Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L
Attachments: 10A NCAC 13L .0302.docx

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 3:31 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

Thank you for the recommendation. Please see rule attached. Thanks

Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L
Attachments: 10A NCAC 13L .0302.docx

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 3:31 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

Thank you for the recommendation. Please see rule attached. Thanks

10A NCAC 13L .0302 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0302 PERSONNEL RECORDS

(a) A nursing pool shall maintain a personnel record on each ~~individual.~~individual in the pool.

(b) Each individual's personnel record shall include:

(1) A legible copy of an unexpired license verification to practice nursing as a registered nurse or a licensed practical nurse or an unexpired Nurse Aide I or Nurse Aide II listing verification.

(2) A completed job application with employment history, training, education, continuing education, and identification data including name, address, and telephone number.

(3) Results of reference checks.

(4) Performance evaluations annually. The annual performance evaluation shall include feedback from the health care facility of the on-site performance of contracted nursing personnel.

(c) Personnel records shall be maintained for one year after termination from agency employment.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015;
Amended Eff. April 1, ~~2024.~~2024;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 3:28 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

We can make those changes. Will resend shortly. Thanks

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, September 28, 2026 3:27 PM
To: Black, Shanah <shanah.black@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: Re: Technical changes for 10A NCAC 13M, O, L

Shanah,

I think leaving just "individual" on line 4 is potentially unclear, which is how we got here. Given what you've got from the section chief, I think "each individual in the pool" or "each individual employed by the pool" or something similar could work.

If you make that change on line 4, I think line 5 would work as just "each individual's personnel record".

If we can make those changes today, I don't have a problem updating the rule. I would also be fine recommending an extension if you would rather have more time to work this out.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 2:56 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

Seth, we need to keep “individual” in this line and in line 4 of rule 10A NCAC 13L .0302. It would be exactly the same as it was published in the Registry.

Please advise.

Thanks

Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 2:34 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

Thank you for letting me know. Greta Hill will be available through TEAMS to answer any questions.

Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 2:33 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

I sent this to the section chief and this was her response:

I think the word “individual” was used here because Nursing Pools provide (RN’s LPN’s and Nurse Aides)

Nurse Aides are not nurses.

Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, September 28, 2026 1:58 PM
To: Black, Shanah <shanah.black@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: Technical changes for 10A NCAC 13M, O, L

Shanah,

With regards to 10A NCAC 130 .0101, line 13, one Commissioner had questions about whether this should be limited to prescription drugs, which would change the meaning of the rule. He may want to discuss this during the meeting tomorrow and we wanted to give you a heads up.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

To: Black, Shanah; Ascher, Seth M
Cc: Rules, Oah
Subject: RE: Technical changes for 10A NCAC 13M, O, L

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 11:57 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

Thanks Seth.

10A NCAC 13L .0302 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0302 PERSONNEL RECORDS

(a) A nursing pool shall maintain a personnel record on each ~~individual.~~individual nurse.

(b) Each ~~individual's~~ individual nurse's personnel record shall include:

(1) A legible copy of an unexpired license verification to practice nursing as a registered nurse or a licensed practical nurse or an unexpired Nurse Aide I or Nurse Aide II listing verification.

(2) A completed job application with employment history, training, education, continuing education, and identification data including name, address, and telephone number.

(3) Results of reference checks.

(4) Performance evaluations annually. The annual performance evaluation shall include feedback from the health care facility of the on-site performance of contracted nursing personnel.

(c) Personnel records shall be maintained for one year after termination from agency employment.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015;
Amended Eff. April 1, ~~2024.~~2024;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, September 28, 2026 11:54 AM
To: Black, Shanah <shanah.black@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: Re: Technical changes for 10A NCAC 13M, O, L

One more small change came up.

In 10A NCAC 13L .0302, a commissioner pointed out that it would be clearer on line 5 to repeat the phrase "individual nurse". I.e. "Each ~~individual's~~ individual nurse's personnel record shall include:"

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L
Attachments: 10A NCAC 13O .0101.docx

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 11:42 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

Thanks Seth.

10A NCAC 13O .0101 is readopted with changes as published in 40:23 NCR 1854-1855 as follows:

SUBCHAPTER 13O – HEALTH CARE PERSONNEL REGISTRY

SECTION .0100 – HEALTH CARE PERSONNEL REGISTRY

10A NCAC 130 .0101 DEFINITIONS

The following definitions shall apply throughout this Subchapter:

(1) "Abuse" is defined by 42 CFR Part 488 Subpart E which is incorporated by reference, including subsequent amendments. Copies of the Code of Federal Regulations may be purchased from the Superintendent of Documents, U.S. Government Printing, Washington D.C. ~~20402.~~20402 or may be accessed electronically free of charge at ~~http://www.ecfr.gov.~~ http://www.ecfr.gov/current/title-42/part-488/subpart-E.

(2) ~~"Division~~ "Diversion of drugs" means the unauthorized taking or use of any drugs.

(3) "Drug" means any chemical compound that may be used on or administered to humans or animals as an aid in the diagnosis, treatment or prevention of disease or other condition of for the relief of pain or suffering or to control or improve any physiological pathologic condition.

(4) "Finding" (when used in conjunction with the Health Care Personnel Registry) means a determination by the Department that an allegation of resident abuse or neglect, misappropriation of resident or health care facility property, diversion of drugs belonging to a resident or health care facility, and fraud against a resident or health care facility has been substantiated.

(5) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State Law.

(6) "Health Care Facility" means all the facilities and agencies as defined in G.S. 131E-256(b).

(7) "Health Care Personnel" means all the persons as defined in G.S. 131E-256(c).

(8) "Misappropriation of the resident property" is defined by 42 CFR Part 488 Subpart E.~~Subpart E which is incorporated by reference, including subsequent amendments.~~ Copies of the Code of Federal Regulations may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. ~~20402.~~ 20402 or may be accessed electronically free of charge at ~~http://www.ecfr.gov.~~http://www.ecfr.gov/current/title-42/part-422/subpart-E.

(9) "Misappropriation of the property of a health care facility" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a health care facility's property without the facility's consent.

(10) "Neglect" is defined by 42 CFR Part 488 Subpart E. ~~Subpart E which is incorporated by reference, including subsequent amendments.~~ Copies of the Code of Federal Regulations may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C.

~~20402.~~20402 or may be accessed electronically free of charge at ~~http://www.ecfr.gov.~~http://www.ecfr.gov/current/title-42/part-488/subpart-E.

(11) "Resident" means all the individuals residing in or being served by a health care facility as defined in G.S. 131E-256(b).

History Note: *Authority G.S. 131E-256; 42 U.S.C. 1395; 42 U.S.C. 1396;*
Temporary Adoption Eff. December 20, 1996;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, September 28, 2026 11:40 AM
To: Black, Shanah <shanah.black@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: Re: Technical changes for 10A NCAC 13M, O, L

Shanah,

Another commissioner question came up, and I noticed an additional typo.

In 10A NCAC 130 .0101, line 13 you define the phrase "Division of drugs" but I believe you mean "Diversion of drugs". That is the phrase that is currently in the code, but it switched to "division" in the register without being formatted as a change. Please correct it as a post-publication change.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 10:45 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

Thank you.

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, September 28, 2026 10:44 AM
To: Black, Shanah <shanah.black@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: Re: Technical changes for 10A NCAC 13M, O, L

Yes, I believe these address the question raised by the Commissioner.

I will plan to recommend approval of the final revised version of these rules, including these two updates.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L
Attachments: 10A NCAC 13L .0202.docx; 10A NCAC 13L .0203.docx

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From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Monday, September 28, 2026 7:24 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: Technical changes for 10A NCAC 13M, O, L

Good morning and thank you for your suggestions. Please see attached and let me know if this is adequate and if there are any further changes needed.

Thanks

10A NCAC 13L .0202 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0202 ISSUANCE OF LICENSE

(a) Each site shall be individually licensed when it has been determined by the Division that the site involved is substantially in compliance with the Subchapter. Business sites using the same public business name already licensed by the Division pursuant to G.S. 131E, Articles 5 or 6 shall have: ~~nursing pool"~~ "nursing pool" added to their existing license.

(b) Nursing pools administered by health care facilities as defined in G.S. 131E-154.2 of the Nursing Pool Licensure Act, and agencies licensed under Article 5 or 6 of Chapter 131E of the General Statutes are ~~and~~ not required ~~compliance~~ to comply with the provisions of this Subchapter.

(c) All licenses shall be renewed every two years.

History Note: *Authority G.S. 131E-154.3; 131E-154.4; 131E-154.5:*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;~~
Readopted Eff. October 1, 2026.

10A NCAC 13L .0203 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0203 PROGRAM COMPLIANCE

(a) The Division shall ~~employ~~ implement and maintain a regulatory oversight system for nursing pools that includes review of ~~on~~ initial and renewal applications, complaint ~~investigation~~ investigations, and on-site inspections ~~for nursing pools~~ with sites in the state as a means for monitoring and determining program compliance. This system shall be applied uniformly to all licensed and license-exempt nursing pool premises. Routine licensing renewal activities may be conducted by mail. Licensing of nursing pools with sites outside the state, but which provide personnel to health care facilities within the state, shall be conducted by mail.

(b) In the event of non-compliance with any rule or rules in this Subchapter or the Nursing Pool Licensure Act, the business shall be given no more than thirty days ~~days, the specific time period to be determined by the Division,~~ to correct the non-compliance.

(c) The Division may suspend, revoke, annul, withdraw, recall, cancel, or amend a license in accordance with G.S. 131E-154.6 for any nursing pool that substantially fails to comply with the rules contained in this Subchapter or that fails to implement an approved plan of correction for violations of rules cited by the Division. A nursing pool may appeal any adverse decision made by the Division concerning its license by making such appeal in accordance with the Administrative Procedure Act, G.S. 150B and departmental rules 10A NCAC 01 et seq. As provided for in G.S. 131E-154.7, the Division may seek injunctive relief to prevent a person from establishing or operating a nursing pool without a license.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Friday, September 25, 2026 4:36 PM
To: Black, Shanah <shanah.black@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: Technical changes for 10A NCAC 13M, O, L

Shanah,

In discussions with a Commissioner, two things came up with these rules:

In rule 10A NCAC 13L .0202, on line 9, it appears that the second and is a typo. I.e. The statute should read "General Statutes are ~~and~~ not required"

In rule 10A NCAC 13L .0203, you added language on lines 12 through 15 in response to my question. Consider instead deleting the phrase on line 11 "the specific time period to be determined by the Division" and leaving out the added language on 12 to 15. I agree that it would be sufficiently clear to just say "the business shall be given no more than thirty days to correct the non-compliance." That would also make the rule simpler.

For both of these, please send me any updates by 2 PM on Monday.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Burgos, Alexander N

Subject: FW: Technical changes for 10A NCAC 13M, O, L

From: Black, Shanah <shanah.black@dhhs.nc.gov>
Sent: Thursday, September 17, 2026 4:14 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: Re: Technical changes for 10A NCAC 13M, O, L

Thank you, have a good evening.

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, 17 September 2026 16:12:37
To: Black, Shanah <shanah.black@dhhs.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: Re: Technical changes for 10A NCAC 13M, O, L

Shanah,

Thank you for providing these in a timely manner. I have reviewed your changes and they address the concerns I raised. I anticipate recommending approval of the revised version of these rules at the upcoming RRC meeting. I will let you know if anything changes.

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.

10A NCAC 13L .0101 is readopted with changes as published in 40:18 NCR 1437 as follows:

SUBCHAPTER 13L – NURSING POOL LICENSURE

SECTION .0100 – GENERAL INFORMATION

10A NCAC 13L .0101 DEFINITIONS

The following definitions apply throughout this Subchapter:

(1) "Division" means the Division of Health Service Regulation within the Department of Health and Human Services.

(2) "Premises" means a building and the tract of land upon which it sits.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;~~
Readopted Eff. October 1, 2026.

10A NCAC 13L .0201 is readopted with changes as published in 40:18 NCR 1437 as follows:

SECTION .0200 - LICENSING

10A NCAC 13L .0201 APPLICATION FOR LICENSE

(a) Requests for a nursing pool license shall be submitted on application forms made available by the Division. Each application shall include the following information:

(1) Business identification consisting of the following:

(A) The business name or names under which the licensed services will be offered in brochures, yellow pages, and other advertisements.

(B) The full street address location of the office premises which the public will contact to obtain the offered nursing pool services.

(C) The postal address of the office for which licensing is requested.

(D) A listing or description of any state issued licenses applicable to the premises for which the application is submitted.

(2) Ownership disclosure consisting of the following:

(A) The name of the legal person, corporation, partnership, or proprietor, with ownership liability and authority applying for a license.

(B) The name, business title, address, and telephone number of the proprietor, managing partner, or chief executive officer.

(C) The name of other corporations, trusts, or holding companies involved when the applying entity is a wholly owned subsidiary corporation.

(3) Names, title and telephone number of the on-site manager for the location to be licensed.

(4) General information on all health care related services expected to be offered to the public from the premises on the effective date of licensure.

(b) Nursing pools subject to this Subchapter, but exempt from separate licensure, shall submit an application in accordance with this Rule and an addendum to their existing license shall be issued.

(c) A physical copy of this Subchapter together with the governing statutes shall be printed and maintained on the licensed premises for use by the on-site personnel.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;~~
Readopted Eff. October 1, 2026.

10A NCAC 13L .0202 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0202 ISSUANCE OF LICENSE

(a) Each site shall be individually licensed when it has been determined by the Division that the site involved is substantially in compliance with the Subchapter. Business sites using the same public business name already licensed by the Division pursuant to G.S. 131E, Articles 5 or 6 shall have: ~~nursing pool"~~ "nursing pool" added to their existing license.

(b) Nursing pools administered by health care facilities as defined in G.S. 131E-154.2 of the Nursing Pool Licensure Act, and agencies licensed under Article 5 or 6 of Chapter 131E of the General Statutes and not required ~~compliance~~ to comply with the provisions of this Subchapter.

(c) All licenses shall be renewed every two years.

History Note: *Authority G.S. 131E-154.3; 131E-154.4; 131E-154.5:*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;~~
Readopted Eff. October 1, 2026.

10A NCAC 13L .0203 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0203 PROGRAM COMPLIANCE

(a) The Division shall ~~employ~~ implement and maintain a regulatory oversight system for nursing pools that includes review of ~~on~~ initial and renewal applications, complaint ~~investigation~~ investigations, and on-site inspections ~~for nursing pools~~ with sites in the state as a means for monitoring and determining program compliance. This system shall be applied uniformly to all licensed and license-exempt nursing pool premises. Routine licensing renewal activities may be conducted by mail. Licensing of nursing pools with sites outside the state, but which provide personnel to health care facilities within the state, shall be conducted by mail.

(b) In the event of non-compliance with any rule or rules in this Subchapter or the Nursing Pool Licensure Act, the business shall be given no more than thirty days, the specific time period to be determined by the Division, to correct the non-compliance. When determining the length of time a nursing pool agency is given to correct identified non-compliance, the Division considers the timeframes established by other States. The Division reviews and compares these requirements to identify the timeframe most commonly utilized and then uses the most common timeframe as a benchmark when establishing the period allowed for correction of non-compliance.

(c) The Division may suspend, revoke, annul, withdraw, recall, cancel, or amend a license in accordance with G.S. 131E-154.6 for any nursing pool that substantially fails to comply with the rules contained in this Subchapter or that fails to implement an approved plan of correction for violations of rules cited by the Division. A nursing pool may appeal any adverse decision made by the Division concerning its license by making such appeal in accordance with the Administrative Procedure Act, G.S. 150B and departmental rules 10A NCAC 01 et seq. As provided for in G.S. 131E-154.7, the Division may seek injunctive relief to prevent a person from establishing or operating a nursing pool without a license.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13L .0204 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0204 PUBLIC DISPLAY

(a) The nursing pool's license shall be valid only for the premises on which displayed and specified on the license.

(b) The public use of the pool's license status shall not be included in any advertisement which involves any unlicensed services offered by the licensee and has the potential for misleading the public into believing that both covered and non-covered services are represented by the license.

History Note: *Authority G.S. 131E-154.3; 131E-154.4:*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 20, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13L .0301 is readopted with changes as published in 40:18 NCR 1437 as follows:

SECTION .0300 - ADMINISTRATION

10A NCAC 13L .0301 WRITTEN POLICIES AND PROCEDURES

(a) The nursing pool shall have written administrative and personnel policies to govern the services that it provides. These policies shall include those concerning patient care, personnel, training and orientation, supervision, employee evaluation, and organizational structure.

(b) At the option of the licensee, written policies and procedures may address other services not subject to the Nursing Pool Licensure Act. The Division shall not require separate policies and procedures if the premises from which nursing pool services are offered also offers additional temporary nursing services not subject to licensure.

(c) Policies shall provide that no reprisal action shall be taken against any employee who reports instances of patient rights violations or patient abuse, neglect, or exploitation to the appropriate governmental authority.

(d) The nursing pool shall retain all administrative records for five years and shall make these records available to the Division upon request. Administrative records shall include:

(1) documents evidencing control and ownerships, such as corporation or partnership papers;

(2) policies and procedures governing the operation of the agency;

(3) minutes of the agency's professional and administrative staff meetings;

(4) reports of complaints, inspections, reviews, and corrective actions taken related to licensure; and

(5) contracts and agreements to which the agency is a party.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015;
Amended Eff. April 1, ~~2024.~~2024;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13L .0302 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0302 PERSONNEL RECORDS

(a) A nursing pool shall maintain a personnel record on each ~~individual.~~individual nurse.

(b) Each individual's personnel record shall include:

(1) A legible copy of an unexpired license verification to practice nursing as a registered nurse or a licensed practical nurse or an unexpired Nurse Aide I or Nurse Aide II listing verification.

(2) A completed job application with employment history, training, education, continuing education, and identification data including name, address, and telephone number.

(3) Results of reference checks.

(4) Performance evaluations annually. The annual performance evaluation shall include feedback from the health care facility of the on-site performance of contracted nursing personnel.

(c) Personnel records shall be maintained for one year after termination from agency employment.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, 2015;
Amended Eff. April 1, ~~2024.~~2024;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13L .0303 is readopted with changes as published in 40:18 NCR 1437 as follows:

10A NCAC 13L .0303 INSURANCE REQUIRED

The nursing pool shall carry general and professional liability insurance written by an insurer approved by the North Carolina Department of Insurance. The terms of such insurance shall be disclosed to clients receiving services from the license.

History Note: *Authority G.S. 131E-154.4;*
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13M .0101 is readopted with changes as published in 40:18 NCR 1438 as follows:

SUBCHAPTER 13M – MAMMOGRAM AND PAP SMEAR CERTIFICATION

SECTION .0100 – PAP SMEAR CERTIFICATION

10A NCAC 13M .0101 STATE CERTIFICATION FOR LABORATORIES CONDUCTING PAP SMEARS

(a) All laboratories evaluating Pap smears shall be state certified by the Division of Health Service Regulation, Department of Health and Human Services, in accordance with this Rule.

(b) To be state certified, all laboratories shall be licensed under the federal Clinical Laboratory Improvement ~~Act~~ Amendments, 42 USC 263a, as amended or certified by the Centers for Medicare and Medicaid Services for the specialty of cytology.

(c) To be state certified, laboratories shall perform Pap smear examinations only on specimens submitted by a health care provider whose scope of practice includes the function of Pap smears.

(d) An application for state certification shall be submitted to the Division of Health Service Regulation listing the name and location of the laboratory requesting certification, the name of the laboratory director and evidence that the laboratory meets the requirements listed in Paragraphs (b) and (c) of this Rule. Laboratories will be notified in writing within 45 days of the receipt of the application that they have been certified, or if certification has been denied, of the reasons for denial.

(e) State certification must be renewed by a facility when licensing or certification renewal is required by the program that established state certification eligibility pursuant to Paragraph (b) of this Rule.

(f) If a laboratory's license or certification for one of these programs is suspended or revoked, the laboratory director shall immediately notify the Division of Health Service Regulation and the laboratory's state certification under this Rule shall be revoked. The laboratory may apply for recertification when it can provide evidence that it meets the requirements listed in Paragraphs (a) – (e) of this Rule.

(g) Appeals of the Division's decisions regarding state certification shall be in accordance with Article 3 of the Administrative Procedures Act, G.S. 150B.

History Note: *Authority G.S. 143B-165;*
Temporary Adoption Eff. October 11, 1991 For a Period of 141 Days to Expire on February 29, 1992;
Eff. March 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. Jule 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13M .0201 is readopted with changes as published in 40:18 NCR 1438 as follows:

SECTION .0200 – MAMMOGRAPHY CERTIFICATION

10A NCAC 13M .0201 STATE CERTIFICATION FOR SCREENING OF MAMMOGRAPHY SERVICES

(a) All facilities performing screening mammograms shall be certified by the Division of Health Service Regulation, Department of Health and Human Services in accordance with the Rule.

(b) To be state certified, all equipment used in the performance of screening mammography shall be dedicated to such use by manufacturer's design. Each piece of mammography X-ray equipment, whether located in a fixed or mobile facility, shall be maintained in a safe operating condition and shall be registered and used in accordance with the Rules in 15A NCAC 11.

(c) To be state certified, all facilities shall be certified by the Centers for Medicare and Medicaid Services or shall be accredited by the American College of Radiology for the performance of mammography screening.

(d) An application for state certification shall be submitted to the Division of Health Service Regulation listing the name and location of the facility requesting certification, the name of the owner, and evidence that the facility meets the requirements listed in Paragraphs (b) and (c) of this Rule. Facilities shall be notified in writing within 45 days of the receipt of the application that they have been certified or, if certification has been denied, of the reasons for denial.

(e) State certification must be renewed by a facility certification or accreditation renewal is required by the program that established state certification eligibility pursuant to Paragraph (c) of this Rule.

(f) If a facility's certification or accreditation for one of these programs is suspended or revoked, the facility operator shall immediately notify the Division of Health Service Regulation and the facility's state certification under this Rule shall be revoked. The facility may apply for recertification when it can provide evidence that it meets the requirements listed in Paragraphs (a) – (e) of this Rule.

(g) The North Carolina Medical Care Commission delegates the authority to grant waivers of this Rule to the Division of Health Service Regulation. The Commission, however, shall review all waivers granted at its next regularly scheduled meeting and shall make any revisions to waivers deemed necessary at that time.

(h) In order to be granted a waiver of this Rule, a facility shall make a request for a waiver in writing to the Division of Health Service Regulation providing the following:

(1) justification that the rule should not be applied as written, because strict application would cause undue hardship;

(2) justification that adequate standards assuring early detection of breast cancer and affording protection of health and safety exist and will be met in lieu of the exact requirements;

(3) justification that the purpose of this Rule is met through equivalent standards affording equivalent protection of health and safety;

(4) information on the number of screening mammograms performed monthly for the previous six months;

(5) information proving that there is no state certified facility nearby by identifying the nearest state certified facility and providing information regarding the accessibility of mobile units in the area; and

(6) a plan for meeting standards necessary for certification, including the time required to meet standards.

(i) The Division of Health Service Regulation may grant a waiver to the extent that the factors listed in Paragraph (h) of this Rule are satisfied.

(j) Appeals of the Division's decisions regarding state certification shall be in accordance with Article 3 of the Administrative Procedures Act, G.S. 150B.

History Note: *Authority G.S. 143B-165;*
Temporary Adoption Eff. October 11, 1991 For a Period of 141 Days to Expire on February 29, 1992;
Eff. March 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. Jule 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13O .0101 is readopted with changes as published in 40:23 NCR 1854-1855 as follows:

SUBCHAPTER 13O – HEALTH CARE PERSONNEL REGISTRY

SECTION .0100 – HEALTH CARE PERSONNEL REGISTRY

10A NCAC 130 .0101 DEFINITIONS

The following definitions shall apply throughout this Subchapter:

(1) "Abuse" is defined by 42 CFR Part 488 Subpart E which is incorporated by reference, including subsequent amendments. Copies of the Code of Federal Regulations may be purchased from the Superintendent of Documents, U.S. Government Printing, Washington D.C. ~~20402.~~20402 or may be accessed electronically free of charge at ~~http://www.ecfr.gov.~~ http://www.ecfr.gov/current/title-42/part-488/subpart-E.

(2) "Division of drugs" means the unauthorized taking or use of any drugs.

(3) "Drug" means any chemical compound that may be used on or administered to humans or animals as an aid in the diagnosis, treatment or prevention of disease or other condition of for the relief of pain or suffering or to control or improve any physiological pathologic condition.

(4) "Finding" (when used in conjunction with the Health Care Personnel Registry) means a determination by the Department that an allegation of resident abuse or neglect, misappropriation of resident or health care facility property, diversion of drugs belonging to a resident or health care facility, and fraud against a resident or health care facility has been substantiated.

(5) "Fraud" means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State Law.

(6) "Health Care Facility" means all the facilities and agencies as defined in G.S. 131E-256(b).

(7) "Health Care Personnel" means all the persons as defined in G.S. 131E-256(c).

(8) "Misappropriation of the resident property" is defined by 42 CFR Part 488 Subpart E.~~Subpart E which is incorporated by reference, including subsequent amendments.~~ Copies of the Code of Federal Regulations may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. ~~20402.~~ 20402 or may be accessed electronically free of charge at ~~http://www.ecfr.gov.~~http://www.ecfr.gov/current/title-42/part-422/subpart-E.

(9) "Misappropriation of the property of a health care facility" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a health care facility's property without the facility's consent.

(10) "Neglect" is defined by 42 CFR Part 488 Subpart E. ~~Subpart E which is incorporated by reference, including subsequent amendments.~~ Copies of the Code of Federal Regulations may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington D.C.

~~20402.~~20402 or may be accessed electronically free of charge at ~~http://www.ecfr.gov.~~http://www.ecfr.gov/current/title-42/part-488/subpart-E.

(11) "Resident" means all the individuals residing in or being served by a health care facility as defined in G.S. 131E-256(b).

History Note: *Authority G.S. 131E-256; 42 U.S.C. 1395; 42 U.S.C. 1396;*
Temporary Adoption Eff. December 20, 1996;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13O .0102 is readopted with changes as published in 40:23 NCR 1854-1855 as follows:

10A NCAC 130 .0102 INVESTIGATING AND REPORTING HEALTH CARE PERSONNEL

~~The reporting by health care facilities~~ Health Care facilities shall report to the Department ~~of~~ all allegations against health care personnel as defined in G.S. 131E-256 (a)(1), including injuries of unknown source, ~~shall be done~~ within 24 hours of the health care facility becoming aware of the allegation. The results of the health care facility's investigation shall be submitted to the Department in accordance with G.S. 131E-256(g).

History Note: *Authority G.S. 131E-256;*
Temporary Adoption Eff. December 20, 1996;
Eff. August 1, 1998;
Amended Eff. April 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;~~
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10A NCAC 13O .0201 is readopted with changes as published in 40:23 NCR 1854-1855 as follows:

SECTION .0200 – MEDICATION AIDE REGISTRY

10A NCAC 130 .0201 MEDICATION AIDE COMPETENCY EVALUATION

(a) A competency evaluation candidate shall be advised by the Department after successful completion of a North Carolina Board of Nursing approved medication aide training program and prior to the competency exam that upon successful completion of the competency exam the individual will be listed on the State's medication aide registry.

(b) The competency exam shall include each course requirement specified in the North Carolina Board of Nursing's approved training program as provided for in 21 NCAC 36 .0403 and 21 NCAC 36 .0406.

(c) The competency examination shall be administered and evaluated only by the Department or its agents.

(d) A record of successful completion of the competency exam shall be included in the medication aide registry within 30 business days of successful completion of the evaluation.

(e) If the competency exam candidate does not satisfactorily complete the exam, the candidate shall be advised by the Department of the areas which the individual did not pass.

(f) Every competency exam candidate shall have the opportunity to take the exam three times before being required to retake and successfully complete the Medication Aide training program.

History Note: *Authority G.S. 131E-114.2(b); 131E-270;*
Eff. October 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1, 2026.

10A NCAC 13O .0202 is readopted with changes as published in 40:23 NCR 1854-1855 as follows:

10A NCAC 130 .0202 REGISTRY OF MEDICATION AIDES

(a) Prior to assigning medication aide duties to a Medication Aide, pursuant to G.S. 131E-114.2, the facility shall conduct a clinical skills validation for those medication administration tasks to be performed in the facility. This validation shall be conducted by a registered nurse consistent with his/her occupational licensing law and who has a current unencumbered license to practice in North Carolina. A record of this validation shall be retained in the Medication Aide's file.

(b) The Department shall provide information on the registry within one business day of the request for information.

(c) The medication aide listing on the Medication Aide Registry shall be renewed every two years provided the individual has worked for a minimum of eight hours as a Medication Aide in each consecutive 24 month period following their initial listing.

(d) The registry shall contain the following information for each individual who is listed on the Medication Aide Registry:

(1) the individual's full name;

(2) the date the individual became eligible for placement on the registry;

(3) the training program and competency exam completed; and

(4) the date of listing renewal and expiration.

(e) The Medication Aide Registry shall remove entries for individuals who have not been employed as a medication aide for a minimum of eight hours in each consecutive 24 month period following initial listing.

(f) An individual who gains or attempts to gain registry listing by providing false or misleading information on listing or re-listing applications shall not be listed on the registry.

History Note: *Authority G.S. 131E-114.2(b); 131E-270;*
Eff. October 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 20, ~~2015.~~2015;
~~*Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;*~~
Readopted Eff. October 1. 2026.

10A NCAC 13O .0301 is readopted with changes as published in 40:23 NCR 1854-1855 as follows:

SECTION .0300 – NURSE AIDE I REGISTRY

10A NCAC 13O .0301 NURSE AIDE I TRAINING AND COMPETENCY EVALUATION

(a) To be eligible to be listed on the NC Nurse Aide I Registry by the Health Care Personnel Education and Credentialing Section, a person shall:

(1) pass a Nurse Aide I training program approved by the Department in accordance with 42 CFR 483.151 through 42 CFR 483.152 and the State of North Carolina's Nurse Aide I competency exam; or

(2) apply to the Department for approval to be listed on the NC Nurse Aide I Registry by reciprocity of a nurse aide certification or registration from another State to North Carolina.

(b) In applying for reciprocity of a nurse aide certification or registration to be listed on the NC Nurse Aide I Registry pursuant to Subparagraph (a)(2) of this Rule, the applicant shall:

(1) submit a completed application to the Department that includes the following:

(A) first, middle, and last name;

(B) the applicant's prior name(s), if any;

(C) mother's maiden name;

(D) gender;

(E) social security number;

(F) date of birth;

(G) mailing address;

(H) email address;

(I) home telephone number;

(J) any other State registries of nurse aides upon which the applicant is listed;

(K) certification or registration numbers for any State nurse aide registries identified in Part (b)(1)(J) of this Rule;

(L) original issue dates for any certifications or registrations identified in Part (b)(1)(K) of this Rule;

(M) expiration dates for any certifications or registrations identified in Part (b)(1)(K) of this rule; and

(N) employment history;

(2) provide documentation verifying that his or her registry listing is active and in good standing in the State(s) of reciprocity., dated no older than 30 calendar days prior to the date the application is received by the Department; and

(3) provide a copy of his or her Social Security card and an unexpired government-issued identification containing a photograph and signature.

(c) For the applicant to be approved for reciprocity of a nurse aide certification or registration and be listed on the NC Nurse Aide I Registry, the Department shall verify the following:

(1) the applicant has completed an application in accordance with Subparagraph (b)(1) of this Rule;

(2) the applicant is listed on another State's registry of nurse aides as active and in good standing;

(3) the applicant has no pending or substantiated findings of abuse, neglect, exploitation, or misappropriation of resident or patient property recorded on other State registries of nurse aides;

(4) if the applicant has been employed as a nurse aide for monetary compensation consisting of at least a total of eight hours of time worked performing nursing or nursing-related tasks delegated and supervised by a Registered Nurse, then the applicant shall provide the employer name, employer address, and dates of employment for the previous 24 consecutive months;

(5) the name listed on the Social Security card and government-issued identification containing a photograph and signature submitted with the application matches the name listed on another State's registry of nurse aides or that the applicant has submitted additional documentation verifying any name changes; and

(6) the applicant completed a State-approved nurse aide training and competency evaluation program that meets the requirements of 42 CFR 483.152 or a State-approved competency evaluation program that meets the requirements of 42 CFR 483.154.

(d) The Department shall within 10 business days of receipt of an application for reciprocity of a nurse aide certification or registration or receipt of additional information from applicant:

(1) inform the applicant by letter whether he or she has been approved;

(2) request additional information from the applicant.

The applicant shall be added to the NC Nurse Aide I Registry within three business days of the Department approval.

(e) This Rule incorporates 42 CFR Part 483 Subpart D by reference, including all subsequent amendments and editions. Copies of the Code of Federal Regulations may be accessed electronically free of charge from ~~www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR~~.http://www.ecfr.gov/current/title-42/subpart-D.

(f) The State of North Carolina's Nurse Aide I competency exam shall include each course requirement specified in the Department-approved Nurse Aide I training program as provided for in 42 CFR 483.152.

(g) The State of North Carolina's Nurse Aide I competency exam shall be administered and evaluated only by the Department or its contracted testing agent as provided for in 42 CFR 483.154.

(h) The Department shall include a record of completion of the State of North Carolina's Nurse Aide I competency exam in the NC Nurse Aide I Registry within 30 days of passing the written or oral exam and the skills demonstration as provided in 42 CFR 483.154.

(i) If the State of North Carolina's Nurse Aide I competency exam candidate does not pass the written or oral exam and the skills demonstration as provided for in 42 CFR 483.154, the candidate shall be advised by the Department of the areas that the individual did not pass.

(j) Every North Carolina's Nurse Aide I competency exam candidate shall have the opportunity to take the exam at the maximum three times before being required to retake and pass a Nurse Aide I training program.

(k) U.S. military personnel who have completed medical corpsman training and retired or non-practicing nurses shall not be required to take the Department-approved Nurse Aide I training program to be listed or relisted on the Nurse Aide I registry, unless the person fails to pass the State of North Carolina's Nurse Aide I competency exam after three attempts.

History Note: *Authority G.S. 131E-255; 42 CFR 483.150; 42 CFR 483.151; 42 CFR 483.152; 42 CFR 483.154; 42 CFR 483.156; 42 CFR 483.158;*
Eff. January 1, 2016;
Emergency Amendment Eff. April 20, 2020;
Temporary Amendment Eff. June 26, 2020;
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~~Pursuant to G.S. 150B-21.3A, rule is necessary Eff. June 25, 2025;~~
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