

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

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

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

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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 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](#)

Work Cell: 919-896-9371
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Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Burgos, Alexander N

Subject: FW: 10A NCAC 13G Responses

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

Sent: Monday, January 27, 2025 3:26 PM

To: Liebman, Brian R <brian.liebman@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>

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

Subject: RE: 10A NCAC 13G Responses

Thanks Brian,

I will get back to you ASAP.

Thanks for your help.

From: Liebman, Brian R <brian.liebman@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: Ascher, Seth M <seth.ascher@oah.nc.gov>

Subject: RE: 10A NCAC 13G Responses

Shanah,

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

Attached are my updated requests for changes, highlighted in red.

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.

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0206

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 4, do you mean that family care homes “shall” have a capacity from two to six residents? Changed “may” to “shall”

In (a), line 4, isn't “family care home” defined at G.S. 131D-2.1(9)? Changed “131D-2.1(5)” to “131D-2.1(9)”.

In (b), line 8, what do you mean when you say the license “shall indicate the facility’s capacity according to the number of ambulatory and non-ambulatory individuals...” Do you mean the license shall say how many ambulatory and non-ambulatory individuals live there? Yes

OK, then the rule should be revised to say that more clearly.

In (c), line 18, do both plans have to show where the addition ties into the existing building, or just the second set? If the latter, consider changing “plans” to “the second plan”. The second set, rule language changed to clarify.

In (d), line 21, what fire safety regulations are you requiring compliance with? Specifically state them in the rule. Rule language updated for clarity. Would this language capture the parts of the Residential Code that deal with fire safety?

In (e), line 23, I think you meant to say “...no longer complies...”. Made grammatical change

In (d), line 25, consider a revision to “...non-resident that will be residing...” as “residing” indicates being a resident. Also, consider “who” instead of “that” when referring to a person. Changed “residing” to living and “that” to “who”.

In (f), line 31, under what criteria does the DHHS’s Construction Section approve or disapprove the request for a resident to remain at the facility? Is this in another rule? If so, please cross-reference. Rule language changed for clarity.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

Brian Liebman
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 Seth Ascher for the 13F 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: N.C. Medical Care Commission

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

DEADLINE FOR RECEIPT: Thursday, 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 (1), line 6, is there significance to the deletion of “existing” from “existing buildings”? I wouldn’t ordinarily ask about a deletion, but the term “existing building” is the term used throughout the Building Code, which you’re incorporating by reference elsewhere in these rules. There was no significant reason for the deletion of “existing”. We have added it back throughout the rules as needed.

In (2), line 10, is there a difference between “capacity” and “bed count”? There is no difference between “capacity” and “bed count”. For consistency throughout the rules, “bed count” is changed to “bed capacity”.

Also on line 10, what does “service” mean in this context? In this context, “service” means change in the type of residents being served. Yes, in the change of the type of residents being served. For example, from ambulatory residents to non-ambulatory residents and vice versa.

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.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

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 (5)(a)(ii), line 35, please define “extraordinary circumstances” in your rule. **Changes made by adding a definition for “extraordinary circumstances”.***

*In (5)(a)(iv), line 37, please define “unusual conditions” in your rule, and pay particular attention to how an “unusual condition” is different from an “extraordinary 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 Seth Ascher for the 13F 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: N.C. Medical Care Commission

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

DEADLINE FOR RECEIPT: Thursday, 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:

Throughout the rule, it appears you use “home” and “facility” interchangeably. Please pick one term and use it consistently. Change made to replace “home” with “facility” throughout the rules as needed.

In (a), line 11, is “Licensed Residential Care Facilities” a part of the Residential Code, or a separate document? No. “Licensed Residential Care Facilities” is a part of the Building Code. If separate, please use separate incorporations for each. Changes made to clarify the location of “Licensed Residential Care Facilities” and what facilities this section would be applicable to.

In (a), line 11, when would either of these documents be “applicable”? “Applicable” was removed. Please state specifically in your rule when one applies over the other. Changes made to clarify.

In (a), line 12, what are the “applicable” volumes of the Building Code? State them in your rule with specificity. This is necessary for clarity in a general sense, but is particularly necessary here because you are incorporating these volumes by reference. “Applicable” was removed.

In (e), line 28, under what criteria will DHSR review and approve the proposed work? Is this in another rule? If so, please cross-reference. Changes made to clarify.

In (f)(2), line 33, please define “aged” and “disabled.” “Aged” was changed to “elderly” and cross referenced to NCGS 131D-2.1 “Disable” cross references NCGS 168A-3 for “person with a disability”.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (f)(4), p.2, lines 5-7, is the definition of a “complete fire alarm system” in compliance with the Fire Code or the Residential Code? Yes. The definition of fire alarm system is defined in the NC Fire Code in Chapter 2. The definition used in this rule was taken from the Fire Code. The Residential Code does not define a fire alarm system but requires fire alarm systems installed under the NC Residential Code be in compliance with NFPA 72. The definition of a fire alarm system is defined in NFPA 72. The definition in the NC Fire Code and in NFPA 72 are identical. I know both have extremely comprehensive requirements for fire alarm systems.

In (i), lines 17-18, are elevators permitted? Yes, we think elevators would be permitted. We do not believe an elevator is prohibited by the NC Residential Code.

So if a home had an elevator, would the requirement for all resident areas to be on the same floor be applicable?

In (k), line 26, does this conflict with requirements elsewhere to have operable windows in bedrooms, living rooms, and kitchens? We do not believe so. We believe this requirement makes it clear that if a window is designed to be an operable window, then it must be operable at all times. A broken, designed operable window would need to be fixed or replaced. We added “designed to be” for clarity. It appears to me that this provision can be read to require windows to be operable only up until they break, and then they don’t need to be maintained in operable condition anymore.

In (m), line 29, specify the sanitation requirements you are referencing, and incorporate by reference if necessary. Changes made to incorporate by reference.

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 Seth Ascher for the 13F 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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0305 (13F .0305)

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 4, please define “living room” and “living area”. Rules were revised to add definitions for “living room” and “living area”.

In (a), line 4, what is the difference between a “room” and an “area”? Rules were revised to add definitions for “living room” and “living area”.

In (b), line 6, how is it determined that a window is in an “area”, as opposed to a “room”? Once the “area” has been designated for that purpose, it is then determined if a window is in the designated area. Also, the rule was updated to reflect the NC Residential Code as the requirement to be met. This change is due to changes in .0302 concerning the Building Code that applies to these types of facilities.

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

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0306

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 4, please define “dining room” and “dining area”. Rules were revised to add definitions for “dining room” and “dining area”.

In (a), line 4, what is the difference between a “room” and an “area”? Rules were revised to add definitions for “dining room” and “dining area”.

In (b), line 6, does “[w]hen the dining areas is used in combination with a kitchen” refer to an eat-in kitchen? Yes Please consider revising for clarity, because the language used here is confusing and unintuitive. Revisions made for clarity.

In (b), lines 6-7, I don’t know what you’re requiring with the clause “an area five feet wide in front of the kitchen, including the sink, kitchen appliances, and any kitchen island used for food preparation”. Are you saying the five foot area shall include these things? Or that these things are part of the kitchen and are not part of the five foot area? Please revise for clarity. Yes, the later. These things are not to be included in the space designated as the dining area. Revisions made for clarity.

In (c), line 10, how is it determined that a window is in an “area”, as opposed to a “room”? Once the “area” has been designated for that purpose, it is then determined if a window is in the designated area. Also, the rule was updated to reflect the NC Residential Code as the requirement to be met. This change is due to changes in .0302 concerning the Building Code that applies to these types of facilities.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0307

DEADLINE FOR RECEIPT: Thursday, 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 (a), lines 4-5, what are you actually requiring? How is it determined that the kitchen is large enough for the preparation and preservation of food and washing dishes? Rule revised for clarity.

In (b), line 6, please revise for clarity. As written, the compound sentence requires the cooking unit to be mechanically ventilated or to actually be a recirculating fan. I think you mean that it should "have" an unvented, recirculating fan. Rule revised for clarity.

In (c), I don't have a problem with the language, but I noticed you revised identical language in .0309. Just checking that this was intentional. It was unintentional to leave this language here. We intended to have both locations read the same. We revised the language in this rule to match .0309.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0308

DEADLINE FOR RECEIPT: Thursday, 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), line 7, under what criteria will DHSR make that determination? This is determined if rooms designated as bedrooms meet these licensure requirements and the Residential Code's requirements for bedrooms.

In (c), line 8, who specifically is giving approval, and under what criteria? Reference .0308(b) for rooms authorized by the Division to be resident bedrooms. The limiting of resident bedrooms from being accessed through a bathroom, kitchen, or another bedroom is to preserve resident's privacy and modesty.

In (d) and (e), please define "private bedroom" and "semi-private bedroom" in your rule. Changes made to add a definition for "private bedroom".

In (d), lines 13-14, and (e), lines 16-17, your definition of "net floor area" is largely redundant. Consider combining the sentences as follows (using (e) as an example): "Semi-private resident bedrooms shall provide not less than 80 square feet of occupiable floor area per bed, excluding accessory areas such as vestibules, closets, wardrobes, or bathrooms." Suggested changes made for clarity.

In (f), line 18, how does DHSR determine the number of residents authorized for the bedroom? This is determined if rooms designated as bedrooms meet these licensure requirements for private or semi-private bedrooms as determined by the number of square feet of Rule .0308(d) and bedroom requirements of NC Residential Code.

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

Brian Liebman
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 Seth Ascher for the 13F 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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0309

DEADLINE FOR RECEIPT: Thursday, 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:

Please note this rule is improperly formatted as it does not have line numbers. Please correct this when submitting responses to these requests.

Also, throughout the rule you use the words “water closet” and “commode” to refer to toilets, if I understand correctly. I believe the term “water closet” has a specified meaning in the Building Code, which you have incorporated by reference, so please confirm that you are using that term correctly. Also, my understanding of the term “commode” particularly when used in contrast to “toilet” or “water closet” is that it refers to a device for eliminating human waste that does not connect to plumbing. See for example Rule .0315(a)(7)(C), referring to “bedside commodes”. Please define your terms and use them correctly. All references to “water closets” and “commodes” have been changed to “toilets”.

In (b), you say this paragraph shall apply to new and existing facilities. As a reminder, in .0301, you deleted the word “existing”. We have added back “existing” to these rules. 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”. Suggested changes made.

Upon reading the revisions, I think you probably should do both, and add a proviso to .0301 alerting the regulated public to exceptions in subsequent rules.

In (d), what is a “required” bathroom? Are there unrequired bathrooms? “required”

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

bathroom is one that meets the requirements of this rule for bathrooms. Required bathrooms would be the minimum number of bathrooms required per .0309(a) based on the number of residents and live-in staff in the facility. For clarity, we removed "required" from the rule.

Thanks for making the change. Please capitalize "residents" on line 13.

In (e)(2), what does "located to assist" mean? To help them get in and out of the bathtub, shower, etc. "Assist" has been changed to "help" for clarity.

In (e)(3), what does it mean to be "in reach"? Isn't whether something is "in reach" dependent on the individual"? "In reach" has been changed to "on the wall adjacent to" for clarity.

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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0312

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 6, what does it mean to be “located and constructed to minimize the possibility” that the exist be blocked? This wording is taken directly from the NC Building Code to require exits be “remotely” located to each other to ensure that residents have ways to exit the facility without going through a possible fire or other emergency.

In (f), lines 22-25, I do not understand the definition of a “guard”. Can you be more specific? The definition was revised for clarity.

In (g), line 26, to whom should it be known that the resident is disoriented or wandering? How shall this be established to that person? “Observed by staff” was added to the rule for clarity.

In (g), line 29, what volume are you requiring? How is it determined that the alarm can be heard by staff? Changes made to provide the intent of the rule.

In (g), you say this paragraph shall apply to new and existing facilities. 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”. Changes made.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0313

DEADLINE FOR RECEIPT: Thursday, 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:

Generally to the rule, what is "laundry equipment"? Is this term defined? I know this seems like an obvious point, but it seems to me that without definition, the ordinary meaning of "laundry equipment" encompasses anything from a scrub board and a wash basin to a Speed Queen washer-dryer combo. Since you're now requiring each home to have "laundry" equipment", I think you need to state with specificity what it is you want them to have. [Language added to define "laundry equipment" as at least one residential washing machine and at least one residential dryer.](#)

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

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0315

DEADLINE FOR RECEIPT: Thursday, 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 (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.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

*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.***

I'm not sure the revisions completely address the lack of clarity. First, shouldn't "box springs" be in the singular? Second, I searched the internet for "solid link springs" and I found truck parts. I know this can't be what you mean. Is there another, more accurate, term that can be used? Third, and maybe this is because I don't know what you mean by "solid link springs", the "either/or" mechanism in this sentence isn't clear to me. You've got two "ors" in a sentence designed for one.

Finally, the second sentence of (b)(1), beginning on line 37, with "Hospital" needs to begin with an article (i.e. "A hospital bed...")

*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.***

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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0316

DEADLINE FOR RECEIPT: Thursday, 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 (a)(1), line 6, are there rooms without doors? What exactly are you requiring here? The rule language has been changed for clarity.

In (b), line 13, when are these applicable? Please specify. The rule language has been changed for clarity.

In (c), line 17-18, is the text "as not to create nuisance alarms" actually requiring anything? Consider deletion. Deleted text above as recommended.

In (d), who shall meet these requirements? Please revise in the active tense. Changed to "The facility shall meet"

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

Thanks for making the change, but it needs to be highlighted.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (n), line 27, what is a “tabletop exercise”? A definition has been added in the rule for clarity.

Thanks for making the change. Please add comma after "purposes of this Rule". Also, please consider changing the grammar as follows:

"...and includes other facility staff as designated by the ~~administrator~~ administrator, that reviews a potential emergency ~~scenario~~, scenario and the roles and responsibilities of ~~staff~~ staff, based on the facility's emergency preparedness plan and procedures."

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.

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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0317

DEADLINE FOR RECEIPT: Thursday, 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), line 7, what hazards shall be avoided? [Additional language added for clarity.](#)

In (d), line 14, please revise for grammar. With the deletions and additions, the sentence reads: "The hot water temperature shall maintain a minimum of 100 degrees F..." Consider "shall be maintained at a minimum..." [Suggested changes made.](#)

In (d), lines 16-17, you say this paragraph 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". [Changes made.](#)

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0318

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 4, please define “clean and safe”. **Changes made to define “clean and safe”.***

*In (a), line 5, please define “safety protection”. **Changes made to define “safety protection”.***

*In (d), you say paragraphs (a) and (b) 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”. **Changes made.***

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0801

DEADLINE FOR RECEIPT: Thursday, 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), line 19, rule .0508 refers to the training required for those giving the assessment, and doesn't say how to complete the assessment. 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.

In (b)(5), lines 30-31, is it necessary to repeat the ADLs that you listed in the preceding paragraph? No, the language has been updated to remove the ADLs to avoid being repetitive.

In (b)(7), line 33, please define "social history". A definition has been included for clarity.

You've repeated the word "history" twice on line 34. Please delete one. Also, I think you need a comma following "history".

In (c), p.2, line 7, delete the second ".pdf". Done

In (c), 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), line 11, please define "major decline". The term "major decline" has been removed.

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

In (c), line 12, delete "is completed" as it is redundant. Done

In (c)(1)(A), is there a reason that all the ADLS listed in (b) are not included here? Yes,

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

ambulation/locomotion, transferring are addressed in (c)(1)(B)

In (c)(1)(B), line 20, please rephrase “recurrent falls overall several days to weeks” as it is unclear what you’re saying here. This language has been rephrased for clarity.

Does "repeated falls" mean multiple falls in a day when used in the next clause? If so, then "repeated falls that occur over several days to weeks..." means multiple falls per day over several days, correct?

If not, please consider revising the first clause "...including falls if the resident experiences repeated falls, meaning more than one, on the same day..." to "including falls, if the resident falls more than once on the same day..."

In (c)(1)(B), line 21, define “readily”. The term "readily" has been removed.

In (c)(1)(B), line 21, delete “or” between “cause” and “a fall”. 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 (c)(1)(C), line 23, please delete “and/or” and choose one or the other. Done

In (c)(1)(D), line 28, define “significant” agitation. The term significant has been removed.

In (c)(1)(I), 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.

In (c)(1)(M), line 8, what conditions indicate that there “may” be a need to use a restraint? Added a reference to rule 13G .1301 for clarity

In (c)(2)(A), line 11, define “slight” upward or downward movement. This language has been updated for clarity.

While I think the change is good and improves clarity, I was asking you to address the meaning of "slight". Where is the line between "significant" and "slight"?

In (c)(2)(C), line 13, what are “easily” reversible causes? can we say changes that alleviates or reverse a condition?

I think that still lacks clarity.

In (c)(2)(E), line 17, instead of “predictive”, did you mean “predictable”? Changed to “predictable”

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.

That doesn't really answer the question. I think you need to either (a) 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

Brian Liebman

Commission Counsel

Date submitted to agency: January 9, 2025

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.

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0802

DEADLINE FOR RECEIPT: Thursday, 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), lines 12-13, is "responsible person" defined elsewhere in these rules? I seem to remember that it was. Perhaps a cross-reference may be necessary here, if the definition isn't in Subchapter 13G. Added cross-reference to 13G .0102 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)

For consistency, please change "diagnoses" on line 26 to "diagnosis".

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.

You didn't change the language here. The part I think needs revision for clarity begins on line 28 and ends on line 33 now. "This shall not apply.... Toileting and eating". I think this language is carving out certain ADLs from the care plan, but the language is rather confusing. Please revise for clarity.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .1601

DEADLINE FOR RECEIPT: Thursday, January 23, 2025.

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

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

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

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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .1602

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 6, what is a "timely request"? G.S. 131D-2.11 does not specify a timeline. Removed "timely" for clarity.

In (c), line 13, add "star" before "rated certificate". Changed rated certificate to "rating" to match the 13F Subchapter.

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 2:11 PM
To: Liebman, Brian R; Jones, Shalisa R; Burgos, Alexander N
Cc: Ascher, Seth M
Subject: 10A NCAC 13G Responses
Attachments: 10A NCAC 13G .0206.docx; 10A NCAC 13G .0301.docx; 10A NCAC 13G .0302.docx; 10A NCAC 13G .0305.docx; 10A NCAC 13G .0306.docx; 10A NCAC 13G .0307.docx; 10A NCAC 13G .0308.docx; 10A NCAC 13G .0309.docx; 10A NCAC 13G .0312.docx; 10A NCAC 13G .0313.docx; 10A NCAC 13G .0315.docx; 10A NCAC 13G .0316.docx; 10A NCAC 13G .0317.docx; 10A NCAC 13G .0318.docx; 10A NCAC 13G .0801.docx; 10A NCAC 13G .0802.docx; 10A NCAC 13G .1601.docx; 10A NCAC 13G .1602.docx; Additional Changes-13G Brian Liebman.docx; Request for Changes RRC 13G Brian Liebman.docx

Good afternoon,

Please see rule text and corresponding responses to the changes you requested.

Thanks

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

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In reviewing your request for changes, we also made changes in response to the requests/recommendations received from Counsel Seth Ascher for the 13F rules since most of our rules mirror each other. We also included G.S. 131D-2.15 into the history note for 13G.0801 and 13G .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 13F .0801 (13G .0801)

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

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.

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

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.

1 10A NCAC 13G .0206 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0206 CAPACITY**

4 (a) Pursuant to G.S. ~~131D-2(a)(5)~~, [131D-2.1(5), 131D-2.1(9)], family care homes ~~[may]~~ shall have a capacity of two
5 to six residents. For the purposes of this Rule, "capacity" means the maximum number of residents permitted to live
6 in a licensed family care home in accordance with the North Carolina Building Code and the evacuation capability of
7 each resident.

8 (b) The total number of residents shall not exceed the number shown on the license. The license shall indicate the
9 facility's capacity according to the number of ambulatory and non-ambulatory individuals permitted to live in the
10 home. For the purposes of this Rule, "ambulatory" means the individual is able to respond and evacuate from the
11 facility without verbal or physical assistance from others in the event of an emergency. "Non-ambulatory" means the
12 individual is not able to respond and evacuate from the facility without verbal or physical assistance from others in
13 the event of an emergency.

14 (c) A request for an increase in capacity by adding rooms, ~~remodeling~~ remodeling, or without ~~any~~ building
15 modifications shall be made to the county department of social services and submitted to the Division of Health
16 Service ~~Regulation, Regulation Construction Section and shall include~~ accompanied by two copies of blueprints or
17 floor plans. One plan shall show ~~showing~~ the existing building with the current use of ~~rooms~~ rooms, and the second
18 plan ~~indicating~~ showing the addition, ~~remodeling~~ remodeling, or change in use of ~~spaces~~ spaces, and showing the use
19 of ~~each~~ every room. If new construction, ~~plans~~ the second plan shall show how the addition will be tied into the
20 existing building and all proposed changes in the structure.

21 (d) When licensed ~~homes~~ facilities increase their designed capacity by the addition to or remodeling of the existing
22 physical plant, the entire ~~home~~ facility shall meet all current fire safety ~~regulations.~~ regulations required by city
23 ordinances or county building inspectors.

24 (e) The licensee or the licensee's designee shall notify the Division of Health Service Regulation Adult Care Licensure
25 Section if the ~~overall~~ evacuation capability capabilities of the residents changes ~~from~~ and the facility no longer
26 [eopies] complies with the evacuation capability facility's licensed capacity as listed on the homes facility's license,
27 license or of the addition of any non-resident that who will be residing living within the home. facility. This
28 information shall be submitted through the county department of social services and forwarded to the Construction
29 Section of the Division of Health Service Regulation for review of any possible changes that may be required to the
30 building.

31 (f) If there is a temporary change in the capacity of the facility due to a resident's short term illness or condition that
32 renders the resident temporarily non-ambulatory, such as end of life condition, the licensee or the licensee's designee
33 shall immediately notify the Division of Health Service Regulation Construction Section upon the knowledge of the
34 change in the resident's ambulatory [status to request approval for the resident to temporarily remain in the facility.]
35 status.

36
37 *History Note: Authority G.S. 131D-2.4; 131D-2.16; 143B-165;*

1 *Eff. January 1, 1977;*
2 *Readopted Eff. October 31, 1977;*
3 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984; January 1, ~~1983~~ 1983,*
4 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0301 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

4 ~~The physical plant requirements for each A family care home shall be applied as follows~~ meet the following physical
5 plant requirements:

- 6 (1) New construction and **existing** buildings proposed for use as a Family Care Home shall comply with
7 the requirements of this ~~Section;~~ Section.
- 8 (2) Except where otherwise specified, **existing** licensed ~~[homes]~~ **facilities** or portions of **existing**
9 licensed ~~[homes]~~ **[facilities]** shall meet the licensure and code requirements in effect at the time of
10 licensure, construction, change in service or [bed count,] service, change in bed capacity, addition,
11 modification, renovation or alteration; renovation, or alteration. ~~however, in no case shall the~~
12 ~~requirements for any licensed home, where no addition or renovation has been made, be less than~~
13 ~~those requirements found in the 1971 "Minimum and Desired Standards and Regulations" for~~
14 ~~"Family Care Homes", copies of which are available at the Division of Health Service Regulation,~~
15 ~~701 Barbour Drive, Raleigh, North Carolina 27603 at no cost;~~
- 16 (3) ~~In no case shall the physical plant requirements for a licensed [home,] facility, where no addition or~~
17 ~~renovation has been made, be less than those physical plant requirements found in the 1971~~
18 ~~"Minimum and Desired Standards and Regulations" for "Family Care Homes", Section III, C,~~
19 ~~[copies of which are available at no cost at the Division of Health Service Regulation, 1800 Umstead~~
20 ~~Drive, Raleigh, North Carolina 27603,] which are hereby incorporated by reference and are~~
21 ~~available on the Construction Section website at <https://info.ncdhhs.gov/dhsr/const/pastrules.html>~~
22 ~~at no cost.~~
- 23 (3)(4) ~~New additions, alterations, modifications~~ modifications, and repairs shall meet the requirements of
24 this ~~Section;~~ Section.
- 25 (4) ~~Rules contained in this Section are minimum requirements and are not intended to prohibit~~
26 ~~buildings, systems or operational conditions that exceed minimum requirements;~~
- 27 (5) Equivalency: Alternate methods, procedures, design criteria and functional variations from the
28 physical plant requirements shall be approved by the Division when the home can effectively
29 demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met
30 and that the variation does not reduce the safety or operational effectiveness of the home; and The
31 Division may grant an equivalency to allow alternate methods, procedures, design criteria, or
32 functional variation from the requirements of this Rule and the rules contained in this Section. The
33 equivalency may be granted by the Division when [a facility] the owner or his appointed
34 representative submits a written equivalency request to the Division that states the following:
35 (a) the rule citation and the rule requirement that will not be met because strict conformance
36 with current requirements would be:
37 (i) impractical;

- 1 (ii) ~~unable to be met due to extraordinary circumstances.~~ For the purpose of this rule,
 2 “extraordinary circumstances” means situations that are unexpected and beyond
 3 the control of the facility; or
 4 (iii) ~~unable to be met due to new [programs; or] programs.~~
 5 ~~[(iv) — unable to be met due to unusual conditions;]~~
 6 (b) ~~the justification for the equivalency; and~~
 7 (c) ~~how the proposed equivalency meets the intent of the corresponding rule requirement.~~
 8 (6) ~~Where rules, codes or standards have any conflict, the most stringent requirement shall apply. In~~
 9 ~~determining whether to grant an equivalency request, the Division shall consider whether the request~~
 10 ~~will reduce the safety and operational effectiveness of the facility. The facility shall maintain a copy~~
 11 ~~of the approved equivalency issued by the Division, and~~
 12 (7) ~~Where rules, codes or standards have any conflict, the more stringent requirement shall apply.~~

13
 14 *History Note: Authority G.S. 131D-2.16; 143B –165;*
 15 *Eff. July 1, 2005-2005;*
 16 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0302 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0302 DESIGN AND CONSTRUCTION**

4 (a) ~~Any~~ A building licensed for the first time as a family care ~~home~~ home, or a licensed family care home relicensed
5 after the license is terminated for more than 60 days, shall meet the applicable requirements of the North Carolina
6 State Building Code. ~~All new construction, additions and renovations to existing buildings shall meet the requirements~~
7 ~~of the North Carolina State Building Code for One and Two Family Dwellings and Residential Care Facilities if~~
8 ~~applicable. All applicable volumes of The North Carolina State Building Codes, which is incorporated by reference,~~
9 ~~including all subsequent amendments, may be purchased from the Department of Insurance Engineering Division~~
10 ~~located at 322 Chapanoke Road, Suite 200, Raleigh, North Carolina 27603 at a cost of three hundred eighty dollars~~
11 ~~(\$380.00). Code: Residential Code [, and Licensed Residential Care Facilities, if applicable,] in effect at the time of~~
12 ~~licensure or relicensure. Additionally, facilities requesting licensure or relicensure for four to six residents shall meet~~
13 ~~the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section in effect at the~~
14 ~~time of licensure or relicensure. [Applicable volumes of]~~ The North Carolina State Building Codes, which are hereby
15 incorporated by reference, including all subsequent amendments and editions, may be purchased from the International
16 Code Council online at <https://shop.iccsafe.org/> at a cost of eight hundred fifty-eight dollars (\$858.00) or accessed
17 electronically free of charge at <https://codes.iccsafe.org/codes/north-carolina>.

18 (b) New construction, additions, alterations, modifications, and renovations to buildings shall meet the requirements
19 of the North Carolina State Building Code: Residential Code, and Licensed Residential Care Facilities, if applicable,
20 Code, and the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section [, if
21 applicable,] at the time of construction, alteration, modifications, and renovations.

22 (b) ~~Each home shall be planned, constructed, equipped and maintained to provide the services offered in the home.~~

23 (c) A family care home shall not offer services for which the [home] facility was not planned, constructed, equipped,
24 or maintained.

25 (e)(d) ~~Any [A]~~ An existing building converted from another use to a family care home shall meet all the requirements
26 of a new facility. Paragraph (a) of this Rule.

27 (d) ~~Any existing licensed home when the license is terminated for more than 60 days shall meet all requirements of a~~
28 ~~new home prior to being relicensed.~~

29 (e) ~~Any [A]~~ An existing licensed home facility that plans to have new construction, remodeling or physical changes
30 done to the facility shall have drawings submitted by the owner or his appointed representative to the Division of
31 Health Service Regulation for review and approval prior to commencement of the work to ensure compliance with the
32 rules established in this Section.

33 (f) If the building is two stories in height, it shall meet the following requirements:

- 34 (1) ~~Each~~ each floor shall be less than 2500 square feet in area if existing construction or, if new
35 construction, shall not exceed the allowable area for Group R-4 occupancy in the North Carolina
36 State Building Code; Codes;

1 (2) Aged ~~[aged]~~ elderly or disabled persons are not to be housed on any floor above or below grade
 2 level; level. For the purpose of this rule, "elderly" persons mean any person who meets the term as
 3 defined in G.S. 131D-2.1. For the purpose of this rule, "disabled" persons mean any person who
 4 meets the term "person with a disability" as defined in G.S. 168A-3;

5 (3) ~~Required~~ required resident facilities are not to be located on any floor above or below grade level;
 6 and

7 (4) A a complete fire alarm system with pull system meeting the requirements of the National Fire
 8 Protection Association 72, NFPA 72: National Fire Alarm and Signaling Code, which is hereby
 9 incorporated by reference, including all subsequent amendments and editions. Copies of this code
 10 may be obtained from the National Fire Protection Association online at
 11 <http://www.nfpa.org/catalog/> or accessed electronically free of charge at
 12 [https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-](https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72)
 13 standards/detail?code=72. For the purpose of this Rule, a "complete fire alarm system" is a system
 14 that consists of components and circuits arranged to monitor and annunciate the status of fire alarm
 15 and supervisory signal-initiating devices and to initiate the appropriate response to those signals.
 16 Pull stations shall be installed on each floor at each exit, and sounding Sounding devices which that
 17 are audible throughout the building shall be provided, provided on each floor. The fire alarm system
 18 shall be able to transmit an automatic signal to the local emergency fire department dispatch center,
 19 either directly or through a central station monitoring company connection. center that is legally
 20 committed to serving the area in which the facility is located. The alarm shall be transmitted either
 21 directly to a fire department or through a third-party service that shall transmit the alarm to the fire
 22 department. The method used to transmit the alarm shall be in accordance with local ordinances.

23 (g) The basement and the attic shall not ~~to~~ be used for storage or sleeping.

24 (h) The ceiling height throughout the family care home shall be at least seven and one-half feet from the floor.

25 (i) In ~~[homes]~~ facilities licensed on or after April 1, 1984, all required resident areas shall be on the same floor level.
 26 Steps and ramps between levels are not permitted.

27 (j) The following shall have door width widths shall be a minimum of two feet and six ~~inches in the kitchen, dining~~
 28 room, living rooms, bedrooms and bathrooms. inches:

29 (1) the kitchen;

30 (2) dining rooms;

31 (3) living rooms;

32 (4) bedrooms; and

33 (5) bathrooms.

34 (k) All windows that are designed to be operable shall be maintained operable.

35 (l) The local code enforcement official shall be consulted before starting any construction or renovations for
 36 information on required permits and construction requirements.

1 (m) The building shall meet sanitation requirements ~~[as determined by the North Carolina Department of Environment~~
2 ~~and Natural Resources; Division of Environmental Health. Health and Human Services, Division of Public Health,~~
3 ~~Environmental Health Section.]~~ set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential
4 Care Facilities, which are hereby incorporated by reference, including subsequent amendments and editions. Copies
5 of these rules may be accessed online free of charge at <https://www.oah.nc.gov/>.

6 (n) The ~~[home] facility~~ shall maintain and have available for review current sanitation and fire ~~and building~~ safety
7 inspection ~~reports which shall be maintained in the home and available for review. reports.~~

8
9 *History Note: Authority G.S. 131D-2.16; 143B-165;*
10 *Eff. January 1, 1977;*
11 *Readopted Eff. October 31, 1977;*
12 *Amended Eff. July 1, 1990; April 1, 1984; January 1, 1983;*
13 *Temporary Amendment Eff. September 1, 2003;*
14 *Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;*
15 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0305 is amended with changes as published in 39:06 NCR 282-316 as follows:

2

3 **10A NCAC 13G .0305 LIVING ROOM**

4 (a) Family care homes licensed on or after April 1, 1984 shall have a living room ~~or area of at least a minimum of~~
 5 200 square feet. For the purposes of this Rule, a “living room” is a space enclosed by walls used for social activities,
 6 such as reading, talking or watching television. For the purpose of this Rule, a “living area” is a space within the
 7 facility that may be opened to adjacent spaces and is designated to be used for social activities, such as reading, talking
 8 or watching television.

9 (b) All living rooms ~~or areas~~ shall have at least one operable windows window to meet-meeting the North Carolina
 10 State Building Code Code: Residential Code to view outdoors, and be lighted to provide 30 ~~foot-candles-foot-candles~~
 11 of light at floor level.

12

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

14 *Eff. January 1, 1977;*

15 *Readopted Eff. October 31, 1977;*

16 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;*

17 *Recodified from 10A NCAC 13G .0304 Eff. July 1, 2005;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February*
 19 *16, ~~2019-2019~~;*

20 *Amended Eff. February 1, 2025.*

1 10A NCAC 13G .0306 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0306 ~~DINING ROOM~~ DINING ROOM OR DINING AREA**

4 (a) Family care homes licensed on or after April 1, 1984 shall have a dining room or dining area ~~of at least a minimum~~
5 of 120 square feet. For the purpose of this Rule, a “dining room” is a space enclosed by walls used for eating meals.
6 For the purpose of this Rule, a “dining area” is a space within the facility that may be opened to adjacent spaces and
7 is designated to be used for eating meals. The dining room or dining area may be used for other activities during the
8 day.

9 (b) When the dining area is used in combination combined with a kitchen to form an eat-in kitchen, an area five feet
10 wide in front of [the kitchen, including the sink] sinks, kitchen appliances, and any kitchen [island] islands used for
11 food preparation, shall be allowed as work space for the kitchen. in front of the kitchen work areas. The work space
12 shall not be used} included as [calculations] part of the [for the required minimum]-square footage for the dining area.

13 (c) The dining room or dining area shall have at least one operable windows window meeting the North Carolina State
14 Building [Codes] Code: Residential Code to view the outdoors, or a door unit with a vision panel directly to the
15 outside. The dining room or dining area shall and be lighted to provide 30 foot-candles-foot-candles of light at floor
16 level.

17
18 *History Note: Authority G.S. 131D-2.16; 143B-165;*

19 *Eff. January 1, 1977;*

20 *Readopted Eff. October 31, 1977;*

21 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;*

22 *Recodified from 10A NCAC 13G .0305 Eff. July 1, 2005-2005;*

23 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0307 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2

3 **10A NCAC 13G .0307 KITCHEN**

4 (a) The kitchen in a family care home shall ~~be large enough to provide~~ have space for the preparation and preservation
5 of food and the washing of dishes.

6 (b) The cooking unit shall be mechanically ventilated to the ~~outside~~ outside. If the cooking unit is ~~[or be an]~~ unvented,
7 a recirculating fan shall be provided with ~~any special filter per~~ [the type of] a filter required by manufacturers'
8 instructions for ventless use.

9 (c) The kitchen ~~floor shall have a non-slippery water-resistant covering;~~ shall have floors that are water-resistant and
10 slip-resistant.

11

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

13 *Eff. January 1, 1977;*

14 *Amended Eff. April 22, 1977;*

15 *Readopted Eff. October 31, 1977;*

16 *Amended Eff. July 1, 2005; April 1, 1984;*

17 *Recodified from 10A NCAC 13G .0306 Eff. July 1, ~~2005-2005~~;*

18 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0308 is amended with changes as published in 39:06 NCR 282-316 as follows:

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

4 (a) There shall be bedrooms ~~sufficient~~ in number and size to meet the individual needs according to age and sex of
5 the residents, the administrator or supervisor-in-charge, other live-in ~~staff~~ staff, and ~~any~~ other persons living in a
6 family care home. Residents ~~are~~ shall not ~~to~~ share bedrooms with staff or other live-in non-residents.

7 (b) Only rooms authorized by the Division of Health Service Regulation as bedrooms shall be used for bedrooms.

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

10 (d) ~~There shall be a minimum area of 100 square feet, excluding vestibule, closet or wardrobe space, in rooms~~
11 ~~occupied by one person and a minimum area of 80 square feet per bed, excluding vestibule, closet or wardrobe space,~~
12 ~~in rooms occupied by two persons. Private resident bedrooms shall provide not less than 100 square feet of~~ occupiable
13 [net] floor area, excluding accessory areas such as vestibules, closets, [or] wardrobes, or bathrooms. For the purpose
14 of this rule, a "private resident bedroom" is a resident bedroom occupied by one resident. [For the purpose of this
15 Rule, "net floor area" is the actual occupiable area not including unoccupied accessory areas such as vestibules,
16 closets, wardrobes, and bathrooms.]

17 (e) ~~Semi-private resident bedrooms shall provide not less than 80 square feet of~~ occupiable [net] floor area per bed,
18 excluding accessory areas such as vestibules, closets, [or] wardrobes, or bathrooms. For the purpose of this rule, a
19 "semi-private resident bedroom" is a resident bedroom occupied by two residents. [For the purpose of this Rule, "net
20 floor area" is the actual occupiable area not including unoccupied accessory areas such as vestibules, closets,
21 wardrobes, and bathrooms.]

22 ~~(e)(f)~~ (f) The total number of residents assigned to a bedroom shall not exceed the number authorized by the Division of
23 Health Service Regulation for that particular bedroom.

24 ~~(f)(g)~~ (g) A bedroom shall not be occupied by more than two residents.

25 ~~(g)(h)~~ (h) ~~Each~~ A resident bedroom ~~must~~ shall have one or more operable windows meeting the requirements of the North
26 Carolina State Building [Codes] Code: Residential Code for emergency egress, and be lighted to provide 30 ~~foot~~
27 ~~candles-foot-candles~~ of light at floor level. The window area shall ~~be equivalent to at least~~ not be less than eight percent
28 of the floor ~~space.~~ space, and be equipped with insect-proof screens. ~~The windows~~ Windows in resident bedrooms
29 shall have a maximum of 44 inch sill height.

30 ~~(h)(i)~~ (i) ~~Bedroom closets or wardrobes shall be large enough to provide each resident with a minimum of 48 cubic feet~~
31 ~~of clothing storage space (approximately two feet deep by three feet wide by eight feet high) of which at least one~~
32 ~~half shall be for hanging clothes with an adjustable height hanging bar. A resident bedroom shall provide one closet~~
33 ~~or wardrobe per resident. Closets or wardrobes shall have clothing storage space of not less than 48 cubic feet per bed,~~
34 ~~approximately two feet deep by three feet wide by eight feet high, of which one-half of this space shall be for hanging~~
35 ~~with an adjustable height hanging bar.~~

36
37 *History Note: Authority G.S. 131D-2.16; 143B-165;*

1 *Eff. January 1, 1977;*
2 *Readopted Eff. October 31, 1977;*
3 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;*
4 *Recodified from 10A NCAC 13G .0307 Eff. July 1, 2005;*
5 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February*
6 *16, ~~2019-2019~~;*
7 *Amended Eff. February 1, 2025.*

1 10A NCAC 13G .0309 is readopted with changes as published in 39:06 NCR 282-316 as follows:

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

4 (a) ~~Adult Family care homes licensed on or after April 1, 1984, shall have one full bathroom for each five or fewer~~
5 ~~persons-persons, including live-in staff and family- staff.~~ For the purpose of this rule, a “full bathroom” is a room
6 containing a sink, water closet (commode) toilet, and a bathtub, shower, spa tub, or similar bathing fixture.

7 (b) ~~The bathrooms shall be designed to provide privacy. A bathroom~~ Bathrooms with two or more water closets
8 (commodes) toilets shall have privacy partitions or curtains for each water closet- toilet. ~~Each tub or shower~~ Bathtubs,
9 showers, spas, or similar bathing fixtures shall have privacy partitions or curtains. Notwithstanding the requirements
10 of Rule .0301, the requirements of this Paragraph shall apply to new and existing facilities.

11 (c) ~~Entrance~~ Entrances to the bathroom bathrooms shall not be through a kitchen, another person's bedroom, or another
12 bathroom.

13 (d) ~~The required~~ [Required] residents' bathrooms shall be located so that there is no more than 40 feet from ~~any~~
14 ~~residents'-a resident's~~ bedroom door to a resident use bathroom door.

15 (e) ~~Hand grips shall be installed at all commodes, tubs and showers used by the residents.~~ Water closets (commodes)
16 Toilets, bathtubs, showers, spas, and similar bathing fixtures shall have hand grips meeting the following
17 requirements:

18 (1) be mechanically fastened or anchored to the walls;

19 (2) be located to ~~assist~~ help residents in entering and exiting bathtubs, showers, spas, or similar bathing
20 fixtures; and

21 (3) be ~~[within reach of]~~ on the wall adjacent to water closets (commodes)- toilets.

22 (f) ~~Nonskid surfacing or strips must be installed in showers and bath areas.~~ bathtubs, showers, spas, and similar
23 bathing fixtures.

24 (g) ~~The bathrooms~~ Bathrooms shall meet the following requirements:

25 (1) be lighted to provide 30 ~~foot-candles~~ foot-candles of light at floor level ~~and have level;~~

26 (2) have ~~mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor~~
27 ~~area.~~ an exhaust system per the North Carolina State Building Code: Residential Code. These
28 Exhaust vents shall vent directly to the ~~outdoors.~~ outdoors; and

29 (3) have floors that are water-resistant and slip-resistant.

30 (h) ~~The bathroom floor shall have a non-slippery water resistant covering.~~

31
32 *History Note: Authority G.S. 131D-2.16; 143B-165;*

33 *Eff. January 1, 1977;*

34 *Readopted Eff. October 31, 1977;*

35 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1984;*

36 *Recodified from 10A NCAC 13G .0308 Eff. July 1, 2005-2005;*

37 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0312 is readopted with changes as published in 39:06 NCR 282-316 as follows:

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

4 (a) In family care homes, ~~all~~ floor levels shall have at least two ~~exits. If there are only two, the exit or exit access~~
5 ~~doors shall be so located and constructed to minimize the possibility that both may be blocked by any one fire or other~~
6 ~~emergency condition.~~ outside entrances/exits that are so located and constructed to minimize the possibility that both
7 outside entrances/exits from the [home] facility may be blocked by a fire or other emergency condition. Exiting
8 through another resident's bedroom is not permitted.

9 (b) At least one outside entrance/exit door shall be a minimum width of three feet and another shall be a minimum
10 width of two feet and eight inches.

11 (c) At least one principal outside entrance/exit for the residents' use shall be at grade level or accessible by ramp with
12 a one inch rise for each 12 inches of length of the ramp. For the purposes of this Rule, a principal outside entrance/exit
13 is one that is most often used by residents for vehicular access. If the [home] facility has ~~any~~ a resident that must have
14 physical assistance with evacuation, the [home] facility shall have two outside entrances/exits at grade level or
15 accessible by a ramp.

16 (d) All ~~exit~~ outside entrance/exit door locks shall be ~~easily operable,~~ operable by a single hand ~~motion,~~ motion from
17 the inside at all times without ~~keys.~~ keys, tools, or special knowledge. Existing ~~deadbolts or~~ deadbolts and turn buttons
18 on the inside of ~~exit doors~~ outside entrances/exit doors, including screen and storm doors, shall be removed or disabled.

19 (e) All outside entrances/exits shall be free of all obstructions or impediments to allow for full instant use in case of
20 fire or other emergency.

21 (f) All ~~steps, steps,~~ porches, stoops ~~stoops,~~ stoops, and ramps shall be ~~provided with~~ have handrails and ~~guardrails.~~ guards.
22 Handrails shall be on both sides of steps and ramps, including sides bordered by the facility wall. Handrails shall
23 extend the full length of steps and ramps. Guards shall be on open sides of steps, porches, stoops, and ramps. For the
24 purposes of this Rule, "guards" are [building components, or a system of building components] rails or barriers located
25 at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from a walking surface
26 to an adjacent change in elevation.

27 (g) In [homes] facilities with at least one resident who is determined by a physician or is otherwise ~~known~~ observed
28 by staff to be ~~disoriented or a wanderer,~~ each exit door for resident use ~~disoriented or exhibiting wandering behavior,~~
29 all outside entrance/exit doors shall be equipped with have a continuously sounding device that is activated when the
30 door is opened. The sound shall be of sufficient ~~[of such]~~ volume that it can be heard by staff audible throughout the
31 facility. If a central system of remote sounding devices is provided, the control panel for the system shall be powered
32 by the facility's electrical system, and be located in ~~the bedroom of the person on call, the office area or in a location~~
33 an area accessible only to staff authorized by the administrator to operate the control panel. to staff. Notwithstanding
34 the requirements of Rule .0301, [The] the requirements of this Paragraph shall apply to new and existing facilities.

35
36 *History Note: Authority G.S. 131D-2.16; 143B-165;*

37 *Eff. January 1, 1977;*

- 1 *Readopted Eff. October 31, 1977;*
- 2 *Amended Eff. July 1, 2005; April 1, 1987; July 1, 1984; April 1, 1984;*
- 3 *Recodified from 10A NCAC 13G .0311 Eff. July 1, ~~2005~~-2005;*
- 4 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0313 is amended with changes as published in 39:06 NCR 282-316 as follows:

2

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

4 ~~The laundry equipment in a family care home shall be located out of the living, dining, and bedroom areas.~~

5 (a) Laundry equipment shall be inside family care homes. For the purpose of this Rule, "laundry equipment" means
6 at least one residential washing machine and at least one residential dryer.

7 (b) Laundry equipment shall be in a dedicated room or enclosure, and shall be located out of living rooms, dining
8 rooms, dining areas, bathrooms, and bedrooms.

9 (c) Laundry equipment shall be on the same floor level as required residents' facilities.

10 (d) Laundry equipment shall be accessible to all residents, and shall be maintained operable.

11

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

13 *Eff. January 1, 1977;*

14 *Readopted Eff. October 31, 1977;*

15 *Amended Eff. July 1, 2005; April 1, 1984;*

16 *Recodified from 10A NCAC 13G .0312 Eff. July 1, 2005;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February*
18 *16, ~~2019~~, 2019;*

19 *Amended Eff. February 1, 2025.*

1 10A NCAC 13G .0315 is readopted with changes as published in 39:06 NCR 282-316 as follows:

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

4 (a) ~~Each~~ A family care home shall:

- 5 (1) have walls, ceilings, and floors or floor coverings ~~kept clean and in good repair;~~ that are clean, safe,
6 and functional;
- 7 (2) have no ~~chronic unpleasant odors;~~ persistent and recurring odors that are considered by the residents
8 to be [chronic and] unpleasant;
- 9 (3) have furniture ~~clean and in good repair;~~ that is clean, safe, and functional.
- 10 (4) have a North Carolina ~~Division of Environmental Health~~ Department of Health and Human
11 Services, Division of Public Health, Environmental Health Section approved sanitation
12 classification at all times; times, [which is incorporated by reference including all subsequent
13 amendments.] pursuant to the [The] “Rules Governing the Sanitation of Residential Care Facilities”,
14 15A NCAC 18A .1600, which is incorporated by reference including all subsequent amendments
15 and can [may] be accessed electronically free of charge at <http://ehs.dph.ncdhs.gov/rules.htm>;
- 16 (5) be maintained in an uncluttered, ~~clean~~ clean, and orderly manner, free of all obstructions and
17 hazards;
- 18 (6) have a supply [~~on hand~~] available in the facility at all times of bath soap, clean towels, washcloths,
19 sheets, pillowcases, blankets, and additional ~~coverings~~ adequate covers such as a bedspread,
20 comforter, or quilt for each resident to use ~~on hand at all times;~~ use;
- 21 (7) make available the following items as needed through any means other than at no additional charge
22 to the personal funds of recipients of State-County Special Assistance:
 - 23 (A) protective ~~sheets~~ mattress covers, and clean, absorbent, ~~soft~~ soft, and smooth mattress
24 pads;
 - 25 (B) ~~bedpans, urinals, hot water bottles, and ice caps;~~ bedpans and urinals; and
 - 26 (C) bedside commodes, walkers, and wheelchairs.
- 27 (8) have one television and one ~~radio~~ radio, each in good working order;
- 28 (9) have curtains, ~~draperies~~ draperies, or blinds at windows in resident use areas to provide for resident
29 privacy;
- 30 (10) have recreational equipment, supplies for games, books, ~~magazines~~ magazines, and a current weekly
31 newspaper available for residents;
- 32 (11) have a clock that has numbers at least 1½ inches tall in ~~an area commonly used by the residents;~~ the
33 living [room] room, [or in] the dining [room] room, or dining [room] area; and
- 34 (12) have at least one telephone that does not ~~depend on~~ require electricity or cellular service to operate.

35 (b) Each bedroom shall have the following furnishings in good repair and clean for each resident:

- 36 (1) A bed equipped with either a box springs and with a mattress or solid link springs and with a foam
37 mattress or a mattress designed to prevent sagging, no sag innerspring or foam mattress. Hospital

1 bed appropriately equipped with all accessories required for use shall be arranged for as needed. A
 2 water bed is allowed if requested by a resident and permitted by the ~~home~~ facility. Each bed is to
 3 have the following:

4 (A) at least one pillow with a clean pillow case;

5 (B) a clean top and bottom sheets sheet on the bed, with bed changed ~~as often as necessary but~~
 6 at least once a week; and week and when soiled; and

7 (C) a clean bedspread and other clean coverings as needed.

8 (2) a bedside type table;

9 (3) chest of drawers or bureau when not provided as built-ins, or a double chest of drawers or double
 10 dresser for two residents;

11 (4) a wall or dresser mirror that ~~can~~ may be used by each

12 (5) a minimum of one ~~comfortable chair (rocker or straight, arm or without arms, as preferred by~~
 13 ~~resident), high enough from floor for easy rising; chair that is comfortable as preferred by the~~
 14 ~~resident, which may include a rocking or straight chair, with or without arms, that is high enough~~
 15 for the resident to easily rise without discomfort;

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

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

18 (8) a light overhead of bed with a switch ~~within reach of~~ that may be reached by a person lying on the
 19 bed; or a lamp. The light shall provide a minimum of 30 foot-candle power of illumination for
 20 reading.

21 (c) The living room shall have ~~functional living room furnishings for the comfort of aged and disabled persons,~~ that
 22 are in good working order and provide comfort as preferred by residents with coverings that are easily cleanable.

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

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

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

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

29
 30 *History Note: Authority G.S. 131D-2.16; 143B-165;*

31 *Eff. January 1, 1977;*

32 *Readopted Eff. October 31, 1977;*

33 *Amended Eff. July 1, 2005; September 1, 1987; April 1, 1987; April 1, 1984;*

34 *Recodified from 10A NCAC 13G .0314 Eff. July 1, 2005-2005;*

35 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0316 is amended with changes as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0316 FIRE SAFETY AND ~~DISASTER~~ EMERGENCY PREPAREDNESS PLAN**

4 (a) Fire extinguishers shall be provided which meet these minimum requirements in a family care home:

- 5 (1) one five pound or larger (net charge) "A-B-C" type ~~centrally located~~; located in an area that can be
6 accessed by staff and not stored in rooms with lockable doors or the kitchen;
7 (2) one five pound or larger "A-B-C" or CO/2 type located in the kitchen; and
8 (3) any other location as determined by the local fire code enforcement official.

9 (b) ~~The building shall be provided with smoke detectors as required by the North Carolina State Building Code and~~
10 ~~U.L. listed heat detectors connected to a dedicated sounding device located in the attic and basement. These detectors~~
11 ~~shall be interconnected and be provided with battery backup. The facility shall be provided with smoke detectors in~~
12 ~~locations as required by the North Carolina State Building Code: Residential Code. Additionally, facilities governed~~
13 ~~by the North Carolina State Building Code: Residential Code and Building Code. Licensed Residential Care Facilities,~~
14 ~~if applicable. Facilities Section shall be provided with smoke detectors in locations as required by that Section. All~~
15 ~~smoke detectors in the facility shall be hard-wired, interconnected, and provided with battery backup.~~

16 (c) Underwriters Laboratories, Incorporated (U.L.) listed heat detectors shall be installed in all attic spaces and in the
17 basement of the facility. Heat detectors shall be hard-wired, interconnected, and connected to a dedicated sounding
18 device located inside the living area of the facility. Heat detectors shall be of the rate of rise type [as not to create
19 nuisance alarms] and be provided with battery backup.

20 ~~(d)~~ Any [All] The facility shall meet all fire safety requirements required by city ordinances or county building
21 inspectors shall be met. inspectors.

22 ~~(d)(c)~~ ~~A~~ The facility shall have a written fire evacuation plan plan. (including a diagrammed drawing) For the purpose
23 of this rule, a written fire evacuation plan is a written document that details the procedures and steps that facility
24 occupants shall follow in a fire or other emergency to ensure safe evacuation while minimizing the risk of injury or
25 loss of life. The written fire evacuation plan shall include a diagram of the facility floor plan which clearly marks all
26 emergency egress and escape routes from the facility. The plan shall have which has the approval of the local fire code
27 enforcement official official. The approved diagram shall be prepared in large legible print and be posted in a central
28 location on each floor. on every floor of the facility in a location visible to staff, residents, and visitors. The fire
29 evacuation plan and diagram shall be reviewed with each resident on upon admission and shall be a part of included
30 in the orientation for all new staff.

31 ~~(e)(f)~~ There shall be at least four ~~rehearsals~~ unannounced fire drills of the fire evacuation plan ~~each year.~~ every year
32 on each shift. For the purpose of this Rule, a fire drill is the method of practicing how occupants of the facility shall
33 evacuate in the event of a fire or other emergency. Records of rehearsals Documentation of the fire drills shall be
34 maintained by the administrator or their designee in the facility and copies furnished to the county department of social
35 services annually. be made available upon request to the Division of Health Service Regulation, county department of
36 social services, and the local fire code enforcement official. The records documentation shall include the date and time

1 of the ~~rehearsals, fire drill, the shift, the names of~~ staff members present, and a short description of ~~what the rehearsal~~
2 ~~involved.~~ drill.

3 ~~(f)(g) A written disaster plan which has the written approval of, or has been documented as submitted to, the local~~
4 ~~emergency management agency and the local agency designated to coordinate special needs sheltering during~~
5 ~~disasters, shall be prepared and updated at least annually and shall be maintained in the home. This written disaster~~
6 ~~plan requirement shall apply to new and existing homes. Each facility shall develop and implement an emergency~~
7 ~~preparedness plan to ensure resident health and safety and continuity of care and services during an emergency. The~~
8 ~~emergency preparedness plan shall include the following:~~

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

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

12 (B) fires;

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

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

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

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

17 (G) intruders and active assailants; and

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

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

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

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

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

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

35 (E) Procedures for coordinating and communicating with the local emergency management
36 agency and local law enforcement;

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

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

9 (i) The facility's emergency preparedness plan shall be reviewed at least annually and updated as needed by the
10 administrator and shall be submitted to the local emergency management agency and the local agency designated to
11 coordinate and plan for the provision of access to functional needs support services in shelters during disasters. Any
12 changes to the plan shall be submitted to the local emergency management agency and the local agency designated to
13 coordinate and plan for the provision of access to functional needs support services in shelters during disasters within
14 60 days of the change. For the purpose of this Rule, correction of grammatical or spelling errors do not constitute a
15 change. Documentation of submissions shall be maintained at the facility and made available for review upon request
16 to the Division of Health Service Regulation and county department of social services.

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

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

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

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

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

36 (o) If the facility evacuates residents for any reason, the administrator or their designee shall report the evacuation to
37 the local emergency management agency, the local county department of social services, and the Division of Health

1 Service Regulation Adult Care Licensure Section within four hours or as soon as practicable of the decision to
 2 evacuate, and shall notify the agencies within four hours of the return of residents to the facility.

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

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

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

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

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

30 (u) Notwithstanding the requirements of Rule .0301, this [This] Rule shall apply to new and existing facilities.

31
 32 *History Note: Authority G.S. 131D-2.16; 131D-7; 143B-165;*

33 *Eff. January 1, 1977;*

34 *Amended Eff. April 22, 1977;*

35 *Readopted Eff. October 31, 1977;*

36 *Amended Eff. July 1, 2005; July 1, 1990; April 1, 1987; April 1, 1984;*

37 *Recodified from 10A NCAC 13G .0315 Eff. July 1, 2005;*

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*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February
16, ~~2019~~, 2019;
Amended Eff. May 1, 2025.*

1 10A NCAC 13G .0317 is readopted with changes as published in 39:06 NCR 282-316 as follows:

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

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

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

9 (c) ~~Air conditioning or at least one fan per resident bedroom and living room and dining areas shall be provided when~~
10 ~~the temperature in the main center corridor exceeds 80 degrees F (26.7 degrees C).~~ The facility shall have heating and
11 cooling systems such that environmental temperature controls are capable of maintaining temperatures in the home at
12 75 degrees F minimum in the heating season, and not exceed 80 degrees F during the non-heating season.

13 (d) ~~The hot~~ Hot water tank shall be ~~of such size to provide an adequate supply of hot water supplied to the kitchen,~~
14 ~~bathrooms, and laundry. The hot water temperature at all fixtures used by residents shall~~ **be maintained at** ~~[maintain]~~
15 a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C). degrees F at all
16 fixtures used by or accessible to residents. Notwithstanding the requirements of Rule .0301, [This] the requirements
17 of this Paragraph shall apply to new and existing facilities.

18 (e) All resident areas shall be well lighted for the safety and comfort of the residents. The minimum lighting required
19 is:

20 (1) ~~30 foot candle power~~ foot-candles for reading; reading; and

21 (2) ~~10 foot candle power~~ foot-candles for general lighting; and lighting.

22 (3) ~~1 foot candle power at the floor for corridors at night.~~

23 (f) ~~Where the bedroom of the live in staff is located in a separate area from residents' bedrooms, an electrically~~
24 ~~operated call system shall be provided connecting each resident bedroom to the live in staff bedroom. The resident~~
25 ~~call system activator shall be such that it can be activated with a single action and remain on until deactivated by staff.~~
26 ~~The call system activator shall be within reach of resident lying on his bed.~~

27 Where there is live-in staff in a family care home, a hard-wired, electrically operated call system meeting the following
28 requirements shall be provided:

29 (1) the call system shall connect residents' bedrooms to the live-in staff bedroom;

30 (2) when activated, the resident call shall activate a visual and audible signal in the live-in staff
31 bedroom;

32 (3) a resident call system activator shall be in residents' bedrooms at the resident's bed;

33 (4) the resident call system activator shall be within reach of a resident lying on the bed; and

34 (5) the resident call system activator shall be such that it can be activated with a single action and remain
35 on until deactivated by staff at point of origin.

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

1 (h) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation
2 instructions, approved through the local building ~~department~~ department, and protected by a guard or screen to prevent
3 residents and furnishings from burns.

4 ~~(i) Alternate methods, procedures, design criteria and functional variations from the requirements of this Rule or other
5 rules in this Section because of extraordinary circumstances, new programs or unusual conditions, shall be approved
6 by the Division when the facility can effectively demonstrate to the Division's satisfaction that the intent of the
7 requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility.~~

8 ~~(j) This Rule shall apply to new and existing family care homes.~~

9
10 *History Note: Authority G.S. 131D-2.16; 143B-165;*

11 *Eff. January 1, 1977;*

12 *Readopted Eff. October 31, 1977;*

13 *Amended Eff. April 1, 1987; April 1, 1984; July 1, 1982;*

14 *Temporary Amendment Eff. December 1, 1999;*

15 *Amended Eff. July 1, 2005; July 1, 2000;*

16 *Recodified from 10A NCAC 13G .0316 Eff. July 1, ~~2005-2005~~;*

17 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0318 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2

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

4 (a) The outside grounds of new and existing family care homes shall be maintained in a clean and safe condition. For
 5 the purpose of this rule, “clean and safe condition” means free from debris, trash, uneven surfaces, and similar
 6 conditions as not to attract rodents and vermin, and provide for safe movement throughout facility grounds. Creeks,
 7 ditches, ponds, pools, and other similar areas shall have safety protection. For the purpose of this rule, “safety
 8 protection” means preventive measures, such as barriers, to block access to such areas.

9 (b) If the home facility has a fence around the premises, the fence shall not prevent residents from exiting or entering
 10 freely freely, or be hazardous have sharp edges, rusting posts, or other similar conditions that may cause injury.

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

13 (d) Notwithstanding the requirements of Rule .0301, [The] the requirements of Paragraphs (a) and (b) shall apply to
 14 new and existing facilities.

15

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

17 *Eff. April 1, 1984;*

18 *Amended Eff. July 1, 2005; July 1, 1990;*

19 *Recodified from 10A NCAC 13G .0317 Eff. July 1, 2005- 2005;*

20 *Readopted Eff. February 1, 2025.*

1 10A NCAC 13G .0801 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2
3 **SECTION .0800 - RESIDENT ASSESSMENT AND CARE PLAN**

4
5 **10A NCAC 13G .0801 RESIDENT ASSESSMENT**

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

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

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

27 (1) resident identification and demographic information;

28 (2) current diagnoses;

29 (3) current medications;

30 (4) the resident's ability to self-administer medications;

31 (5) the resident's ability to perform activities of daily living, including bathing, dressing, personal
32 hygiene, ambulation or locomotion, transferring, toileting, and eating;

33 (6) mental health history;

34 (7) social history [history;] history to include family structure, previous employment and education,
35 lifestyle habits and activities, interests related to community involvement, hobbies, religious
36 practices, and cultural background;

37 (8) mood and behaviors;

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

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

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

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

- 1 (G) ~~threat to life such as stroke, heart condition, or metastatic cancer; when a resident has been~~
 2 ~~enrolled in hospice;~~
- 3 (H) emergence of a pressure ulcer at Stage II, which is a superficial ulcer presenting an
 4 abrasion, blister or shallow crater, or ~~higher;~~ any pressure ulcer determined to be greater
 5 than Stage II;
- 6 (I) a new diagnosis of a condition likely to affect which affects the resident's physical, mental,
 7 or psychosocial well-being; well-being such as initial diagnosis of Alzheimer's disease or
 8 diabetes;
- 9 (J) improved behavior, mood or functional health status to the extent that the established plan
 10 of care no longer meets the resident's needs; matches what is needed;
- 11 (K) new onset of impaired decision-making;
- 12 (L) continence to incontinence or indwelling catheter; or
- 13 (M) the resident's condition indicates there may be a need to use a restraint in accordance with
 14 Rule .1301 of this subchapter and there is no current restraint order for the resident.
- 15 (2) Significant change ~~is not any of~~ does not include the following:
- 16 (A) changes that suggest slight ~~upward or downward movement~~ improvement or deterioration
 17 in the resident's status;
- 18 (B) changes that resolve with or without intervention;
- 19 ~~(C) —~~ changes that arise from easily reversible causes;
- 20 ~~(D)(C)~~ an acute illness or episodic event; event. For the purposes of this Rule “acute illness” means
 21 symptoms or a condition that develops quickly and is not a part of the resident’s baseline
 22 physical health or mental health status;
- 23 ~~(E)(D)~~ an established, predictive, predictable, cyclical pattern; or
- 24 ~~(F)(E)~~ steady improvement under the current course of care.

25 (d) If a resident experiences a significant change as defined in Paragraph (c) of this Rule, the facility shall refer the
 26 resident to the resident's physician or other ~~appropriate~~ licensed health professional ~~such as a mental health~~
 27 ~~professional, nurse practitioner, physician assistant or registered nurse in a timely manner consistent with the resident's~~
 28 ~~condition but~~ no longer than ~~40~~ three days from the date of the significant change, change assessment, and document
 29 the referral in the resident's record. Referral shall be made immediately when significant changes as defined in
 30 Paragraph (c)(1)(A)-(M) are identified that pose an immediate risk to the health and safety of the resident, other
 31 ~~residents~~ residents, or staff of the facility.

32 (e) The assessments required in Paragraphs (a) ~~(b)~~ and (c) of this Rule shall be completed and signed by the person
 33 designated by the administrator to perform resident assessments.

34
 35 *History Note:* Authority G.S. 131D-2.15; 131D-2.16; 131D-4.4; 131D-4.5; 143B-165;
 36 *Temporary Adoption Eff. January 1, 1996;*
 37 *Eff. May 1, 1997;*

1 *Temporary Amendment Eff. December 1, 1999;*
2 *Amended Eff. July 1, 2000;*
3 *Temporary Amendment Eff. September 1, 2003;*
4 *Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;*
5 *Readopted Eff. May 1, 2025.*

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1 10A NCAC 13G .0802 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .0802 RESIDENT CARE PLAN**

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

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

15 (c) The care plan shall include the following:

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

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

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

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

1 10A NCAC 13G .1601 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2
3 **SECTION .1600 – STAR RATED CERTIFICATES**

4
5 **10A NCAC 13G .1601 SCOPE DEFINITIONS**

6 ~~(a) This Section applies to all licensed family care homes for two to six residents that have been in operation for more~~
7 ~~than one year.~~

8 ~~(b) As used in this Section a "rated certificate" means a certificate issued to a family care home on or after January 1,~~
9 ~~2009 and based on the factors contained in G.S. 131D-10.~~

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

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

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

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

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

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

24 (6) "Star rating worksheet" means a document issued by the Division of Health Service Regulation
25 which demonstrates how a facility's star rating was [calculated.] calculated in accordance with G.S.
26 131D-10(e) and Section .1600 of this Subchapter.

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

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

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

30
31 *History Note: Authority G.S. 131D-4.5; 131D-10;*

32 *Eff. July 3, 2008; 2008;*

33 *Readopted Eff. August 1, 2025.*

1 10A NCAC 13G .1602 is readopted with changes as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13G .1602 ISSUANCE OF RATED CERTIFICATES A STAR RATING**

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

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

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

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

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

19
20 *History Note: Authority G.S. 131D-4.5; 131D-10;*
21 *Eff. July 3, ~~2008~~. 2008;*
22 *Readopted Eff. August 1, 2025.*

Request for Changes Pursuant to
N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day;; and”
 - Right: “~~day~~, day; and”
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0206

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 4, do you mean that family care homes “shall” have a capacity from two to six residents? Changed “may” to “shall”

In (a), line 4, isn't “family care home” defined at G.S. 131D-2.1(9)? Changed “131D-2.1(5)” to “131D-2.1(9)”.

In (b), line 8, what do you mean when you say the license “shall indicate the facility’s capacity according to the number of ambulatory and non-ambulatory individuals...” Do you mean the license shall say how many ambulatory and non-ambulatory individuals live there? Yes

In (c), line 18, do both plans have to show where the addition ties into the existing building, or just the second set? If the latter, consider changing “plans” to “the second plan”. The second set, rule language changed to clarify.

In (d), line 21, what fire safety regulations are you requiring compliance with? Specifically state them in the rule. Rule language updated for clarity.

In (e), line 23, I think you meant to say “...no longer complies...”. Made grammatical change

In (d), line 25, consider a revision to “...non-resident that will be residing...” as “residing” indicates being a resident. Also, consider “who” instead of “that” when referring to a person. Changed “residing” to living and “that” to “who”.

In (f), line 31, under what criteria does the DHHS’s Construction Section approve or disapprove the request for a resident to remain at the facility? Is this in another rule? If so, please cross-reference. Rule language changed for clarity.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

Brian Liebman
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 Seth Ascher for the 13F 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: N.C. Medical Care Commission

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

DEADLINE FOR RECEIPT: Thursday, 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 (1), line 6, is there significance to the deletion of “existing” from “existing buildings”? I wouldn’t ordinarily ask about a deletion, but the term “existing building” is the term used throughout the Building Code, which you’re incorporating by reference elsewhere in these rules. There was no significant reason for the deletion of “existing”. We have added it back throughout the rules as needed.

In (2), line 10, is there a difference between “capacity” and “bed count”? There is no difference between “capacity” and “bed count”. For consistency throughout the rules, “bed count” is changed to “bed capacity”.

Also on line 10, what does “service” mean in this context? In this context, “service” means change in the type of residents being served. Yes, in the change of the type of residents being served. For example, from ambulatory residents to non-ambulatory residents and vice versa.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (5)(a)(ii), line 35, please define “extraordinary circumstances” in your rule. Changes made by adding a definition for “extraordinary circumstances”.

In (5)(a)(iv), line 37, please define “unusual conditions” in your rule, and pay particular attention to how an “unusual condition” is different from an “extraordinary 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 Seth Ascher for the 13F 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: N.C. Medical Care Commission

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

DEADLINE FOR RECEIPT: Thursday, 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:

Throughout the rule, it appears you use “home” and “facility” interchangeably. Please pick one term and use it consistently. Change made to replace “home” with “facility” throughout the rules as needed.

In (a), line 11, is “Licensed Residential Care Facilities” a part of the Residential Code, or a separate document? No. “Licensed Residential Care Facilities” is a part of the Building Code. If separate, please use separate incorporations for each. Changes made to clarify the location of “Licensed Residential Care Facilities” and what facilities this section would be applicable to.

In (a), line 11, when would either of these documents be “applicable”? “Applicable” was removed. Please state specifically in your rule when one applies over the other. Changes made to clarify.

In (a), line 12, what are the “applicable” volumes of the Building Code? State them in your rule with specificity. This is necessary for clarity in a general sense, but is particularly necessary here because you are incorporating these volumes by reference. “Applicable” was removed.

In (e), line 28, under what criteria will DHSR review and approve the proposed work? Is this in another rule? If so, please cross-reference. Changes made to clarify.

In (f)(2), line 33, please define “aged” and “disabled.” “Aged” was changed to “elderly” and cross referenced to NCGS 131D-2.1 “Disable” cross references NCGS 168A-3 for “person with a disability”.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (f)(4), p.2, lines 5-7, is the definition of a “complete fire alarm system” in compliance with the Fire Code or the Residential Code? Yes. The definition of fire alarm system is defined in the NC Fire Code in Chapter 2. The definition used in this rule was taken from the Fire Code. The Residential Code does not define a fire alarm system but requires fire alarm systems installed under the NC Residential Code be in compliance with NFPA 72. The definition of a fire alarm system is defined in NFPA 72. The definition in the NC Fire Code and in NFPA 72 are identical. I know both have extremely comprehensive requirements for fire alarm systems.

In (i), lines 17-18, are elevators permitted? Yes, we think elevators would be permitted. We do not believe an elevator is prohibited by the NC Residential Code.

In (k), line 26, does this conflict with requirements elsewhere to have operable windows in bedrooms, living rooms, and kitchens? We do not believe so. We believe this requirement makes it clear that if a window is designed to be an operable window, then it must be operable at all times. A broken, designed operable window would need to be fixed or replaced. We added “designed to be” for clarity. It appears to me that this provision can be read to require windows to be operable only up until they break, and then they don’t need to be maintained in operable condition anymore.

In (m), line 29, specify the sanitation requirements you are referencing, and incorporate by reference if necessary. Changes made to incorporate by reference.

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 Seth Ascher for the 13F 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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0305 (13F .0305)

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 4, please define “living room” and “living area”. Rules were revised to add definitions for “living room” and “living area”.

In (a), line 4, what is the difference between a “room” and an “area”? Rules were revised to add definitions for “living room” and “living area”.

In (b), line 6, how is it determined that a window is in an “area”, as opposed to a “room”? Once the “area” has been designated for that purpose, it is then determined if a window is in the designated area. Also, the rule was updated to reflect the NC Residential Code as the requirement to be met. This change is due to changes in .0302 concerning the Building Code that applies to these types of facilities.

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

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0306

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 4, please define “dining room” and “dining area”. Rules were revised to add definitions for “dining room” and “dining area”.

In (a), line 4, what is the difference between a “room” and an “area”? Rules were revised to add definitions for “dining room” and “dining area”.

In (b), line 6, does “[w]hen the dining areas is used in combination with a kitchen” refer to an eat-in kitchen? Yes Please consider revising for clarity, because the language used here is confusing and unintuitive. Revisions made for clarity.

In (b), lines 6-7, I don’t know what you’re requiring with the clause “an area five feet wide in front of the kitchen, including the sink, kitchen appliances, and any kitchen island used for food preparation”. Are you saying the five foot area shall include these things? Or that these things are part of the kitchen and are not part of the five foot area? Please revise for clarity. Yes, the later. These things are not to be included in the space designated as the dining area. Revisions made for clarity.

In (c), line 10, how is it determined that a window is in an “area”, as opposed to a “room”? Once the “area” has been designated for that purpose, it is then determined if a window is in the designated area. Also, the rule was updated to reflect the NC Residential Code as the requirement to be met. This change is due to changes in .0302 concerning the Building Code that applies to these types of facilities.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0307

DEADLINE FOR RECEIPT: Thursday, 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 (a), lines 4-5, what are you actually requiring? How is it determined that the kitchen is large enough for the preparation and preservation of food and washing dishes? Rule revised for clarity.

In (b), line 6, please revise for clarity. As written, the compound sentence requires the cooking unit to be mechanically ventilated or to actually be a recirculating fan. I think you mean that it should "have" an unvented, recirculating fan. Rule revised for clarity.

In (c), I don't have a problem with the language, but I noticed you revised identical language in .0309. Just checking that this was intentional. It was unintentional to leave this language here. We intended to have both locations read the same. We revised the language in this rule to match .0309.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0308

DEADLINE FOR RECEIPT: Thursday, 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), line 7, under what criteria will DHSR make that determination? This is determined if rooms designated as bedrooms meet these licensure requirements and the Residential Code's requirements for bedrooms.

In (c), line 8, who specifically is giving approval, and under what criteria? Reference .0308(b) for rooms authorized by the Division to be resident bedrooms. The limiting of resident bedrooms from being accessed through a bathroom, kitchen, or another bedroom is to preserve resident's privacy and modesty.

In (d) and (e), please define "private bedroom" and "semi-private bedroom" in your rule. Changes made to add a definition for "private bedroom".

In (d), lines 13-14, and (e), lines 16-17, your definition of "net floor area" is largely redundant. Consider combining the sentences as follows (using (e) as an example): "Semi-private resident bedrooms shall provide not less than 80 square feet of occupiable floor area per bed, excluding accessory areas such as vestibules, closets, wardrobes, or bathrooms." Suggested changes made for clarity.

In (f), line 18, how does DHSR determine the number of residents authorized for the bedroom? This is determined if rooms designated as bedrooms meet these licensure requirements for private or semi-private bedrooms as determined by the number of square feet of Rule .0308(d) and bedroom requirements of NC Residential Code.

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

Brian Liebman
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 Seth Ascher for the 13F 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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0309

DEADLINE FOR RECEIPT: Thursday, 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:

Please note this rule is improperly formatted as it does not have line numbers. Please correct this when submitting responses to these requests.

Also, throughout the rule you use the words “water closet” and “commode” to refer to toilets, if I understand correctly. I believe the term “water closet” has a specified meaning in the Building Code, which you have incorporated by reference, so please confirm that you are using that term correctly. Also, my understanding of the term “commode” particularly when used in contrast to “toilet” or “water closet” is that it refers to a device for eliminating human waste that does not connect to plumbing. See for example Rule .0315(a)(7)(C), referring to “bedside commodes”. Please define your terms and use them correctly. All references to “water closets” and “commodes” have been changed to “toilets”.

In (b), you say this paragraph shall apply to new and existing facilities. As a reminder, in .0301, you deleted the word “existing”. We have added back “existing” to these rules. 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”. Suggested changes made.

In (d), what is a “required” bathroom? Are there unrequired bathrooms? “required” bathroom is one that meets the requirements of this rule for bathrooms. Required bathrooms would be the minimum number of bathrooms required per .0309(a) based

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

on the number of residents and live-in staff in the facility. For clarity, we removed “required” from the rule.

In (e)(2), what does “located to assist” mean? To help them get in and out of the bathtub, shower, etc. “Assist” has been changed to “help” for clarity.

In (e)(3), what does it mean to be “in reach”? Isn’t whether something is “in reach” dependent on the individual? “In reach” has been changed to “on the wall adjacent to” for clarity.

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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0312

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 6, what does it mean to be “located and constructed to minimize the possibility” that the exist be blocked? This wording is taken directly from the NC Building Code to require exits be “remotely” located to each other to ensure that residents have ways to exit the facility without going through a possible fire or other emergency.

In (f), lines 22-25, I do not understand the definition of a “guard”. Can you be more specific? The definition was revised for clarity.

In (g), line 26, to whom should it be known that the resident is disoriented or wandering? How shall this be established to that person? “Observed by staff” was added to the rule for clarity.

In (g), line 29, what volume are you requiring? How is it determined that the alarm can be heard by staff? Changes made to provide the intent of the rule.

In (g), you say this paragraph shall apply to new and existing facilities. 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”. Changes made.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0313

DEADLINE FOR RECEIPT: Thursday, 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:

Generally to the rule, what is "laundry equipment"? Is this term defined? I know this seems like an obvious point, but it seems to me that without definition, the ordinary meaning of "laundry equipment" encompasses anything from a scrub board and a wash basin to a Speed Queen washer-dryer combo. Since you're now requiring each home to have "laundry" equipment", I think you need to state with specificity what it is you want them to have. Language added to define "laundry equipment" as at least one residential washing machine and at least one residential dryer.

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

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0315

DEADLINE FOR RECEIPT: Thursday, 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 (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.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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.](#)

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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0316

DEADLINE FOR RECEIPT: Thursday, 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 (a)(1), line 6, are there rooms without doors? What exactly are you requiring here? The rule language has been changed for clarity.

In (b), line 13, when are these applicable? Please specify. The rule language has been changed for clarity.

In (c), line 17-18, is the text "as not to create nuisance alarms" actually requiring anything? Consider deletion. Deleted text above as recommended.

In (d), who shall meet these requirements? Please revise in the active tense. Changed to "The facility shall meet"

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 (n), line 27, what is a "tabletop exercise"? A definition has been added in the rule for clarity.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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.

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

Brian Liebman
Commission Counsel
Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0317

DEADLINE FOR RECEIPT: Thursday, 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), line 7, what hazards shall be avoided? [Additional language added for clarity.](#)

In (d), line 14, please revise for grammar. With the deletions and additions, the sentence reads: "The hot water temperature shall maintain a minimum of 100 degrees F..." Consider "shall be maintained at a minimum..." [Suggested changes made.](#)

In (d), lines 16-17, you say this paragraph 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". [Changes made.](#)

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0318

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 4, please define "clean and safe". Changes made to define "clean and safe".

In (a), line 5, please define "safety protection". Changes made to define "safety protection".

In (d), you say paragraphs (a) and (b) 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". Changes made.

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0801

DEADLINE FOR RECEIPT: Thursday, 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), line 19, rule .0508 refers to the training required for those giving the assessment, and doesn't say how to complete the assessment. 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.

In (b)(5), lines 30-31, is it necessary to repeat the ADLs that you listed in the preceding paragraph? No, the language has been updated to remove the ADLs to avoid being repetitive.

In (b)(7), line 33, please define "social history". A definition has been included for clarity.

In (c), p.2, line 7, delete the second ".pdf". Done

In (c), 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), line 11, please define "major decline". The term "major decline" has been removed.

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

In (c), line 12, delete "is completed" as it is redundant. Done

In (c)(1)(A), is there a reason that all the ADLS listed in (b) are not included here? Yes, ambulation/locomotion, transferring are addressed in (c)(1)(B)

In (c)(1)(B), line 20, please rephrase "recurrent falls overall several days to weeks" as it is unclear what you're saying here. This language has been rephrased for clarity.

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

In (c)(1)(B), line 21, define “readily”. The term “readily” has been removed.

In (c)(1)(B), line 21, delete “or” between “cause” and “a fall”. 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 (c)(1)(C), line 23, please delete “and/or” and choose one or the other. Done

In (c)(1)(D), line 28, define “significant” agitation. The term significant has been removed.

In (c)(1)(I), 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.

In (c)(1)(M), line 8, what conditions indicate that there “may” be a need to use a restraint? Added a reference to rule 13G .1301 for clarity

In (c)(2)(A), line 11, define “slight” upward or downward movement. This language has been updated for clarity.

In (c)(2)(C), line 13, what are “easily” reversible causes? can we say changes that alleviates or reverse a condition?

In (c)(2)(E), line 17, instead of “predictive”, did you mean “predictable”? Changed to “predictable”

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.

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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .0802

DEADLINE FOR RECEIPT: Thursday, 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), lines 12-13, is “responsible person” defined elsewhere in these rules? I seem to remember that it was. Perhaps a cross-reference may be necessary here, if the definition isn’t in Subchapter 13G. [Added cross-reference to 13G .0102 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.](#)

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

Brian Liebman
Commission Counsel

Date submitted to agency: January 9, 2025

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

AGENCY: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .1601

DEADLINE FOR RECEIPT: Thursday, 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 (a)(5), line 22, correct "scare" to "score." Done

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: N.C. Medical Care Commission

RULE CITATION: 10A NCAC 13G .1602

DEADLINE FOR RECEIPT: Thursday, 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 (a), line 6, what is a "timely request"? G.S. 131D-2.11 does not specify a timeline. Removed "timely" for clarity.

In (c), line 13, add "star" before "rated certificate". Changed rated certificate to "rating" to match the 13F Subchapter.

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

Burgos, Alexander N

Subject: FW: RFC for Medical Care Commission 13 amG Rules

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

Sent: Thursday, January 16, 2025 11:11 AM

To: Black, Shanah <shanah.black@dhhs.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Lamphere, Megan <megan.lamphere@dhhs.nc.gov>; Sylvester, Tammy <tammy.sylvester@dhhs.nc.gov>; Harms, Jeff <jeff.harms@dhhs.nc.gov>

Subject: RE: RFC for Medical Care Commission 13 amG Rules

Good morning all,

I just wanted to memorialize a conversation I had with Ms. Sylvester earlier this morning about Rule 13G .0302.

First, with respect to your question about the “applicable” language on line 11, Ms. Sylvester explained to me that as it currently stands, the Residential Code applies to homes with 1-3 residents, and the Commercial Code, which contains the Licensed Residential Care Facilities language, applies to homes with 4-6 residents. This will change effective July 1, 2025, when the 2024 Residential Code comes into effect, which will consolidate all Family Care Home regulation under the Residential Code. The issue is that until 7/1/25, different codes apply to different homes. I explained that in my view, you have at least two options that would satisfy the APA and likely pass muster with the RRC. One would be to revise the rule to encompass the current situation, as it does not now make clear the difference in regulation between homes based on the number of residents, keep the February 1, 2025 effective date, and then begin the process of revising the rule to reflect the new realities of the 2024 Residential Code in a separate rulemaking, hopefully with a July 1, 2025 effective date. The other would be to revise the rule to reflect the 2024 Residential Code and change the effective date of this Rule to July 1, 2025.

Second, we discussed the “aged” and “disabled” language in (f)(2), line 33. As I noted in my requests for changes, these terms need definition. Ms. Sylvester and I discussed the fact that they originate from statutory language, but don’t appear to be defined in the statute. The problem here is that the legislature may be vague, but an agency may not; the APA requires rule language to be clear and unambiguous. Here, looking at this from the perspective of the regulated public attempting to comply with the rule, there is no way to tell who should be classified as “aged” and who should be classified as “disabled” and thus prohibited from living on a floor above or below grade level. In defining these terms, keep in mind G.S. 150B-21.2(g), and the substantial change doctrine.

As a caveat, my opinions here are merely my opinions. I am not MCC’s counsel, the MCC is free to do whatever it would like, and I make no guarantees as to RRC’s decision on this rule.

Please let me know if I missed any part of our conversation, or if you have any further questions or concerns.

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

From: Black, Shanah
Sent: Friday, January 10, 2025 7:32 AM
To: Liebman, Brian R; Ascher, Seth M; Jones, Shalisa R
Cc: Burgos, Alexander N; Lamphere, Megan; Sylvester, Tammy; Harms, Jeff
Subject: RE: RFC for Medical Care Commission 13 amG Rules

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

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Thursday, January 9, 2025 6:11 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Black, Shanah <shanah.black@dhhs.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: RFC for Medical Care Commission 13 G Rules

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the Board 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 closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

As Seth already said, to the extent that these rules are identical or similar to the 13F rules, please make your corrections to these rules with Seth's requests in mind.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Thursday, January 23, 2025.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

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

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

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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