

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0206

DEADLINE FOR RECEIPT: January 23, 2025

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

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

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

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

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

Seth Ascher
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13F .0206 is amended as published in 39:06 NCR 282-316 as follows:

2

3 **10A NCAC 13F .0206 CAPACITY**

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

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

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

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

11

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

13 *Eff. January 1, 1977;*

14 *Readopted Eff. October 31, 1977;*

15 *Amended Eff. April 1, 1984;*

16 *Temporary Amendment Eff. July 1, 2003;*

17 *Amended Eff. June 1, 2004;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
19 *~~2018.~~ 2018.*

20 *Amended Eff. February 1, 2025.*

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0301

DEADLINE FOR RECEIPT: January 23, 2025

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

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

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

In (3), line 18, why is “for” left out of the title of “Minimum and Desired Standards and Regulations” for “Family Care Homes”? Was that intentional?

Also, in (3), are you incorporating “Minimum and Desired Standards” by reference? If so, you haven’t said that. See 150B-21.6 for the requirements of incorporating something by reference.

In (7)(a)(ii), p2 line 4, please define “extraordinary circumstances” in your rule.

In (7)(a)(iv), p2 line 6, please define “unusual conditions” in your rule, and pay particular attention to how an “unusual condition” is different from an “extraordinary circumstance”, as it seems to me they would encompass similar if not identical events.

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

Seth Ascher
Commission Counsel

Date submitted to agency: January 9, 2025

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

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

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

- 6 (1) New construction shall comply with the requirements of this Section.
- 7 (2) Except where otherwise specified, ~~existing~~ licensed facilities or portions of ~~existing~~ licensed
8 facilities shall meet the licensure and code requirements in effect at the time of licensure,
9 construction, change in service or bed count, addition, modification, renovation, or ~~alteration~~;
10 alteration, ~~however, in no case shall the requirements for any licensed facility facility, where no~~
11 ~~addition or renovation has been made, be less than those requirements found in the 1971 "Minimum~~
12 ~~and Desired Standards and Regulations" for "Homes for the Aged and Infirm", copies of which are~~
13 ~~available at the Division of Health Service Regulation, 701 Barbour Drive, Raleigh, North Carolina,~~
14 ~~27603 at no cost;~~
- 15 ~~(3)~~ In no case shall the requirements for a licensed facility, where no addition or renovation has been
16 made, be less than those requirements found in the 1971 "Minimum and Desired Standards and
17 Regulations" for "Homes for the Aged and Infirm", copies of which are available at the Division of
18 Health Service Regulation, 1800 Umstead Drive, Raleigh, North Carolina, 27603 at no cost.
- 19 ~~(3)(4)~~ (4) New additions, alterations, ~~modifications~~ modifications, and repairs shall meet the ~~technical~~
20 requirements of this ~~Section~~; Section.
- 21 ~~(4)(5)~~ (5) Effective July 1, 1987, resident bedrooms and resident services shall not be permitted on the second
22 floor of ~~any~~ a facility licensed for seven or more beds prior to April 1, 1984 and classified as two-
23 story wood frame construction by the North Carolina State Building ~~Code~~; Code.
- 24 ~~(5)(6)~~ (6) Rules contained in this Section are minimum requirements and are not intended to prohibit
25 buildings, ~~systems~~ systems, or operational conditions that exceed minimum ~~requirements~~;
26 requirements.
- 27 ~~(6)~~ ~~The bed capacity and services provided in a facility shall be in compliance with G.S. 131E, Article~~
28 ~~9 regarding Certificate of Need. A facility shall be licensed for no more beds than the number for~~
29 ~~which required physical space and other required facilities are available;~~
- 30 (7) ~~Equivalency: Alternate methods, procedures, design criteria and functional variations from the~~
31 ~~physical plant requirements shall be approved by the Division when the facility can effectively~~
32 ~~demonstrate that the intent of the physical plant requirements are met and that the variation does not~~
33 ~~reduce the safety or operational effectiveness of the facility; and~~ The Division may grant an
34 equivalency to allow alternate methods, procedures, design criteria, or functional variation from the
35 requirements of this Rule and the rules contained in this Section. The equivalency may be granted
36 by the Division when a facility submits a written equivalency request to the Division that states the
37 following:

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

3 (i) impractical;

4 (ii) unable to be met due to extraordinary circumstances;

5 (iii) unable to be met due to new programs; or

6 (iv) unable to be met due to unusual conditions;

7 (b) the justification for the equivalency; and

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

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

12 ~~(8)~~(9) Where rules, ~~codes~~ codes, or standards have ~~any~~ a conflict, the ~~most~~ more stringent requirement
13 shall ~~apply and any conflicting requirement shall not~~ apply.

14
15 *History Note: Authority G.S. 131D-2.16; 143B-165;*
16 *Temporary Adoption Eff. July 1, 2004;*
17 *Eff. July 1, ~~2005~~, 2005;*
18 *Readopted Eff. February 1, 2025.*

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0302

DEADLINE FOR RECEIPT: January 23, 2025

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

*On line 4, would a closed facility still be licensed? If not, consider "**formerly** licensed adult care home".*

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

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

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

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

4 (a) ~~Any~~ A building licensed for the first time as an adult care home ~~or a licensed adult care home that is closed or~~
5 ~~vacant and not serving residents for more than one year for reasons other than approved construction or remodeling~~
6 shall meet the requirements of the North Carolina State Building ~~Code~~ Codes for new construction. All new
7 construction, ~~additions~~ additions, alterations, repairs, modifications, and renovations to ~~existing~~ buildings shall meet
8 the requirements of the North Carolina State Building ~~Code~~ Codes for I-2 Institutional Occupancy if the facility houses
9 13 or more residents or the North Carolina State Building ~~Code~~ Codes requirements for Large Residential Care
10 Facilities if the facility houses seven to twelve residents. The North Carolina State Building ~~Code,~~ all applicable
11 ~~volumes,~~ Codes, which ~~is~~ are incorporated by reference, including ~~all~~ subsequent amendments and editions, may be
12 purchased from the ~~Department of Insurance Engineering Division located at 322 Chapanoke Road, Suite 200,~~
13 ~~Raleigh, North Carolina 27603 at a cost of three hundred eighty dollars (\$380.00).~~ International Code Council online
14 at <https://shop.iccsafe.org/> at a cost of eight hundred fifty-eight dollars (\$858.00) or accessed electronically free of
15 charge at <https://codes.iccsafe.org/codes/north-carolina>. Licensed facilities shall meet the North Carolina State
16 Building Codes in effect at the time of licensure, construction, or remodeling. The facility shall also meet all of the
17 rules of this Section.

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

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

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

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

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

3

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

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0304

DEADLINE FOR RECEIPT: January 23, 2025

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

Are "construction documents" defined somewhere? How will the licensee know which documents to include?

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

1 10A NCAC 13F .0304 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13F .0304 PLANS AND SPECIFICATIONS**

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

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

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

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

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

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

29
30 *History Note: Authority G.S. 131D-2.16; 143B-165;*
31 *Temporary Adoption Eff. July 1, 2004;*
32 *Eff. July 1, 2005; 2005;*
33 *Readopted Eff. February 1, 2025.*

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0305

DEADLINE FOR RECEIPT: January 23, 2025

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

Item (d)(2), lines 27 and 28, what is this item doing? Are there different requirements for facilities with different capacities? Are the .600 requirements in addition to the other requirements in (d)?

On p. 3, line 11, are there definitions for "water closets" and "commodes" that you are using somewhere? Do you just mean toilet?

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

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

Seth Ascher
Commission Counsel

Date submitted to agency: January 9, 2025

1 10A NCAC 13F .0305 is readopted as published in 39:06 NCR 282-316 as follows:

2
3 **10A NCAC 13F .0305 PHYSICAL ENVIRONMENT**

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

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

7 (1) ~~Each~~ a living room and recreational area shall be located off a lobby or ~~corridor~~. ~~At least 50 percent~~
8 ~~of required living and recreational areas shall be enclosed with walls and doors;~~ corridor;

9 (2) ~~In~~ in buildings with a licensed capacity of 15 or less, there shall be a minimum area of 250 square
10 feet;

11 (3) ~~In~~ in buildings with a licensed capacity of 16 or more, there shall be a minimum of 16 square feet
12 per resident; and

13 (4) ~~Each~~ a required living room and recreational area shall have ~~windows~~. windows with views to the
14 outside. The total gross window area shall not be less than eight percent of the gross floor area of
15 the room. The window shall be openable from the inside and shall have insect-proof screens.

16 (c) The requirements for the dining room are:

17 (1) ~~The~~ the dining room shall be located off a lobby or ~~corridor and enclosed with walls and doors;~~
18 corridor;

19 (2) ~~In~~ in buildings with a licensed capacity of 15 or less, there shall be a minimum of 200 square feet;

20 (3) ~~In~~ in building with a licensed capacity of 16 or more, there shall be a minimum of 14 square feet per
21 resident; and

22 (4) ~~The~~ the required dining room shall have ~~windows~~. windows with views to the outside. The total
23 gross window area shall not be less than eight percent of the gross floor area of the room. The
24 window shall be openable from the inside and shall have insect-proof screens.

25 (d) The requirements for the bedroom are:

26 (1) ~~The~~ the number of resident beds set up shall not exceed the licensed capacity of the facility;

27 (2) ~~live-in staff shall be permitted in facilities with a capacity of 7 to 12 residents provided all of the~~
28 ~~requirements of Section .0600 of these Rules are met;~~

29 (2) ~~There shall be bedrooms sufficient in number and size to meet the individual needs according to age~~
30 ~~and sex of the residents, any live in staff and other persons living in the home. Residents shall not~~
31 ~~share bedrooms with staff or other live in non residents;~~

32 (3) ~~there shall be separate bedrooms for any live-in staff and other persons living in the facility.~~
33 Residents shall not share bedrooms with live-in staff and other live-in non-residents;

34 (4) ~~live-in staff shall not occupy a licensed bed or live in a licensed bed;~~

35 (5) ~~residents shall reside in bedrooms with residents of the same sex unless other arrangements are made~~
36 with each resident's consent;

1 ~~(3)~~(6) ~~Only~~ only rooms authorized by the Division of Health Service Regulation as bedrooms shall be used
2 for ~~residents'~~ bedrooms;

3 (4)(7) ~~Bedrooms~~ bedrooms shall be located on an outside wall and off a corridor. A room where access is
4 through a bathroom, kitchen, or another bedroom shall not be approved ~~for~~ as a resident's bedroom;

5 (5)(8) ~~There shall be a minimum area of 100 square feet excluding vestibule, closet or wardrobe space in~~
6 ~~rooms occupied by one person and a minimum area of 80 square feet per bed, excluding vestibule,~~
7 ~~closet or wardrobe space, in rooms occupied by two people;~~ private residents' bedrooms shall have
8 not less than 100 square feet of floor area excluding vestibules, closets, or wardrobes;

9 (9) semi-private residents' bedrooms shall have not less than 80 square feet of floor area per bed
10 excluding vestibules, closets, or wardrobes;

11 (6)(10) ~~The~~ the total number of residents assigned to a bedroom shall not exceed the number authorized by
12 the Division of Health Service Regulation for that particular bedroom;

13 (7)(11) ~~A~~ a bedroom may not be occupied by more than two ~~residents.~~ residents;

14 (8)(12) ~~Resident~~ residents' bedrooms shall be designed to accommodate all required furnishings;

15 (9)(13) ~~Each resident bedroom~~ residents' bedrooms shall be ventilated with one or more windows which
16 are maintained ~~operable and well lighted.~~ operable. The window area shall ~~be equivalent to at least~~
17 not be less than eight percent of the floor space and be ~~provided~~ equipped with ~~insect~~ insect-proof
18 screens. The window opening may be restricted to a six-inch opening to inhibit resident elopement
19 or suicide. The windows shall be low enough to see outdoors from the bed and chair, with a
20 maximum 36 inch sill height; and

21 (10)(14) ~~Bedroom closets or wardrobes shall be large enough to provide each resident with a minimum of 48~~
22 ~~cubic feet of clothing storage space (approximately two feet deep by three feet wide by eight feet~~
23 ~~high) of which at least one half shall be for hanging clothes with an adjustable height hanging bar.~~
24 Residents' bedrooms shall have one closet or wardrobe per resident. A closet or wardrobe shall have
25 clothing storage space of not less than 48 cubic feet per bed, approximately two feet deep by three
26 feet wide by eight feet high, of which one-half of this space shall be for hanging with an adjustable
27 height hanging bar;

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

30 (1) ~~Minimum~~ minimum bathroom and toilet ~~facilities~~ rooms shall include a toilet and a hand lavatory
31 for each ~~5 residents~~ residents, and a ~~tub or shower~~ bathtub, shower, a manufactured walk-in tub, or
32 a similar manufactured bathtub for each 10 residents or portion ~~thereof;~~ thereof. The hand lavatory
33 shall be trimmed with valves that can be operated without hands. If the hand lavatory is equipped
34 with blade handles, the blade handles shall not be less than four and one half inches in length. If the
35 hand lavatory faucet depends on the building electrical service for operation, the faucet must have
36 an emergency power source or battery backup capability. If the faucet has battery operated sensors,

1 the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries
 2 on premises for the faucets;

3 (2) Entrance entrance to the bathroom-bathrooms and toilet rooms shall not be through a kitchen,
 4 another person's bedroom, or another bathroom;

5 (3) Toilets toilet rooms and baths bathrooms for staff and visitors shall be in accordance with the North
 6 Carolina State Building Code, Plumbing Code;

7 (4) Bathrooms bathrooms and toilets toilet rooms accessible to the physically handicapped shall be
 8 provided as required by ~~Volume I-C,~~ the North Carolina State Building Code, Accessibility Code;
 9 Codes;

10 (5) ~~The~~ bathrooms and toilet rooms shall be designed to provide privacy. Bathrooms and toilet rooms
 11 with two or more water closets (commodes) shall have privacy partitions or curtains for each water
 12 closet. ~~Each tub or shower-bathtub, shower, a manufactured walk-in tub, or a similar manufactured~~
 13 bathtub shall have privacy partitions or curtains; curtains. The requirements of this Paragraph shall
 14 apply to new and existing facilities.

15 (6) ~~Hand hand~~ grips shall be installed at all commodes, tubs and showers used by or accessible to
 16 residents; bathtubs, showers, a manufactured walk-in tub, and similar manufactured bathtubs;

17 (7) ~~Each home shall have at least one bathroom opening off the corridor with:~~

18 (A) ~~— a door of three feet minimum width;~~

19 (B) ~~— a three feet by three feet roll-in shower designed to allow the staff to assist a resident in~~
 20 ~~taking a shower without the staff getting wet;~~

21 (C) ~~— a bathtub accessible on at least two sides;~~

22 (D) ~~— a lavatory; and~~

23 (E) ~~— a toilet.~~

24 (7) there shall be one central bathing room opening off the corridor in a facility. In multi-level facilities,
 25 each resident floor shall contain a minimum of one central bathing room opening off the corridor.
 26 Central bathing room(s) shall have the following:

27 (A) a door of three feet minimum width;

28 (B) a roll-in shower designed to allow the staff to assist a resident in taking a shower without
 29 the staff getting wet. The roll-in shower shall be designed and equipped for unobstructed
 30 ease of shower chair entry and use. If a bathroom with a roll-in shower designed and
 31 equipped for unobstructed ease of shower chair entry adjoins each resident bedroom in the
 32 facility, the central bathing area is not required to have a roll-in shower;

33 (C) a bathtub, a manufactured walk-in tub, or a similar manufactured bathtub designed for easy
 34 transfer of residents into the tub. Bathtubs shall be accessible on three sides. Manufactured
 35 walk-in tubs or a similar manufactured bathtub shall be accessible on at least two sides.
 36 Staff shall not be required to reach over or through the tub faucets and other fixture fittings
 37 to assist the resident in the tub;

- 1 (D) a toilet and a lavatory trimmed with valves that can be operated without hands. If the
 2 lavatory is equipped with blade handles, the blade handles shall not be less than four and
 3 one half inches in length. If the lavatory faucet depends on the building electrical service
 4 for operation, the faucet shall have an emergency power source or battery backup
 5 capability. If the faucet has battery operated sensors, the facility shall have a maintenance
 6 policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
 7 and
- 8 (E) individual cubicle curtain enclosing each toilet, bathtub, shower, manufactured walk-in
 9 tub, or a similar manufactured bathtub and shower. A closed cubicle curtain at one of these
 10 plumbing fixtures shall not restrict access to the other plumbing fixtures.
- 11 (8) ~~If where~~ the tub and shower are in separate rooms, each room shall have a lavatory and a ~~toilet;~~
 12 toilet. The lavatory shall be trimmed with valves that can be operated without hands. If the lavatory
 13 is equipped with blade handles, the blade handles shall not be less than four and one half inches in
 14 length. If the lavatory faucet depends on the building electrical service for operation, the faucet must
 15 have an emergency power source or battery backup capability. If the faucet has battery operated
 16 sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable
 17 batteries on premises for the faucets;
- 18 (9) ~~Bathrooms and toilet rooms shall be located as conveniently as possible to the residents' bedrooms;~~
 19 ~~in facilities where resident bedrooms do not have direct access to a bathroom or toilet room,~~
 20 bathrooms and toilet rooms shall be evenly distributed throughout the facility for residents' use;
- 21 (10) ~~Resident~~ resident toilet rooms and bathrooms shall not be ~~utilized~~ used for storage or ~~purposes~~ other
 22 ~~than those indicated in Item (4) of this Rule;~~ purposes;
- 23 (11) ~~Toilets~~ toilet rooms and ~~baths~~ bathrooms shall be well ~~lighted and mechanically ventilated at two~~
 24 cubic feet per minute. The mechanical ventilation requirement does not apply to facilities licensed
 25 ~~before April 1, 1984, with natural ventilation;~~ lighted;
- 26 (12) toilet rooms and bathrooms shall have an exhaust system per the North Carolina State Building
 27 Code. Exhaust vents shall be vented directly to the outdoors;
- 28 ~~(12)(13) Nonskid nonskid~~ surfacing or strips shall be installed in ~~showers~~ showers, and bath areas; areas, and
 29 bathbubs; and
- 30 ~~(13)(14) The~~ the floors of the bathrooms and toilet rooms shall ~~have be~~ be water-resistant ~~covering, and slip-~~
 31 resistant.
- 32 (f) The requirements for storage rooms and closets are:
- 33 (1) ~~General Storage for the Home. A~~ a facility shall have a minimum area of five square feet (40 cubic
 34 feet) per licensed ~~capacity shall be provided.~~ capacity for general storage for the facility. This
 35 storage space shall be either in the facility or within 500 feet of the facility on the same site;

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

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

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

9 ~~(3)(4) Food Storage. Space there shall be provided space for the storage of dry, refrigerated refrigerated,~~
 10 ~~and frozen food items to items, and shall comply with sanitation rules; Rules Governing the~~
 11 ~~Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions set forth in 15A~~
 12 ~~NCAC 18A .1300, which is incorporated by reference including subsequent amendments and~~
 13 ~~editions, for facilities with a licensed capacity of 13 or more residents, and Rules Governing the~~
 14 ~~Sanitation of Residential Care Facilities set forth in 15A NCAC 18A .1600, which is incorporated~~
 15 ~~by reference including subsequent amendments and editions, for facilities with a licensed capacity~~
 16 ~~of 7 to 12 residents;~~

17 (4)(5) Housekeeping the requirements for housekeeping storage requirements are:

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

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

24 ~~(5)(6) Handwashing facilities with wrist type lever handles there be a sink which can be operated without~~
 25 ~~the use of hands located shall be provided immediately adjacent to the drug storage area; area. If the~~
 26 ~~sink is equipped with blade handles, the blade handles shall not be less than four and one half inches~~
 27 ~~in length. If the sink faucet depends on the building electrical service for operation, the faucet must~~
 28 ~~have battery backup capability or an emergency power source. If the faucet has battery operated~~
 29 ~~sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable~~
 30 ~~batteries on premises for the faucets;~~

31 ~~(6)(7) Storage for Resident's Articles. Some means for residents to lock personal articles within the home~~
 32 ~~shall be provided; and the facility shall have locked storage for residents' personal articles within~~
 33 ~~the facility; and~~

34 ~~(7)(8) Staff Facilities. Some means for staff to lock personal articles within the home shall be provided.~~
 35 ~~the facility shall have some means for staff to lock personal articles within the facility.~~

36 (g) The requirements for corridors are:

37 (1) ~~Doors doors~~ doors to spaces other than reach-in closets shall not swing into the corridor;

1 (2) ~~Handrails~~ handrails shall be provided on both sides of corridors at 36 inches above the floor and be
2 capable of supporting a 250 pound concentrated load;

3 (3) ~~Corridors~~ corridors shall be lighted with night lights providing 1 foot-candle power at the floor; and

4 (4) ~~Corridors~~ corridors shall be free of all equipment and other obstructions.

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

6 (1) Service entrances shall not be through resident use areas;

7 (2) All steps, porches, ~~stoops~~ stoops, and ramps shall ~~be provided with~~ have handrails and ~~guardrails;~~
8 guards. Handrails shall be on both sides of steps and ramps including sides bordered by the facility
9 wall. Handrails shall extend the full length of steps and ramps. Guards shall be on all open sides of
10 steps, porches, stoops, and ramps. For the purposes of this Rule, "guards" are building components
11 or a system of building components located at or near the open side of elevated walking surfaces
12 that minimizes the possibility of a fall from a walking surface to any adjacent change in elevation;

13 (3) All exit door locks shall ~~be easily operable, by a single hand motion,~~ operate from the inside at all
14 times by a single hand motion without keys; and keys, tools or special knowledge; and

15 (4) In homes with at least one resident who is determined by a physician or is otherwise known to be
16 ~~disoriented or a wanderer,~~ disoriented or exhibits wandering behavior, ~~each exit door accessible by~~
17 ~~residents shall be equipped with a~~ continuously sounding device that is activated when the door is
18 ~~opened.~~ opened shall be located on each exit door that opens to the outside. The sound shall be of
19 sufficient such volume that it can be heard by staff. If a central system of remote sounding devices
20 is provided, the control panel ~~for the system~~ shall be powered by the facility's electrical system, and
21 be located in the office of the administrator or in a location accessible only to by staff authorized
22 by the administrator to operate the control panel. The requirements of this Paragraph shall apply to
23 new and existing facilities.

24 (i) The requirements for floors are:

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

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

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

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

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

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

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

10 (l) The requirements for laundry facilities are:

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

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

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

20 (m) The requirements for outside premises are:

21 (1) The outside grounds of new and existing facilities shall be maintained in a clean and safe ~~condition;~~
 22 condition. Creeks, ravines, ponds, pools, and other similar areas shall have safety protection;

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

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

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

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

35 *Eff. January 1, 1977;*

36 *Readopted Eff. October 31, 1977;*

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

1 *Temporary Amendment Eff. December 1, 1999;*
2 *Amended Eff. July 1, 2000;*
3 *Recodified from Rule .0303 Eff. July 1, 2004;*
4 *Temporary Amendment Eff. July 1, 2004;*
5 *Amended Eff. July 1, ~~2005~~ 2005;*
6 *Readopted Eff. February 1, 2025.*

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0309

DEADLINE FOR RECEIPT: January 23, 2025

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

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

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

On p. 3, line 14, what are the requirements of a tabletop exercise?

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

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

Seth Ascher
Commission Counsel

Date submitted to agency: January 9, 2025

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

2
3 **10A NCAC 13F .0309 FIRE SAFETY AND EMERGENCY PREPAREDNESS PLANS ~~PLAN FOR~~**
4 **EVACUATION**

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

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

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

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

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

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

28 (B) fires;

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

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

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

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

33 (G) intruders and active assailants; and

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

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

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

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

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

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

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

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

21 ~~(e) A facility that elects to be designated as a special care shelter during an impending disaster or emergency event~~
22 ~~shall follow the guidelines established by the latest Division of Social Services' State of North Carolina Disaster Plan~~
23 ~~which is available at no cost from the N.C. Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-~~
24 ~~2401. The facility shall contact the Division of Health Service Regulation to determine which licensure rules may be~~
25 ~~waived according to G.S. 131D-7 to allow for emergency care shelter placements prior to sheltering during the~~
26 ~~emergency event.~~

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

30 ~~(f) The facility's emergency preparedness plan shall be reviewed at least annually and updated as needed by the~~
31 ~~administrator and shall be submitted to the local emergency management agency and the local agency designated to~~
32 ~~coordinate and plan for the provision of access to functional needs support services in shelters during disasters. Any~~
33 ~~changes to the plan shall be submitted to the local emergency management agency and the local agency designated to~~
34 ~~coordinate and plan for the provision of access to functional needs support services in shelters during disasters within~~
35 ~~60 days of the change. For the purpose of this Rule, correction of grammatical or spelling errors do not constitute a~~
36 ~~change. Documentation of submissions shall be maintained at the facility and made available for review upon request~~
37 ~~to the Division of Health Service Regulation and county department of social services.~~

- 1 (g) The emergency preparedness plan outlined in Paragraph (d) of this Rule shall be maintained in the facility and
2 accessible to staff working in the facility.
- 3 (h) Newly licensed facilities and facilities that have changed ownership shall submit an emergency preparedness plan
4 to the local emergency management agency and the local agency designated to coordinate and plan for the provision
5 of access to functional needs support services in shelters during disasters within 30 days after obtaining the new
6 license. Documentation of submissions shall be maintained at the facility and made available for review upon request
7 to the Division of Health Service Regulation and county department of social services.
- 8 (i) The facility's emergency preparedness plan shall be made available upon request to the Division of Health Service
9 Regulation, county department of social services, and emergency management officials.
- 10 (j) The administrator shall ensure staff are trained on their roles and responsibilities related to emergencies in
11 accordance with the facility's emergency preparedness plan as outlined in Paragraph (d) of this Rule. Staff shall be
12 trained upon employment and annually in accordance with Rule .1211 of this Subchapter.
- 13 (k) The facility shall conduct at least one drill per year to test the facility's emergency preparedness plan. The drill
14 may be conducted as a tabletop exercise. The facility shall maintain documentation of the annual drill which shall be
15 made available upon request to the Division of Health Service Regulation, county department of social services, and
16 emergency management officials.
- 17 (l) If the facility evacuates residents for any reason, the administrator or their designee shall report the evacuation to
18 the local emergency management agency, the local county department of social services, and the Division of Health
19 Service Regulation Adult Care Licensure Section within four hours or as soon as practicable of the decision to evacuate
20 and shall notify the agencies within four hours of the return of residents to the facility.
- 21 (m) Any damage to the facility or building systems that disrupts the normal care and services provided to residents
22 shall be reported to the Division of Health Service Regulation Construction Section within four hours or as soon as
23 practicable of the incidence occurring.
- 24 (n) If a facility is ordered to evacuate residents by the local emergency management or public health official due to
25 an emergency, the facility shall not re-occupy the building until local building or public health officials have given
26 approval to do so.
- 27 (o) In accordance with G.S. 131D-7, if a facility intends to shelter residents from an evacuating adult care home or
28 desires to temporarily increase the facility's licensed bed capacity, the facility shall request a waiver from the Division
29 of Health Service Regulation prior to accepting the additional residents into the facility or as soon as practicable but
30 no later than 48 hours after the facility has accepted the residents for sheltering. The waiver request form can be found
31 on the Division of Health Service Regulation Adult Care Licensure Section website at
32 <https://info.ncdhhs.gov/dhsr/acls/acforms.html#resident>.
- 33 (p) If a facility evacuates residents to a public emergency shelter, the facility remains responsible for the care,
34 supervision, and safety of each resident, including providing required staffing and supplies in accordance with the
35 Rules of this Subchapter. Evacuation to a public emergency shelter should be a last resort, and the decision shall be
36 made in consultation with the local emergency management agency, or the local agency designated to coordinate and
37 plan for the provision of access to functional needs support services in shelters during disasters. If a facility evacuates

1 residents to a public emergency shelter, the facility shall notify the Division of Health Service Regulation Adult Care
2 Licensure Section and the county department of social services within four hours of the decision to evacuate or as
3 soon as practicable.

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

11 ~~(r)~~ This Rule shall apply to new and existing facilities.

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. April 1, 1987; April 1, 1984;*
17 *Recodified from Rule .0307 Eff. July 1, 2004;*
18 *Temporary Amendment Eff. July 1, 2004;*
19 *Amended Eff. July 1, 2005- 2005;*
20 *Readopted Eff. May 1, 2025.*

21

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0801

DEADLINE FOR RECEIPT: January 23, 2025

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

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

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

In (b), p.1 line 19, rule .0508 refers to the training required for those giving the assessment, and doesn't say how to complete the assessment. Do you mean for this rule to be about who can complete the assessment or is there another rule you wanted to refer to?

On p. 1, Line 23 and line 30 repeat a list of activities of daily living. Do you need to list this twice?

On p. 1 line 33, what is "social history"?

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

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

In (c), p. 2 line 11, add "a" between "to" and "factor".

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

On p.2 line 21, delete or between "identifiable cause" and "a fall".

On p. 2 line 22, who is making findings suggesting an injury?

On p.2 line 24, eliminate "and/or".

On p. 2 line 28, define "significant" agitation.

On p.3, line 1, who decides that a condition is "likely" to affect the resident's wellbeing, and under what criteria?

Seth Ascher
Commission Counsel

Date submitted to agency: January 9, 2025

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

On p. 3, line 13, what are “easily” reversible causes?

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

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

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

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

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

6 ~~(a) An adult 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 in accordance with Rule .0508 of this Subchapter.~~
20 ~~If the facility develops its own assessment instrument, the facility shall ensure that the individual responsible for~~
21 ~~completing the resident assessment has completed training on how to conduct the assessment using the facility's~~
22 ~~assessment instrument. The assessment shall be a functional assessment to determine the resident's level of functioning~~
23 ~~to include psychosocial well-being, cognitive status, and physical functioning in activities of daily living. Activities~~
24 ~~of daily living are bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating.~~
25 The assessment instrument established by the Department shall include the following:

26 (1) resident identification and demographic information;

27 (2) current diagnoses;

28 (3) current medications;

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

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

32 (6) mental health history;

33 (7) social history;

34 (8) mood and behaviors;

35 (9) nutritional status, including specialized diet or dietary needs;

36 (10) skin integrity;

37 (11) memory, orientation and cognition;

- 1 (12) vision and hearing;
 2 (13) speech and communication;
 3 (14) assistive devices needed; and
 4 (15) a list of and contact information for health care providers or services used by the resident.

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

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

- 16 (1) Significant change is one or more of the following:
- 17 (A) deterioration in two or more activities of daily living; living including bathing, dressing,
 18 personal hygiene, toileting, or eating;
- 19 (B) change in ability to walk or transfer; transfer, including falls if the resident experiences
 20 repeated falls on the same day, recurrent falls overall several days to weeks, new onset of
 21 falls not attributed to a readily identifiable cause, or a fall with consequent change in
 22 neurological status, or findings suggesting a possible injury;
- 23 (C) change in the ability to use one's hands to grasp small objects; Pain worsening in severity,
 24 intensity, or duration, and/or occurring in a new location, or new onset of pain associated
 25 with trauma;
- 26 (D) deterioration in behavior or mood to the point where daily problems arise or relationships
 27 have become problematic; change in the pattern of usual behavior, new onset of resistance
 28 to care, abrupt onset or progression of significant agitation or combative behavior,
 29 deterioration in affect or mood, or violent or destructive behaviors directed at self or others.
- 30 (E) no response by the resident to the treatment intervention for an identified problem;
- 31 (F) initial onset of unplanned weight loss or gain of five percent of body weight within a 30-
 32 day period or 10 percent weight loss or gain within a six-month period;
- 33 (G) threat to life such as stroke, heart condition, or metastatic cancer; when a resident has been
 34 enrolled in hospice;
- 35 (H) emergence of a pressure ulcer at Stage II, which is a superficial ulcer presenting an
 36 abrasion, blister or shallow crater, or higher; any pressure ulcer determined to be greater
 37 than Stage II;

- 1 (I) a new diagnosis of a condition likely to affect the resident's physical, mental, or
 2 psychosocial well-being; ~~well-being such as initial diagnosis of Alzheimer's disease or~~
 3 ~~diabetes~~;
- 4 (J) improved behavior, mood or functional health status to the extent that the established plan
 5 of care no longer meets the resident's needs; ~~matches what is needed~~;
- 6 (K) new onset of impaired decision-making;
- 7 (L) continence to incontinence or indwelling catheter; or
- 8 (M) the resident's condition indicates there may be a need to use a restraint and there is no
 9 current restraint order for the resident.

10 (2) Significant change ~~is not any of~~ does not include the following:

- 11 (A) changes that suggest slight upward or downward movement in the resident's status;
- 12 (B) changes that resolve with or without intervention;
- 13 (C) changes that arise from easily reversible causes;
- 14 (D) an acute illness or episodic ~~event~~; event. For the purposes of this Rule "acute illness" means
 15 symptoms or a condition that develops quickly and is not a part of the resident's baseline
 16 physical health or mental health status;
- 17 (E) an established, predictive, cyclical pattern; or
- 18 (F) steady improvement under the current course of care.

19 (d) If a resident experiences a significant change as defined in Paragraph (c) of this Rule, the facility shall refer the
 20 resident to the resident's physician or other ~~appropriate~~ licensed health professional ~~such as a mental health~~
 21 ~~professional, nurse practitioner, physician assistant or registered nurse in a timely manner consistent with the resident's~~
 22 ~~condition but~~ no longer than ~~10~~ three days from the date of the significant change, change assessment, and document
 23 the referral in the resident's record. Referral shall be made immediately when significant changes are identified that
 24 pose an immediate risk to the health and safety of the resident, other ~~residents~~ residents, or staff of the facility.

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

27
 28 *History Note: Authority G.S. 131D-2.16; 131D-4.4; 131D-4.5; 143B-165;*
 29 *Temporary Adoption Eff. January 1, 1996;*
 30 *Eff. May 1, 1997;*
 31 *Temporary Amendment Eff. September 1, 2003; July 1, 2003;*
 32 *Amended Eff. July 1, 2005; June 1, 2004, 2004;*
 33 *Readopted Eff. May 1, 2025.*

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .0802

DEADLINE FOR RECEIPT: January 23, 2025

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

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

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

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

On line 12-13, is “responsible person” defined somewhere?

On line 18, “[Services] services”.

What authority allows the State Human Resources Commission to determine what disciplinary action is permitted here? If there is statutory authority, please include it in the history note.

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

Seth Ascher
Commission Counsel

Date submitted to agency: January 9, 2025

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

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

4 (a) ~~An adult 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 ~~is an individualized, written~~
7 ~~program of personal care for each resident.~~ shall be resident-centered and include the resident's preferences related to
8 the 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 Section.~~ The resident shall be offered the opportunity to participate in the development f his or her care plan. If
12 the resident is unable to participate in the development of the care plan due to cognitive impairment, the responsible
13 person shall be offered the opportunity to participate in the development of the care plan.

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

15 (1) ~~a statement of the care or service to be provided based on the assessment or reassessment; and~~
16 description of services, supervision, tasks, and level of assistance to be provided to address the
17 resident's needs identified in the resident's assessment in Rule .0801 of this Subchapter;

18 (2) ~~frequency of the service provision.~~ Services or tasks to be performed;

19 (3) ~~revisions of tasks and frequency based on reassessments in accordance with Rule .0801 of this~~
20 Subchapter;

21 (4) ~~licensed health professional tasks required according to Rule .0903 of this Subchapter;~~

22 (5) ~~a dated signature of the assessor upon completion; and~~

23 (6) ~~a dated signature of the resident's physician or physician extender within 15 days of completion of~~
24 the care plan certifying the resident as being under this physician's care with medical diagnoses
25 justifying the tasks specified in the care plan. This shall not apply to residents assessed through the
26 Medicaid State Plan Personal Care Services Assessment for the portion of the assessment covering
27 tasks needed for each activity of daily living of this Rule for which care planning and signing are
28 directed by Medicaid. The activities of daily living relevant to the Medicaid State Plan Personal
29 Care Services Assessment are bathing, dressing, mobility, toileting, and eating.

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

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

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

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

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

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

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

9
10 *History Note: Authority G.S. 131D-2.16; 131D-4.3; 131D-4.4; 131D-4.5; 143B-165;*
11 *Temporary Adoption Eff. January 1, 1996;*
12 *Eff. May 1, 1997;*
13 *Temporary Amendment Eff. September 1, 2003; July 1, 2003;*
14 *Amended Eff. July 1, 2005; June 1, ~~2004~~ 2004;*
15 *Readopted Eff. May 1, 2025.*
16
17

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .1501

DEADLINE FOR RECEIPT: January 23, 2025

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

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

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

On line 34, is "responsible person" defined somewhere?

On p 2., line 1, you leave off "responsible person". Was that intentional?

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

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

1 10A NCAC 13F .1501 is amended as published in 39:06 NCR 282-316 as follows:

2
3 **SECTION .1501 - USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES**

4
5 **10A NCAC 13F .1501 USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES**

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

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

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

34 (b) The facility shall ~~ask~~ obtain written consent from the ~~resident or~~ resident, the resident's responsible person, or
35 legal representative if the resident may for the resident to be restrained based on an order from the resident's ~~physician.~~
36 physician or physician extender. The facility shall inform the ~~resident~~ resident, the resident's responsible person, or
37 legal representative of the reason for the request and request, the benefits of restraint use use, and the negative

1 outcomes and alternatives to restraint use. The resident or the resident's legal representative may accept or refuse
 2 restraints based on the information provided. Documentation shall consist of a statement signed by the resident or the
 3 resident's legal representative indicating the signer has been informed, the signer's acceptance or refusal of restraint
 4 use and, if accepted, the type of restraint to be used and the medical indicators for restraint use.

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

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

11 (1) The assessment and care planning shall be implemented through a team process with the team
 12 consisting of at least a ~~staff~~ supervisor or personal care aide, a registered nurse, the resident and the
 13 resident's responsible person or legal representative. If the resident or resident's responsible person
 14 or legal representative is unable to participate, there shall be documentation in the resident's record
 15 that they were notified and declined the invitation or were unable to attend.

16 (2) The assessment shall include consideration of the following:

- 17 (A) medical symptoms that warrant the use of a restraint;
- 18 (B) how the medical symptoms affect the resident;
- 19 (C) when the medical symptoms were first observed;
- 20 (D) how often the symptoms occur;
- 21 (E) alternatives that have been provided and the resident's response; and
- 22 (F) the least restrictive type of physical restraint that would provide safety.

23 (3) The care plan shall include the following:

- 24 (A) alternatives and how the alternatives will be used prior to restraint use and in an effort to
 25 reduce restraint time once the resident is restrained;
- 26 (B) the type of restraint to be used; and
- 27 (C) care to be provided to the resident during the time the resident is restrained.

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

29 (1) The order shall indicate:

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

35 (2) If the order is obtained from a physician other than the resident's physician, the facility shall notify
 36 the resident's physician or physician extender of the order within seven days.

1 (3) The restraint order shall be updated by the resident's physician or physician extender at least every
2 three months following the initial order.

3 (4) If the resident's physician changes, the physician or physician extender who is to attend the resident
4 shall update and sign the existing order.

5 (5) In ~~emergency situations~~, an emergency, where the health or safety of the resident is threatened, the
6 administrator or ~~administrator in charge~~ their designee, shall make the determination relative to the
7 need for a restraint and its type and duration of use until a physician or physician extender is
8 contacted. Contact with a physician shall be made within 24 hours and documented in the resident's
9 record. For the purpose of this Rule, an "emergency" means a situation where there is a certain risk
10 of physical injury or death to a resident.

11 (6) The restraint order shall be kept in the resident's record.

12 (e) All instances of the use of physical restraints and alternatives shall be documented by the facility in the resident's
13 record and include the following:

14 (1) restraint alternatives that were provided and the resident's response;

15 (2) type of restraint that was used;

16 (3) medical symptoms warranting restraint use;

17 (4) the time the restraint was applied and the duration of restraint use;

18 (5) care that was provided to the resident during restraint use; and

19 (6) behavior of the resident during restraint use.

20 (f) Physical restraints shall be applied only by staff who have received training on the use of alternatives to physical
21 restraint use and on the care of residents who are physically restrained according to Rule .0506 of this Subchapter and
22 have been validated on ~~restraint use~~ the care of residents who are physically restrained and the use of care practices
23 as alternative to restraints according to Rule .0504 of this Subchapter.

24
25 *History Note: Authority G.S. 131D-2.16; 143B-165;*

26 *Temporary Adoption Eff. July 1, 2004;*

27 *Temporary Adoption Expired March 12, 2005;*

28 *Eff. June 1, 2005;*

29 *~~Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,~~*
30 *~~2018.~~*

31 *Amended Eff. February 1, 2025.*

32

33

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

AGENCY: NC Medical Care Commission

RULE CITATION: 10A NCAC 13F .1602

DEADLINE FOR RECEIPT: January 23, 2025

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

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

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

What is the "worksheet" on line 4? Is this a required form? If so, are the contents substantive requirements specified somewhere?

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

1 10A NCAC 13G .1601 is readopted 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 score and corresponding number of stars a facility receives based
23 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.

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

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

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

29
30 *History Note: Authority G.S. 131D-4.5; 131D-10;*

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

32 *Readopted Eff. August 1, 2025.*