or repeated falls that occur over several days to weeks, new onset of falls not attributed to [a readily] an identifiable cause, [or] a fall with consequent change in neurological status, or physical injury; [findings suggesting a possible injury;]
 - (C) change in the ability to use one's hands to grasp small objects; Pain worsening in severity, intensity, or duration, [and/or] occurring in a new location, or new onset of pain associated with trauma;
 - (D) deterioration in behavior or mood to the point where daily problems arise or relationships have become problematic; change in the pattern of usual behavior, new onset of resistance to care, abrupt onset or progression of [significant] agitation or combative behavior, deterioration in affect or mood, or violent or destructive behaviors directed at self or others.
 - (E) no response by the resident to the ~~treatment~~ intervention for an identified problem;
 - (F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-day period or 10 percent weight loss or gain within a six-month period;

- (G) ~~threat to life such as stroke, heart condition, or metastatic cancer; when a resident has been enrolled in hospice;~~
- (H) emergence of a pressure ulcer at Stage II, which is a superficial ulcer presenting an abrasion, blister or shallow crater, or ~~higher;~~ any pressure ulcer determined to be greater than Stage II;
- (I) a new diagnosis of a condition likely to affect which affects the resident's physical, mental, or psychosocial well-being; ~~well-being such as initial diagnosis of Alzheimer's disease or diabetes;~~
- (J) improved behavior, mood or functional health status to the extent that the established plan of care no longer meets the resident's needs; ~~matches what is needed;~~
- (K) new onset of impaired decision-making;
- (L) continence to incontinence or indwelling catheter; or
- (M) the resident's condition indicates there may be a need to use a restraint in accordance with Rule .1501 of this Subchapter and there is no current restraint order for the resident.
- (2) Significant change ~~is not any of~~ does not include the following:
- (A) changes that suggest slight ~~upward or downward movement~~ improvement or deterioration in the resident's status;
- (B) changes that resolve with or without intervention;
- ~~(C)~~ changes that arise from easily reversible causes;
- ~~(D)(C)~~ an acute illness or episodic ~~event;~~ event. For the purposes of this Rule "acute illness" means symptoms or a condition that develops quickly and is not a part of the resident's baseline physical health or mental health status;
- ~~(E)(D)~~ an established, predictive, predictable cyclical pattern; or
- ~~(F)(E)~~ steady improvement under the current course of care.
- (d) If a resident experiences a significant change as defined in Paragraph (c) of this Rule, the facility shall refer the resident to the resident's physician or other ~~appropriate~~ licensed health professional ~~such as a mental health professional, nurse practitioner, physician assistant or registered nurse in a timely manner consistent with the resident's condition but~~ no longer than ~~40~~ three days from the date of the significant change, change assessment, and document the referral in the resident's record. Referral shall be made immediately when significant changes as defined in Paragraph (c)(1)(A)-(M) are identified that pose an immediate risk to the health and safety of the resident, other ~~residents~~ residents, or staff of the facility.
- (e) The assessments required in Paragraphs (a) (b) and (c) of this Rule shall be completed and signed by the person designated by the administrator to perform resident assessments.

History Note: Authority G.S. 131D-2.15; 131D-2.16; 131D-4.4; 131D-4.5; 143B-165;
Temporary Adoption Eff. January 1, 1996;
Eff. May 1, 1997;

1 *Temporary Amendment Eff. September 1, 2003; July 1, 2003;*
2 *Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;*
3 *Readopted Eff. May 1, 2025.*
4
5

10A NCAC 13F .0802 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .0802 RESIDENT CARE PLAN

(a) ~~An adult care home~~ The facility shall assure a care plan is developed develop and implement a care plan for each resident ~~in conjunction with~~ based on the resident's assessment ~~to be completed within 30 days following admission according to~~ in accordance with Rule .0801 of this Section. The care plan ~~is an individualized, written program of personal care for each resident.~~ shall be resident-centered and include the resident's preferences related to the provision of care and services. A copy of each resident's current care plan shall be maintained in a location in the facility where it can be accessed by facility staff who are responsible for the implementation of the care plan.

(b) ~~The care plan shall be revised as needed based on further assessments of the resident according to Rule .0801 of this Section.~~ The resident shall be offered the opportunity to participate in the development [§] of his or her care plan. If the resident is unable to participate in the development of the care plan due to cognitive impairment, the responsible person as defined in Rule .0102 of this Subchapter shall be offered the opportunity to participate in the development of the care plan.

(c) The care plan shall include the following:

- (1) ~~a statement of the care or service to be provided based on the assessment or reassessment; and~~ description of services, supervision, tasks, and level of assistance to be provided to address the resident's needs identified in the resident's assessment in Rule .0801 of this Subchapter;
- (2) ~~frequency of the service provision.~~ [Services] services or tasks to be performed;
- (3) ~~revisions of tasks and frequency based on reassessments in accordance with Rule .0801 of this Subchapter;~~
- (4) ~~licensed health professional tasks required according to Rule .0903 of this Subchapter;~~
- (5) ~~a dated signature of the assessor upon completion; and~~
- (6) ~~a dated signature of the resident's physician or physician extender~~ as defined in Rule .0102 of this Subchapter within 15 days of completion of the care plan certifying the resident ~~[as being]~~ is under this physician's care and has a [with] medical diagnoses with associated physical or mental limitations warranting the provision of the personal care services in the above care plan [justifying the tasks specified in the care plan.] in accordance with G.S. 131D-2.15. This shall not apply to residents assessed through the Medicaid State Plan Personal Care Services Assessment for the portion of the assessment covering tasks needed for each activity of daily living of this Rule for which care planning and signing are directed by Medicaid. The activities of daily living relevant to the Medicaid State Plan Personal Care Services Assessment are bathing, dressing, mobility, toileting, and eating.

~~(d) The assessor shall sign the care plan upon its completion.~~

~~(e) The facility shall assure that the resident's physician authorizes personal care services and certifies the following by signing and dating the care plan within 15 calendar days of completion of the assessment:~~

- (1) ~~the resident is under the physician's care; and~~

(2) ~~the resident has a medical diagnosis with associated physical or mental limitations that justify the personal care services specified in the care plan.~~

(d) If the resident received home health or hospice services, the facility shall communicate with the home health or hospice agency to coordinate care and services to ensure the resident's needs are met.

~~(c)~~ (e) The facility shall assure that the care plan for each resident who is under the care of a provider of mental health, developmental disabilities or substance ~~abuse~~ use services includes ~~resident specific~~ instructions regarding how to contact that provider, including emergency ~~contact~~ and after-hours contacts. Whenever significant behavioral changes described in Rule .0801(c)(1)(D) of this Subchapter are identified, the facility shall refer the resident to a provider of mental health, developmental disabilities or substance ~~abuse~~ use services in accordance with Rule .0801(d) of this Subchapter.

(f) The care plan shall be revised as needed based on the results of a significant change assessment completed in accordance with Rule .0801 of this Section.

History Note: Authority G.S. 131D-2.15; 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 143B-165;

Temporary Adoption Eff. January 1, 1996;

Eff. May 1, 1997;

Temporary Amendment Eff. September 1, 2003; July 1, 2003;

Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;

Readopted Eff. May 1, 2025.

10A NCAC 13F .1501 is amended with changes as published in 39:06 NCR 282-316 as follows:

SECTION .1501 - USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES

10A NCAC 13F .1501 USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES

(a) An adult care home shall assure that a physical restraint, any physical or mechanical device attached to or adjacent to the resident's body that the resident cannot remove easily and ~~which that~~ restricts freedom of movement or normal access to one's body, shall be:

- (1) used only in those circumstances in which the resident has medical symptoms for which the resident's physician or physician extender has determined that warrant the use of restraints and not for discipline or convenience purposes;
- (2) used only with a written order from a physician or physician extender except in ~~emergencies,~~ emergencies where the health or safety of the resident is threatened, according to Paragraph ~~(e)~~ (d) of this Rule;
- (3) the least restrictive restraint that would ~~provide safety;~~ provide a safe environment for the resident and prevent physical injury;
- (4) used only after alternatives that would provide ~~safety to~~ a safe environment for the resident to prevent physical injury and prevent a potential decline in the resident's functioning have been tried and documented by the administrator or their designee in the resident's ~~record.~~ record as being unsuccessful;
- (5) used only after an assessment and care planning process has been completed, except in ~~emergencies,~~ emergencies where the health or safety of the resident is threatened, according to Paragraph (d) of this Rule;
- (6) applied correctly according to the manufacturer's instructions and the physician's or the physician extenders' order; and
- (7) used in conjunction with alternatives in an effort to reduce restraint use. For the purposes of this Rule, "physician extender" means a licensed physician assistant or licensed nurse practitioner.

Note: Bed rails are restraints when used to keep a resident from voluntarily getting out of bed as opposed to enhancing mobility of the resident while in bed. Examples of restraint alternatives are: providing restorative care to enhance abilities to stand safely and walk, providing a device that monitors attempts to rise from chair or bed, placing the bed lower to the floor, providing frequent staff monitoring with periodic assistance in toileting and ambulation and offering fluids, providing activities, controlling pain, providing an environment with minimal noise and confusion, and providing supportive devices such as wedge cushions.

(b) The facility shall ~~ask~~ obtain written consent from the resident or resident, the resident's responsible [person], person as defined in Rule .0102 of this Subchapter, or legal representative ~~if the resident may~~ for the resident to be restrained based on an order from the resident's ~~physician.~~ physician or physician extender. The facility shall inform the ~~resident~~ resident, the resident's responsible person, or legal representative of the reason for the ~~request and request,~~

the benefits of restraint ~~use~~ use, and the negative outcomes and alternatives to restraint use. The resident or the resident's legal representative or the responsible person if the resident is unable to consent to the use of restraints and there is no legal representative may accept or refuse restraints based on the information provided. Documentation shall consist of a statement signed by the resident or the resident's legal representative or the responsible person if the resident is unable to consent to the use of restraints and there is no legal representative indicating the signer has been informed, the signer's acceptance or refusal of restraint use and, if accepted, the type of restraint to be used and the medical indicators for restraint use.

Note: Potential negative outcomes of restraint use include incontinence, decreased range of motion, decreased ability to ambulate, increased risk of pressure ulcers, symptoms of withdrawal or ~~depression~~ depression, and reduced social contact.

(c) In addition to the requirements in Rules 13F .0801, .0802 and .0903 of this Subchapter regarding assessments and care planning, the resident assessment and care planning prior to application of restraints as required in Subparagraph (a)(5) of this Rule shall meet the following requirements:

- (1) The assessment and care planning shall be implemented through a team process with the team consisting of at least a ~~staff~~ supervisor or personal care aide, a registered nurse, the resident and the resident's responsible person or legal representative. If the resident or resident's responsible person or legal representative is unable to participate, there shall be documentation in the resident's record that they were notified and declined the invitation or were unable to attend.
- (2) The assessment shall include consideration of the following:
 - (A) medical symptoms that warrant the use of a restraint;
 - (B) how the medical symptoms affect the resident;
 - (C) when the medical symptoms were first observed;
 - (D) how often the symptoms occur;
 - (E) alternatives that have been provided and the resident's response; and
 - (F) the least restrictive type of physical restraint that would provide safety.
- (3) The care plan shall include the following:
 - (A) alternatives and how the alternatives will be used prior to restraint use and in an effort to reduce restraint time once the resident is restrained;
 - (B) the type of restraint to be used; and
 - (C) care to be provided to the resident during the time the resident is restrained.

(d) The following applies to the restraint order as required in Subparagraph (a)(2) of this Rule:

- (1) The order shall indicate:
 - (A) the medical need for the ~~restraint~~ restraint based on the assessment and care plan;
 - (B) the type of restraint to be used;
 - (C) the period of time the restraint is to be used; and
 - (D) the time intervals the restraint is to be checked and released, but no longer than every 30 minutes for checks and no longer than two hours for releases.

- 1 (2) If the order is obtained from a physician other than the resident's physician, the facility shall notify
2 the resident's physician or physician extender of the order within seven days.
- 3 (3) The restraint order shall be updated by the resident's physician or physician extender at least every
4 three months following the initial order.
- 5 (4) If the resident's physician changes, the physician or physician extender who is to attend the resident
6 shall update and sign the existing order.
- 7 (5) ~~In emergency situations, an emergency, where the health or safety of the resident is threatened,~~ the
8 administrator or ~~administrator in charge~~ their designee, shall make the determination relative to the
9 need for a restraint and its type and duration of use until a physician or physician extender is
10 contacted. Contact with a physician shall be made within 24 hours and documented in the resident's
11 record. For the purpose of this Rule, an "emergency" means a situation where there is a certain risk
12 of physical injury or death to a resident.
- 13 (6) The restraint order shall be kept in the resident's record.
- 14 (e) All instances of the use of physical restraints and alternatives shall be documented by the facility in the resident's
15 record and include the following:
- 16 (1) restraint alternatives that were provided and the resident's response;
- 17 (2) type of restraint that was used;
- 18 (3) medical symptoms warranting restraint use;
- 19 (4) the time the restraint was applied and the duration of restraint use;
- 20 (5) care that was provided to the resident during restraint use; and
- 21 (6) behavior of the resident during restraint use.
- 22 (f) Physical restraints shall be applied only by staff who have received training on the use of alternatives to physical
23 restraint use and on the care of residents who are physically restrained according to Rule .0506 of this Subchapter and
24 have been validated on ~~restraint use~~ the care of residents who are physically restrained and the use of care practices
25 as alternative to restraints according to Rule .0504 of this Subchapter.

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27 *History Note: Authority G.S. 131D-2.16; 143B-165;*
28 *Temporary Adoption Eff. July 1, 2004;*
29 *Temporary Adoption Expired March 12, 2005;*
30 *Eff. June 1, 2005;*
31 ~~*Pursuant to G.S. 150B-21.34, rule is necessary without substantive public interest Eff. March 6,*~~
32 ~~*2018.*~~
33 *Amended Eff. February 1, 2025.*
34
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10A NCAC 13F .1601 is readopted with changes as published in 39:06 NCR 282-316 as follows:

SECTION .1600 – STAR RATED CERTIFICATES

10A NCAC 13F .1601 SCOPE DEFINITIONS

~~(a) This Section applies to all licensed adult care homes for seven or more residents that have been in operation for more than one year.~~

~~(b) As used in this Section a "rated certificate" means a certificate issued to an adult care home on or after January 1, 2009 and based on the factors contained in G.S. 131D-10.~~

(a) As used in this Section, the following definitions shall apply:

(1) “Demerits” means points which are subtracted from a facility’s star rating calculation as set forth in the requirements of Rule .1604 of this Section.

(2) “Merits” means points which are added to a facility’s star rating calculation as set forth in the requirements of Rule .1604 of this Section.

(3) “Standard deficiency” means a citation issued by the Division of Health Service Regulation to a facility for failure to comply with licensure rules and statutes governing adult care homes and the non-compliance does not meet the criteria for a Type A1, Type A2 or Type B violation defined in G.S. 131D-34.

(4) “Star rated certificate” means a certificate issued by the Division of Health Service Regulation that includes a numerical score and corresponding number of stars issued to an adult care home based on the factors contained in G.S. 131D-10.

(5) “Star rating” means the numerical ~~[score]~~ score and corresponding number of stars a facility receives based on the factors contained in G.S. 131D-10.

(6) “Star rating worksheet” means a document issued by the Division of Health Service Regulation which demonstrates how a facility’s star rating was ~~[calculated.]~~ calculated in accordance with G.S. 131D-10(e) and Section .1600 of this Subchapter.

(7) “Type A1 violation” means the term as defined in G.S. 131D-34.

(8) “Type A2 violation” means the term as defined in G.S. 131D-34.

(9) “Type B violation” means the term as defined in G.S. 131D-34.

History Note: Authority G.S. 131D-4.5; 131D-10;

Eff. July 3, ~~2008~~-2008;

Readopted Eff. August 1, 2025.

10A NCAC 13F .1602 is readopted with changes as published in 39:06 NCR 282-316 as follows:

10A NCAC 13F .1602 ~~ISSUANCE OF RATED CERTIFICATES~~ A STAR RATING

(a) A star rated certificate and worksheet shall be issued to a facility by the Division of Health Service Regulation within 45 days ~~completion of a new rating calculation pursuant to Rule .1604 of this Subchapter.~~ from the date that the Division mails the survey or inspection report to the facility, except when a [timely] request has been made by the facility under G.S. 131D-2.11 for informal dispute resolution. If a facility makes a [timely] request for informal dispute resolution, the Division of Health Service Regulation shall issue a star rating to the facility within 15 days from the date the Division mails the informal dispute decision to the facility.

(b) If the ownership of the facility changes, the ~~rated certificate~~ star rating in effect at the time of the change of ownership shall remain in effect until the next annual or biennial survey or until a new certificate is issued pursuant to Rule .1604(b) of this Subchapter.

(c) The star rated certificate and ~~any~~ worksheet the Division used to calculate the ~~rated certificate~~ rating shall be displayed in a location visible to the public.

(d) The star rating worksheet shall be posted on the Division of Health Service Regulation website.

~~(d)~~ (e) The facility may contest the ~~rated certificate~~ star rating by requesting a contested case hearing pursuant to Article 3 of G.S. 150B. The star rating ~~rated certificate~~ and any subsequent ~~certificates~~ star ratings shall remain in effect during any contested case hearing process.

History Note: Authority G.S. 131D-4.5; 131D-10;

Eff. July 3, ~~2008~~; 2008;

Readopted Eff. August 1, 2025.

Burgos, Alexander N

From: Black, Shanah
Sent: Friday, January 10, 2025 7:31 AM
To: Ascher, Seth M; Jones, Shalisa R
Cc: Burgos, Alexander N; Liebman, Brian R; Lamphere, Megan; Sylvester, Tammy; Harms, Jeff
Subject: RE: RFC for Medical Care Commission 13 F Rules

Thank you for your response. We will get back to you with these revisions.

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, January 9, 2025 5:34 PM
To: Black, Shanah <shanah.black@dhhs.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: RFC for Medical Care Commission 13 F Rules

Good afternoon,

I'm the attorney who reviewed the 13F Rules submitted by the Medical Care Commission for the January 2025 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, January 30, 2025, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit your responses, the revised Rules, and forms to me via email, no later than 5 p.m. on January 23, 2025. Note that Brian Liebman and I reviewed separate parts of these rules, but recognize that there is similar language between them. We attempted to coordinate our responses, but it is possible one or the other of us missed issues that the other caught. Please make corrections with both of our feedback in mind.

Please let me know if you have any questions of concerns.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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