

## Burgos, Alexander N

---

**Subject:** FW: Withdrawal of Rules

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**From:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>  
**Sent:** Friday, September 25, 2026 4:10 PM  
**To:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** Re: Withdrawal of Rules

Thanks, hope you do as well and nice meeting you today.

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**From:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>  
**Sent:** Friday, 25 September 2026 16:09:14  
**To:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** Re: Withdrawal of Rules

Thank you so much! Have a wonderful weekend.

Meghan Barney  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1925  
Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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**From:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>  
**Sent:** Friday, September 25, 2026 4:08 PM  
**To:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** RE: Withdrawal of Rules

That is correct, Medical Care Commission and adult care section are withdrawing 10A NCAC 13E .0305, .0306, .0312, .0316, .0317, .0318, and .0601.

Thanks

---

**From:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>  
**Sent:** Friday, September 25, 2026 3:52 PM  
**To:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** Withdrawal of Rules

Shanah,

For our records can you please confirm that the Medical Care Commission is withdrawing 10A NCAC 13E .0305, .0306, .0312, .0316, .0317, .0318, and .0601 from review as temporary rules for the September 2026 meeting and only finalizing 10A NCAC 13E .0302, .0303, .0308, .0309, and .0403. . Thank you for everything you did on these rules.

Meghan

Meghan Barney  
Rules Review Commission Counsel  
Office of Administrative Hearings  
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Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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## Burgos, Alexander N

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**From:** Rules, Oah  
**Subject:** FW: Second Response to Tech changes  
**Attachments:** 10A NCAC 13E .0302.docx; 10A NCAC 13E .0303.docx; 10A NCAC 13E .0308.docx; 10A NCAC 13E .0309.docx; 10A NCAC 13E .0403.docx

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**From:** Black, Shanah <shanah.black@dhhs.nc.gov>  
**Sent:** Friday, September 25, 2026 12:35 PM  
**To:** Barney, Meghan E <meghan.barney@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>  
**Subject:** RE: Second Response to Tech changes

Thanks Meghan,

Here are the final versions for the meeting.

I am the only person attending and Alex sent me the link.

Have a great weekend.

1 10A NCAC 13E .0302 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0302 CAPACITY**

4 (a) Pursuant to G.S. 131D-6.1(c)(8), the Division of Health Service Regulation shall not approve a capacity of greater  
5 than ~~six~~ twelve (12) **12** participants for an overnight respite services program. For the purposes of this Rule,  
6 "capacity" means the maximum number of participants that the overnight respite services program is licensed to house  
7 at any given time.

8 (b) An overnight respite services program shall not exceed the capacity shown on its license. The license shall indicate  
9 the overnight respite services program's capacity for ambulatory and non-ambulatory participants permitted that an  
10 overnight respite services program facility can house at any given time. For the purposes of this Rule, "ambulatory"  
11 means the participant is able to respond and evacuate from the facility without verbal or physical assistance from  
12 others in the event of an emergency. "Non-ambulatory" means the participant is not able to respond and evacuate from  
13 the facility without verbal or physical assistance from others in the event of an emergency.

14 (c) Prior to an increase in capacity by adding rooms, altering ~~rooms, or~~ rooms, remodeling, changing use of ~~space,~~  
15 ~~space, or without building modifications,~~ the overnight respite services program shall submit a request for capacity  
16 increase and two building plans of each floor to the Construction Section. One plan shall indicate the current use of  
17 rooms in the existing building. The other plan shall indicate the proposed use of rooms in the existing building and its  
18 addition, alteration, remodeling, or change in use of space. For an addition to an existing building, the building plans  
19 shall also indicate how the addition will be tied into the existing building and any proposed changes to the building  
20 structure.

21 (d) When ~~the an~~ the an overnight respite services program increases its capacity by the addition to or alteration of an existing  
22 building, the entire overnight respite services program shall comply with the North Carolina ~~Fire Prevention Code,~~  
23 ~~State Building Codes,~~ which is are incorporated herein by reference including subsequent amendments and editions.  
24 Copies of ~~this code~~ these codes may be ~~purchased from the International Code Council online at~~  
25 ~~<http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of eighty five dollars (\$85.00) or~~ accessed electronically  
26 free of charge at ~~[http://codes.iccsafe.org/app/book/toc/2012/North\\_Carolina/Fire/index.html](http://codes.iccsafe.org/app/book/toc/2012/North_Carolina/Fire/index.html).~~  
27 <https://codes.iccsafe.org/codes/united-states/north-carolina>.

28  
29 *History Note: Authority G.S. 131D-6.1;*

30 *Eff. April 1, ~~2017~~ 2017;*

31 *Emergency Amendment Eff. July 1, 2026.*

32 *Temporary ~~Adoption~~ Amendment Eff. October 7, 2026.*

1 10A NCAC 13E .0303 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0303 DESIGN AND CONSTRUCTION**

4 (a) For the purposes of this Rule the following definitions apply:

- 5 (1) "facility" "Facility" means a building or portion of a building housing an overnight respite services  
6 program as defined in G.S. 131D-6.1(a); 131D-6.1(a).
- 7 (2) "proposed facility" "Proposed facility" means the new construction of a building for a facility, an  
8 addition or alteration to an existing building for a facility, or the change in use of a building for a  
9 facility; facility.
- 10 (3) "existing facility" "Existing facility" means a currently licensed facility and a proposed facility that  
11 will be built according to building plans approved by the Construction Section for compliance with  
12 the standards established in this Section, built prior to the effective date of this Rule; and Rule.
- 13 (4) "new facility" "New Facility" means a facility that has not been licensed previously as an overnight  
14 respite services program and for which an initial license is sought. The term also includes a proposed  
15 facility that will be built according to building plans approved by the Construction Section for  
16 compliance with the standards established in this Section, on or after the effective date of this Rule.

17 (b) The physical plant requirements for each facility shall be applied as follows:

- 18 (1) A new facility shall meet the standards established in this Section.
- 19 (2) An existing facility shall meet the standards established in this Section that were in existence at the  
20 time of change in use of ~~space~~, space, increase in capacity, construction, addition, alteration, or  
21 repair. Copies of existing physical plant standards may be obtained from the N. C. Department  
22 of Health and Human Services, Division of Health Service Regulation, Construction Section, 1915  
23 Health Services Way, Raleigh, NC 27607 at no cost.
- 24 (3) An existing building converted from another use that a program intends to use for an overnight  
25 respite services program shall meet all the requirements of a new facility as indicated in  
26 Subparagraph (1) of this Paragraph.

27 (c) All new construction, ~~additions,~~ additions, modifications, renovations, or alterations for a new facility requesting  
28 licensure for less than seven participants shall meet the requirements of the North Carolina State Building Codes,  
29 Code: Residential Code. [Code for overnight respite services programs requesting licensure for less than seven (7)  
30 participants. ] Additionally, overnight respite services programs requesting licensure for four to six participants shall  
31 meet the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section in effect at  
32 the time of licensure. Before starting any construction or alterations, the [overnight respite services program] applicant  
33 or his appointed representative administrator or their designee shall [consult with] contact the local building code  
34 enforcement official for information about required permits and construction requirements.

35 (d) All new construction, additions, modifications, renovations, or alterations for a new facility requesting licensure  
36 for [seven (7)] 7 to [twelve (12)] 12 participants shall meet the requirements of the North Carolina State Building  
37 Code: Building Code, Licensed Large Residential Care Facilities Section in effect at the time of licensure. Before

starting any construction or alterations, the ~~[overnight respite services program]~~ applicant or his appointed representative administrator or their designee shall ~~[consult with]~~ contact the local building code enforcement official for information about required permits and construction requirements. The North Carolina State Building Codes, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~. Copies of these ~~codes~~ editions, may be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty seven dollars (\$527.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>. <https://codes.iccsafe.org/codes/united-states/north-carolina>. All new construction, additions, or repairs of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.

(e) All new construction, additions, modifications, renovations, or alterations of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, modification, renovation, alteration, or repair. Before starting any construction or alterations, the ~~[overnight respite services program]~~ applicant or his appointed representative administrator or their designee shall ~~[consult with]~~ contact the local building code enforcement official for information about required permits and construction requirements. The existing North Carolina State Building Codes may be accessed electronically free of charge at <https://www.ncosfm.gov/codes/codes-current-and-past>.

~~(d)~~(f) A facility shall be constructed, equipped, and maintained to comply with the standards established in this Section for the capacity indicated on its license.

~~(e)~~(g) The Construction Section Division may grant an equivalency to allow an alternate methods, procedures, design ~~or criteria, or~~ functional variation from the requirements of this Rule and the rules contained in this Section. For the purposes of this Rule, an "equivalency" is a Construction Section-approved alternate method, procedure, design ~~criteria, or and~~ functional variation to a requirement contained in the rules of this Section that meets the intent of the rule requirement but does not reduce the safety and operational effectiveness of the facility design and layout. If granted, the equivalency shall apply to a specific facility. ~~A program shall be granted an equivalency if: The equivalency may be granted by the Construction Section Division when the administrator, applicant, or their designee his appointed representative submits a written equivalency request to the Construction Section Division that states the following:~~

(1) ~~the overnight respite services program submits a written equivalency request to the Construction Section indicating:~~

(A) ~~the rule requirement that will not be met;~~

(B) ~~the justification for the equivalency; and~~

(C) ~~how the proposed equivalency meets the intent of the corresponding rule requirement; and~~

(2) ~~the program receives a written approval of the equivalency from the Construction Section.~~

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

(A) ~~impractical;~~

(B) unable to be met due to extraordinary circumstances. For the purpose of this Rule, "extraordinary circumstances" means situations that are unexpected and beyond the control of the facility; or

(C) unable to be met due to new programs.

(2) the justification for the equivalency; and

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

(h) In determining whether to grant an equivalency request, the Construction Section ~~[Division]~~ shall consider whether the request will reduce the safety and operational effectiveness of the facility. The administrator or their designee facility shall have maintain a copy of the approved equivalency issued by the Construction Section ~~[Division]~~.

~~(f)~~(i) If any of the rules, codes, or standards contained in this Section conflict, the most restrictive requirement shall apply.

~~(g)~~(j) For an existing facility whose license is revoked or suspended by the Division of Health Service Regulation pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the facility shall meet the requirements of a new facility as required by Subparagraph (b)(1) of this Rule prior to being relicensed.

~~(h)~~(k) Prior to commencement of construction or change in use of space, any program intending to offer overnight respite care services that is planning new construction, an ~~addition~~ addition, modification, renovation, or alteration to an existing building, or a change in use of space shall submit building plans and other documents to the Construction Section as specified in Rule .0301 of this Section.

~~(i)~~(l) If the building to be used for a facility is two or more stories in height, it shall meet the following additional requirements:

(1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building Code; Code: Building Code;

(2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c) of this Section; and

(3) participant-use areas shall be located on the level of the principal exterior door.

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

~~(k)~~(n) The ceiling height throughout the facility shall be at least seven and one-half feet from the floor.

~~(l)~~(o) Elevation changes in the floor are not permitted in participant-use ~~areas~~; areas. Steps and ramps between levels are not permitted.

~~(m)~~(p) The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms, and bathrooms.

~~(n)~~(q) ~~Windows shall be operable and~~ All windows that are designed to be operable shall be maintained operable. For the purposes of this Rule, "operable" means a window that may be opened and shut to allow outdoor-air ventilation. To inhibit participant elopement from any window, the window opening may be restricted to a six-inch opening.

~~(o)~~ Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

~~(p)(r)~~ The facility shall ~~comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section,~~ meet sanitation requirements set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential Care Facilities, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and editions. ~~The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27609. Copies of these Rules may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699 1632 at no cost or can be accessed electronically free of charge at~~ <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>. ~~[https://www.oah.nc.gov/]~~

~~(q)(s)~~ The facility shall have a copy of the following inspection reports available for review upon request by the Construction Section:

- (1) a ~~current~~ sanitation inspection report from the sanitation division of the county health department; department dated within the past 12 months; and
- (2) a ~~current~~ fire and safety inspection report from the local fire ~~marshal.~~ marshal dated within the past 12 months.

~~(r)(t)~~ The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and sounding devices that are audible throughout the building. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72>.

(u) Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected to the fire alarm system. These heat detectors shall be interconnected and provided with battery backup. Corridors shall be equipped with smoke detectors that are connected to the fire alarm system.

~~(s)(v)~~ A building housing an overnight respite services program or an adult day care or adult health care program shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars (\$103.00).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13>.

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, 2017.2017;*

*Emergency Amendment Eff. July 1, 2026;*

*Temporary Adoption Amendment Eff. October 7, 2026.*



1 10A NCAC 13E .0308 is amended with changes under temporary procedures as follows:

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

4 (a) There shall be bedrooms sufficient in number and size to meet the individual needs of the ~~participant~~ **participants**  
5 according to their age and gender.

6 (b) A room used as a bedroom shall meet the requirements of this Rule and be approved by the Construction Section.

7 (c) A room accessed only through a bathroom, kitchen, or another bedroom shall not be approved for a participant's  
8 bedroom.

9 (d) Bedrooms occupied by one participant shall be provided with not less than 100 square feet of floor area, ~~including~~  
10 ~~excluding accessory areas such as vestibule, closet, or wardrobe space.~~ vestibules, closets, wardrobes, or bathrooms.

11 Bedrooms occupied by two participants shall be provided with not less than 160 square feet of floor area, ~~including~~  
12 ~~excluding accessory areas such as vestibule, closet, or wardrobe space.~~ vestibules, closets, wardrobes, or bathrooms.

13 (e) The total number of participants assigned to a bedroom shall be based on the square footage requirements of  
14 Paragraph (d) of this Rule as approved by the Construction Section for that bedroom.

15 (f) A bedroom shall not be occupied by more than two participants.

16 (g) Each participant bedroom shall have one or more operable windows with views to the outdoors. **For facilities with**

17 **a licensed capacity of less than seven participants, at least one operable window shall meet the requirements of the**

18 **North Carolina State Building Code: Residential Code for emergency egress.** ~~[for facilities with a licensed capacity~~

19 ~~of less than seven (7) participants.]~~ **For facilities with a licensed capacity of [seven] 7 to [twelve] 12 participants,**

20 **windows shall meet the requirements of the North Carolina State Building Code: Building Code.** The gross window  
21 area shall be equal to at least eight percent of the floor space required by Paragraph (d) of this **Rule.** ~~[Rule, and shall~~

22 ~~be equipped with insect proof screens. To inhibit participant elopement, the window opening may be restricted to a~~

23 ~~six inch opening, except windows meeting the emergency egress requirements of the North Carolina State Building~~

24 ~~Code: Residential Code.]~~ The windows shall have a maximum sill height of 44 inches.

25 (h) Bedroom closets or wardrobes shall be large enough to provide each participant with a minimum of 22 cubic feet  
26 of clothing storage, one-half of which shall be for hanging clothes with an adjustable-height hanging bar.

27  
28 *History Note: Authority G.S. 131D-6.1;*

29 *Eff. April 1, 2017-2017:*

30 **Emergency Amendment Eff. July 1, 2026:**

31 **Temporary Adoption Amendment Eff. October 7, 2026.**

1 10A NCAC 13E .0309 is amended with changes under temporary procedures as follows:

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

4 (a) An overnight respite services program shall have a minimum of one bathroom for each every six or fewer respite  
5 participants. A bathroom shall contain a toilet, a ~~lavatory,~~ [sink] sink, and one of the following:

- 6 (1) a roll-in shower designed and equipped for unobstructed shower chair entry and use;  
7 (2) a bathtub accessible on three sides; or  
8 (3) a manufactured walk-in bathtub or a similar manufactured bathtub designed for transfer of  
9 participants into the bathtub that is accessible on one short side and one long side of the bathtub.

10 (b) The A bathroom required by Paragraph (a) of this Rule may be shared with the adult day care program or adult  
11 day health program only after the Division of Aging ~~and Adult Services~~ of the Department of Health and Human  
12 Services determines, in writing, that the requirements of 10A NCAC 06R .0401(g) for an adult day care facility and  
13 10A NCAC 06S .0301 for an adult day health facility are met.

14 (c) A bathroom shall be designed to provide privacy. A bathroom with two or more toilets shall have privacy partitions  
15 or curtains for each toilet. Each bathtub or shower shall have privacy partitions or curtains. [The requirements of this  
16 Paragraph shall apply to new and existing facilities.]

17 (d) The entrance to the bathroom shall not be through a kitchen, another participant's bedroom, or another bathroom.

18 (e) The bathroom shall be located so that there is no more than 40 feet between any participant's bedroom door and a  
19 participant-use bathroom door.

20 (f) Hand grips shall be installed at all toilets, bathtubs, and showers used by participants. Hand grips shall be physically  
21 attached [mechanically fastened or anchored] to the walls with screws, nails or other fasteners, be located to help  
22 participants in entering and exiting bathtubs, showers, manufactured walk-in tubs, or similar bathing fixtures, and be  
23 on the wall adjacent to toilets.

24 (g) Nonskid surfacing or strips shall be installed to the floor or bottom of ~~showers and bathtubs.~~ showers, bathtubs,  
25 or similar bathing fixtures.

26 (h) A bathroom shall have ~~mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor~~  
27 ~~area.~~ an exhaust system per the North Carolina State Building Code: Residential Code for facilities licensed for less  
28 than [seven] 7 participants, and per the North Carolina State Building Codes: Building Codes for facilities licensed  
29 for [seven] 7 to [twelve] 12 participants. The mechanical ducted exhaust vent shall be vented directly to the outdoors.

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

31  
32 *History Note: Authority G.S. 131D-6.1;*

33 *Eff. April 1, 2017-2017;*

34 *Emergency Amendment Eff. July 1, 2026;*

35 *Temporary Adoption Amendment Eff. October 7, 2026.*



1 10A NCAC 13E .0403 is amended with changes under temporary procedures as follows:

3 **10A NCAC 13E .0403 STAFF AND STAFFING**

4 (a) Each staff person shall:

- 5 (1) have a job description that reflects actual duties and responsibilities determined by the program and  
6 shall be signed by the administrator and the employee;
- 7 (2) ~~have a tuberculin skin test within 12 months prior to hire and annually thereafter; be tested for~~  
8 ~~tuberculosis disease in compliance with control measures adopted by the Commission for Public~~  
9 ~~Health as specified in 10A NCAC 41A .0205. [-0205, which is hereby incorporated by reference,~~  
10 ~~including subsequent amendments;]~~
- 11 (3) be able to implement all of the program's policies and procedures as defined in Rule .0501 of this  
12 Subchapter and accident, fire safety, and emergency procedures for the protection of the participants  
13 in accordance with the Rules of this Subchapter and Chapter 131D of the general statutes;
- 14 (4) be informed of the confidential nature of participant information and protect and preserve the  
15 information from unauthorized use and disclosure;
- 16 (5) not hinder or interfere with the exercise of the participants rights as defined by program ~~policy;~~  
17 policy in accordance with Rule .0501 of this Subchapter;
- 18 (6) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant  
19 to G.S. 131E-256;
- 20 (7) have a statewide criminal background check, upon hire, of the past five years in accordance with  
21 G.S. 143B-932; and
- 22 (8) cooperate with inspectors and the monitoring and licensing agencies in complying with the rules of  
23 this Subchapter.

24 (b) Any staff member left in charge of the care of participants shall be 18 years or older.

25 (c) ~~The staffing pattern shall be adequate~~ There shall be staff on duty to meet the needs of each participant, with at  
26 least one staff ~~person present on duty and awake~~ at all times qualified to administer medications as defined by Rule  
27 .0702 of this Subchapter and trained to provide personal care and supervision to current participants.

28 (d) In a facility with a census of 7 to 12 participants, there shall be at least two staff persons on duty and awake at all  
29 times who are responsible for providing personal care and supervision to participants, with at least one of the staff  
30 persons qualified to administer medications as defined by Rule .0702 of this Subchapter. The staff persons shall be  
31 trained to provide personal care and supervision to current participants.

32 (e) Staff assigned to provide personal care and supervision duties shall not provide food service and housekeeping  
33 duties, except when housekeeping duties are incidental to the rendering of care services and do not hinder the assigned  
34 staff's duties of care or immediate response to participants, nor impede the assigned staff member's ability to monitor  
35 the participants. For the purposes of this Rule, "food service duties" means tasks performed by staff related to serving  
36 meals to participants, including assisting with food preparation, arranging and setting the dining tables, serving food

1 and beverages, and cleaning the dining room after meal service is complete, and "housekeeping duties" means tasks  
2 performed by staff such as cleaning and sanitizing facility common areas and resident rooms.

3 (f) There shall be additional staff employed to provide food service and housekeeping duties.

4 ~~(d)(g)~~ Services required by participants beyond personal care and supervision shall not only be provided unless by  
5 licensed health professionals in accordance with North Carolina licensing laws. staff satisfies the license requirements  
6 applicable to such services.

7 (h) There shall be documentation on file in the facility of staff qualifications required by Subparagraphs (1), (2), (6),  
8 and (7) in Paragraph (a) of this Rule and medication administration competency evaluation as required in Rule .0702  
9 of this Subchapter.

10  
11 *History Note: Authority G.S. 131D-6.1;*

12 *Eff. April 1, 2017; 2017;*

13 *Emergency Amendment Eff. July 1, 2026;*

14 *Temporary Amendment Eff. October 7, 2026.*

## Burgos, Alexander N

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**Subject:** FW: Second Response to Tech changes

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**From:** Barney, Meghan E <meghan.barney@oah.nc.gov>

**Sent:** Friday, September 25, 2026 12:26 PM

**To:** Black, Shanah <shanah.black@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

**Subject:** Re: Second Response to Tech changes

Shanah,

Thank you so much for working so quickly. Please send all of the final revised rules to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov) and cc Mr. Burgos and I (or just reply all). These rules are final for review and can be placed on September's agenda. Please let us know if anyone from your agency will be present for the meeting, in-person or on WebEx.

Thank you!

Meghan

Meghan Barney

Rules Review Commission Counsel

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## Burgos, Alexander N

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**Subject:** FW: Second Response to Tech changes  
**Attachments:** 10A NCAC 13E .0303 - After Pre Review-2.docx; 10A NCAC 13E .0403 - After Pre Review.docx

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**From:** Black, Shanah <shanah.black@dhhs.nc.gov>  
**Sent:** Friday, September 25, 2026 12:17 PM  
**To:** Barney, Meghan E <meghan.barney@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>  
**Subject:** RE: Second Response to Tech changes

Sorry about that, I took out the wrong “and.” Please let me know if you see any additional changes to be made.

Thanks

1 10A NCAC 13E .0303 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0303 DESIGN AND CONSTRUCTION**

4 (a) For the purposes of this Rule the following definitions apply:

- 5 (1) "facility" "Facility" means a building or portion of a building housing an overnight respite services  
6 program as defined in G.S. 131D-6.1(a); 131D-6.1(a).
- 7 (2) "proposed facility" "Proposed facility" means the new construction of a building for a facility, an  
8 addition or alteration to an existing building for a facility, or the change in use of a building for a  
9 facility; facility.
- 10 (3) "existing facility" "Existing facility" means a currently licensed facility and a proposed facility that  
11 will be built according to building plans approved by the Construction Section for compliance with  
12 the standards established in this Section, built prior to the effective date of this Rule; and Rule.
- 13 (4) "new facility" "New Facility" means a facility that has not been licensed previously as an overnight  
14 respite services program and for which an initial license is sought. The term also includes a proposed  
15 facility that will be built according to building plans approved by the Construction Section for  
16 compliance with the standards established in this Section, on or after the effective date of this Rule.

17 (b) The physical plant requirements for each facility shall be applied as follows:

- 18 (1) A new facility shall meet the standards established in this Section.
- 19 (2) An existing facility shall meet the standards established in this Section that were in existence at the  
20 time of change in use of ~~space~~, space, increase in capacity, construction, addition, alteration, or  
21 repair. Copies of existing physical plant standards may be obtained from the N. C. Department  
22 of Health and Human Services, Division of Health Service Regulation, Construction Section, 1915  
23 Health Services Way, Raleigh, NC 27607 at no cost.
- 24 (3) An existing building converted from another use that a program intends to use for an overnight  
25 respite services program shall meet all the requirements of a new facility as indicated in  
26 Subparagraph (1) of this Paragraph.

27 (c) All new construction, ~~additions,~~ additions, modifications, renovations, or alterations for a new facility requesting  
28 licensure for less than seven participants shall meet the requirements of the North Carolina State Building Codes,  
29 Code: Residential Code. [Code for overnight respite services programs requesting licensure for less than seven (7)  
30 participants. ] Additionally, overnight respite services programs requesting licensure for four to six participants shall  
31 meet the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section in effect at  
32 the time of licensure. Before starting any construction or alterations, the [overnight respite services program] applicant  
33 or his appointed representative administrator or their designee shall [consult with] contact the local building code  
34 enforcement official for information about required permits and construction requirements.

35 (d) All new construction, additions, modifications, renovations, or alterations for a new facility requesting licensure  
36 for [seven (7)] 7 to [twelve (12)] 12 participants shall meet the requirements of the North Carolina State Building  
37 Code: Building Code, Licensed Large Residential Care Facilities Section in effect at the time of licensure. Before

starting any construction or alterations, the ~~[overnight respite services program] applicant or his appointed representative administrator or their designee~~ shall ~~[consult with]~~ contact the local building code enforcement official for information about required permits and construction requirements. The North Carolina State Building Codes, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~. Copies of these ~~codes~~ editions, may be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty seven dollars (\$527.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>. <https://codes.iccsafe.org/codes/united-states/north-carolina>. All new construction, additions, or repairs of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.

(e) All new construction, additions, modifications, renovations, or alterations of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, modification, renovation, alteration, or repair. Before starting any construction or alterations, the ~~[overnight respite services program] applicant or his appointed representative administrator or their designee~~ shall ~~[consult with]~~ contact the local building code enforcement official for information about required permits and construction requirements. The existing North Carolina State Building Codes may be accessed electronically free of charge at <https://www.ncosfm.gov/codes/codes-current-and-past>.

~~(d)~~(f) A facility shall be constructed, equipped, and maintained to comply with the standards established in this Section for the capacity indicated on its license.

~~(e)~~(g) The Construction Section Division may grant an equivalency to allow ~~an~~ an alternate methods, procedures, design ~~or criteria, or~~ functional variation from the requirements of this Rule and the rules contained in this Section. For the purposes of this Rule, an "equivalency" is a Construction Section-approved alternate method, procedure, design ~~criteria, or and~~ functional variation to a requirement contained in the rules of this Section that meets the intent of the rule requirement but does not reduce the safety and operational effectiveness of the facility design and layout. If granted, the equivalency shall apply to a specific facility. ~~A program shall be granted an equivalency if: The equivalency may be granted by the Construction Section Division when the administrator, applicant, or their designee his appointed representative submits a written equivalency request to the Construction Section Division that states the following:~~

(1) ~~the overnight respite services program submits a written equivalency request to the Construction Section indicating:~~

(A) ~~the rule requirement that will not be met;~~

(B) ~~the justification for the equivalency; and~~

(C) ~~how the proposed equivalency meets the intent of the corresponding rule requirement; and~~

(2) ~~the program receives a written approval of the equivalency from the Construction Section.~~

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

(A) impractical;

(B) unable to be met due to extraordinary circumstances. For the purpose of this Rule, "extraordinary circumstances" means situations that are unexpected and beyond the control of the facility; or

(C) unable to be met due to new programs.

(2) the justification for the equivalency; and

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

(h) In determining whether to grant an equivalency request, the Construction Section ~~[Division]~~ shall consider whether the request will reduce the safety and operational effectiveness of the facility. The administrator or their designee facility shall have maintain a copy of the approved equivalency issued by the Construction Section ~~[Division]~~.

~~(f)~~(i) If any of the rules, codes, or standards contained in this Section conflict, the most restrictive requirement shall apply.

~~(g)~~(j) For an existing facility whose license is revoked or suspended by the Division of Health Service Regulation pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the facility shall meet the requirements of a new facility as required by Subparagraph (b)(1) of this Rule prior to being relicensed.

~~(h)~~(k) Prior to commencement of construction or change in use of space, any program intending to offer overnight respite care services that is planning new construction, an ~~addition~~ addition, modification, renovation, or alteration to an existing building, or a change in use of space shall submit building plans and other documents to the Construction Section as specified in Rule .0301 of this Section.

~~(i)~~(l) If the building to be used for a facility is two or more stories in height, it shall meet the following additional requirements:

(1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building Code; Code: Building Code;

(2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c) of this Section; and

(3) participant-use areas shall be located on the level of the principal exterior door.

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

~~(k)~~(n) The ceiling height throughout the facility shall be at least seven and one-half feet from the floor.

~~(l)~~(o) Elevation changes in the floor are not permitted in participant-use areas; areas. Steps and ramps between levels are not permitted.

~~(m)~~(p) The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms, and bathrooms.

~~(n)~~(q) ~~Windows shall be operable and~~ All windows that are designed to be operable shall be maintained operable. For the purposes of this Rule, "operable" means a window that may be opened and shut to allow outdoor-air ventilation. To inhibit participant elopement from any window, the window opening may be restricted to a six-inch opening.

~~(o)~~ Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

~~(p)(r)~~ The facility shall ~~comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section,~~ meet sanitation requirements set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential Care Facilities, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and editions. ~~The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27609. Copies of these Rules may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699 1632 at no cost or can be accessed electronically free of charge at~~ <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>. ~~[https://www.oah.nc.gov/]~~

~~(q)(s)~~ The facility shall have a copy of the following inspection reports available for review upon request by the Construction Section:

- (1) a ~~current~~ sanitation inspection report from the sanitation division of the county health department; department dated within the past 12 months; and
- (2) a ~~current~~ fire and safety inspection report from the local fire ~~marshal.~~ marshal dated within the past 12 months.

~~(r)(t)~~ The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and sounding devices that are audible throughout the building. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72>.

(u) Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected to the fire alarm system. These heat detectors shall be interconnected and provided with battery backup. Corridors shall be equipped with smoke detectors that are connected to the fire alarm system.

~~(s)(v)~~ A building housing an overnight respite services program or an adult day care or adult health care program shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars (\$103.00).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13>.

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, 2017.2017;*

*Emergency Amendment Eff. July 1, 2026;*

*Temporary Adoption Amendment Eff. October 7, 2026.*



1 10A NCAC 13E .0403 is amended with changes under temporary procedures as follows:

3 **10A NCAC 13E .0403 STAFF AND STAFFING**

4 (a) Each staff person shall:

- 5 (1) have a job description that reflects actual duties and responsibilities determined by the program and  
6 shall be signed by the administrator and the employee;
- 7 (2) ~~have a tuberculin skin test within 12 months prior to hire and annually thereafter; be tested for~~  
8 ~~tuberculosis disease in compliance with control measures adopted by the Commission for Public~~  
9 ~~Health as specified in 10A NCAC 41A .0205. [-0205, which is hereby incorporated by reference,~~  
10 ~~including subsequent amendments;]~~
- 11 (3) be able to implement all of the program's policies and procedures as defined in Rule .0501 of this  
12 Subchapter and accident, fire safety, and emergency procedures for the protection of the participants  
13 in accordance with the Rules of this Subchapter and Chapter 131D of the general statutes;
- 14 (4) be informed of the confidential nature of participant information and protect and preserve the  
15 information from unauthorized use and disclosure;
- 16 (5) not hinder or interfere with the exercise of the participants rights as defined by program ~~policy;~~  
17 policy in accordance with Rule .0501 of this Subchapter;
- 18 (6) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant  
19 to G.S. 131E-256;
- 20 (7) have a statewide criminal background check, upon hire, of the past five years in accordance with  
21 G.S. 143B-932; and
- 22 (8) cooperate with inspectors and the monitoring and licensing agencies in complying with the rules of  
23 this Subchapter.

24 (b) Any staff member left in charge of the care of participants shall be 18 years or older.

25 (c) ~~The staffing pattern shall be adequate~~ There shall be staff on duty to meet the needs of each participant, with at  
26 least one staff ~~person present on duty and awake~~ at all times qualified to administer medications as defined by Rule  
27 .0702 of this Subchapter and trained to provide personal care and supervision to current participants.

28 (d) In a facility with a census of 7 to 12 participants, there shall be at least two staff persons on duty and awake at all  
29 times who are responsible for providing personal care and supervision to participants, with at least one of the staff  
30 persons qualified to administer medications as defined by Rule .0702 of this Subchapter. The staff persons shall be  
31 trained to provide personal care and supervision to current participants.

32 (e) Staff assigned to provide personal care and supervision duties shall not provide food service and housekeeping  
33 duties, except when housekeeping duties are incidental to the rendering of care services and do not hinder the assigned  
34 staff's duties of care or immediate response to participants, nor impede the assigned staff member's ability to monitor  
35 the participants. For the purposes of this Rule, "food service duties" means tasks performed by staff related to serving  
36 meals to participants, including assisting with food preparation, arranging and setting the dining tables, serving food

1 and beverages, and cleaning the dining room after meal service is complete, and "housekeeping duties" means tasks  
2 performed by staff such as cleaning and sanitizing facility common areas and resident rooms.

3 (f) There shall be additional staff employed to provide food service and housekeeping duties.

4 ~~(d)(g)~~ Services required by participants beyond personal care and supervision shall not only be provided unless by  
5 licensed health professionals in accordance with North Carolina licensing laws. staff satisfies the license requirements  
6 applicable to such services.

7 (h) There shall be documentation on file in the facility of staff qualifications required by Subparagraphs (1), (2), (6),  
8 and (7) in Paragraph (a) of this Rule and medication administration competency evaluation as required in Rule .0702  
9 of this Subchapter.

10  
11 *History Note: Authority G.S. 131D-6.1;*

12 *Eff. April 1, 2017; 2017;*

13 *Emergency Amendment Eff. July 1, 2026;*

14 *Temporary Amendment Eff. October 7, 2026.*

## Burgos, Alexander N

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**Subject:** FW: Second Response to Tech changes

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**From:** Barney, Meghan E <meghan.barney@oah.nc.gov>

**Sent:** Friday, September 25, 2026 12:10 PM

**To:** Black, Shanah <shanah.black@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

**Subject:** Re: Second Response to Tech changes

Shanah,

In the version you attached the correction was not made for Rule .0303- (a)(3) line 10 delete the word "and"

Also, for Rule .0403 Lines 9-11, you don't need to note that the rule is available free of charge with the website that language is part of incorporation. You can just end that subsection with the cross-reference ending with .0205.

If you could make those two changes, we should be all set.

Meghan Barney

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1925

Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: Second Response to Tech changes  
**Attachments:** 10A NCAC 13E .0302 - After Pre Review.docx; 10A NCAC 13E .0303 - After Pre Review-2.docx; 10A NCAC 13E .0308 - After Pre Review.docx; 10A NCAC 13E .0309 - After Pre Review.docx; 10A NCAC 13E .0403 - After Pre Review.docx

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**From:** Black, Shanah <shanah.black@dhhs.nc.gov>  
**Sent:** Friday, September 25, 2026 12:02 PM  
**To:** Barney, Meghan E <meghan.barney@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>  
**Subject:** RE: Second Response to Tech changes

Thank you so much for your help with these. These corrections have been made in the text.

1 10A NCAC 13E .0302 is amended with changes under temporary procedures as follows:

3 **10A NCAC 13E .0302 CAPACITY**

4 (a) Pursuant to G.S. 131D-6.1(c)(8), the Division of Health Service Regulation shall not approve a capacity of greater  
5 than ~~six~~ twelve (12) **12** participants for an overnight respite services program. For the purposes of this Rule,  
6 "capacity" means the maximum number of participants that the overnight respite services program is licensed to house  
7 at any given time.

8 (b) An overnight respite services program shall not exceed the capacity shown on its license. The license shall indicate  
9 the overnight respite services program's capacity for ambulatory and non-ambulatory participants permitted that an  
10 overnight respite services program facility can house at any given time. For the purposes of this Rule, "ambulatory"  
11 means the participant is able to respond and evacuate from the facility without verbal or physical assistance from  
12 others in the event of an emergency. "Non-ambulatory" means the participant is not able to respond and evacuate from  
13 the facility without verbal or physical assistance from others in the event of an emergency.

14 (c) Prior to an increase in capacity by adding rooms, altering ~~rooms, or~~ rooms, remodeling, changing use of ~~space,~~  
15 ~~space, or without building modifications,~~ the overnight respite services program shall submit a request for capacity  
16 increase and two building plans of each floor to the Construction Section. One plan shall indicate the current use of  
17 rooms in the existing building. The other plan shall indicate the proposed use of rooms in the existing building and its  
18 addition, alteration, remodeling, or change in use of space. For an addition to an existing building, the building plans  
19 shall also indicate how the addition will be tied into the existing building and any proposed changes to the building  
20 structure.

21 (d) When ~~the an~~ the an overnight respite services program increases its capacity by the addition to or alteration of an existing  
22 building, the entire overnight respite services program shall comply with the North Carolina ~~Fire Prevention Code,~~  
23 ~~State Building Codes,~~ which is are incorporated herein by reference including subsequent amendments and editions.  
24 Copies of ~~this code~~ these codes may be ~~purchased from the International Code Council online at~~  
25 ~~<http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of eighty five dollars (\$85.00) or~~ accessed electronically  
26 free of charge at ~~[http://codes.iccsafe.org/app/book/toc/2012/North\\_Carolina/Fire/index.html](http://codes.iccsafe.org/app/book/toc/2012/North_Carolina/Fire/index.html).~~  
27 <https://codes.iccsafe.org/codes/united-states/north-carolina>.

29 *History Note: Authority G.S. 131D-6.1;*

30 *Eff. April 1, ~~2017~~ 2017;*

31 *Emergency Amendment Eff. July 1, 2026.*

32 *Temporary ~~Adoption~~ Amendment Eff. October 7, 2026.*

1 10A NCAC 13E .0303 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0303 DESIGN AND CONSTRUCTION**

4 (a) For the purposes of this Rule the following definitions apply:

- 5 (1) "facility" "Facility" means a building or portion of a building housing an overnight respite services  
6 program as defined in G.S. 131D-6.1(a); 131D-6.1(a).
- 7 (2) "proposed facility" "Proposed facility" means the new construction of a building for a facility, an  
8 addition or alteration to an existing building for a facility, or the change in use of a building for a  
9 facility; facility.
- 10 (3) "existing facility" "Existing facility" means a currently licensed facility and ~~a proposed facility that~~  
11 ~~will be built according to building plans approved by the Construction Section for compliance with~~  
12 ~~the standards established in this Section, built prior to the effective date of this Rule; Rule.~~
- 13 (4) "new facility" "New Facility" means a facility that has not been licensed previously as an overnight  
14 respite services program and for which an initial license is sought. The term also includes a proposed  
15 facility that will be built according to building plans approved by the Construction Section for  
16 compliance with the standards established in this Section, on or after the effective date of this Rule.

17 (b) The physical plant requirements for each facility shall be applied as follows:

- 18 (1) A new facility shall meet the standards established in this Section.
- 19 (2) An existing facility shall meet the standards established in this Section that were in existence at the  
20 time of change in use of ~~space, space, increase in capacity,~~ construction, addition, alteration, or  
21 repair. Copies of existing physical plant standards may be obtained from the N. C. Department  
22 of Health and Human Services, Division of Health Service Regulation, Construction Section, 1915  
23 Health Services Way, Raleigh, NC 27607 at no cost.
- 24 (3) An existing building converted from another use that a program intends to use for an overnight  
25 respite services program shall meet all the requirements of a new facility as indicated in  
26 Subparagraph (1) of this Paragraph.

27 (c) All new construction, ~~additions,~~ additions, modifications, renovations, or alterations for a new facility requesting  
28 licensure for less than seven participants shall meet the requirements of the North Carolina State Building Codes,  
29 Code: Residential Code. [Code for overnight respite services programs requesting licensure for less than seven (7)  
30 participants. ] Additionally, overnight respite services programs requesting licensure for four to six participants shall  
31 meet the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section in effect at  
32 the time of licensure. Before starting any construction or alterations, the [overnight respite services program] applicant  
33 or his appointed representative administrator or their designee shall [consult with] contact the local building code  
34 enforcement official for information about required permits and construction requirements.

35 (d) All new construction, additions, modifications, renovations, or alterations for a new facility requesting licensure  
36 for [seven (7)] 7 to [twelve (12)] 12 participants shall meet the requirements of the North Carolina State Building  
37 Code: Building Code, Licensed Large Residential Care Facilities Section in effect at the time of licensure. Before

starting any construction or alterations, the ~~[overnight respite services program]~~ applicant or his appointed representative administrator or their designee shall ~~[consult with]~~ contact the local building code enforcement official for information about required permits and construction requirements. The North Carolina State Building Codes, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~. Copies of these codes ~~editions~~, may be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty seven dollars (\$527.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>. <https://codes.iccsafe.org/codes/united-states/north-carolina>. All new construction, additions, or repairs of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.

(e) All new construction, additions, modifications, renovations, or alterations of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, modification, renovation, alteration, or repair. Before starting any construction or alterations, the ~~[overnight respite services program]~~ applicant or his appointed representative administrator or their designee shall ~~[consult with]~~ contact the local building code enforcement official for information about required permits and construction requirements. The existing North Carolina State Building Codes may be accessed electronically free of charge at <https://www.ncosfm.gov/codes/codes-current-and-past>.

~~(d)~~(f) A facility shall be constructed, equipped, and maintained to comply with the standards established in this Section for the capacity indicated on its license.

~~(e)~~(g) The Construction Section Division may grant an equivalency to allow an alternate methods, procedures, design ~~or criteria, or~~ functional variation from the requirements of this Rule and the rules contained in this Section. For the purposes of this Rule, an "equivalency" is a Construction Section-approved alternate method, procedure, design ~~criteria, or and~~ functional variation to a requirement contained in the rules of this Section that meets the intent of the rule requirement but does not reduce the safety and operational effectiveness of the facility design and layout. If granted, the equivalency shall apply to a specific facility. ~~A program shall be granted an equivalency if: The equivalency may be granted by the Construction Section Division when the administrator, applicant, or their designee his appointed representative submits a written equivalency request to the Construction Section Division that states the following:~~

(1) ~~the overnight respite services program submits a written equivalency request to the Construction Section indicating:~~

(A) ~~the rule requirement that will not be met;~~

(B) ~~the justification for the equivalency; and~~

(C) ~~how the proposed equivalency meets the intent of the corresponding rule requirement; and~~

(2) ~~the program receives a written approval of the equivalency from the Construction Section.~~

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

(A) ~~impractical;~~

(B) unable to be met due to extraordinary circumstances. For the purpose of this Rule, "extraordinary circumstances" means situations that are unexpected and beyond the control of the facility; or

(C) unable to be met due to new programs.

(2) the justification for the equivalency; and

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

(h) In determining whether to grant an equivalency request, the Construction Section ~~[Division]~~ shall consider whether the request will reduce the safety and operational effectiveness of the facility. The administrator or their designee facility shall have maintain a copy of the approved equivalency issued by the Construction Section ~~[Division]~~.

~~(f)~~(i) If any of the rules, codes, or standards contained in this Section conflict, the most restrictive requirement shall apply.

~~(g)~~(j) For an existing facility whose license is revoked or suspended by the Division of Health Service Regulation pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the facility shall meet the requirements of a new facility as required by Subparagraph (b)(1) of this Rule prior to being relicensed.

~~(h)~~(k) Prior to commencement of construction or change in use of space, any program intending to offer overnight respite care services that is planning new construction, an ~~addition~~ addition, modification, renovation, or alteration to an existing building, or a change in use of space shall submit building plans and other documents to the Construction Section as specified in Rule .0301 of this Section.

~~(i)~~(l) If the building to be used for a facility is two or more stories in height, it shall meet the following additional requirements:

(1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building Code; Code: Building Code;

(2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c) of this Section; and

(3) participant-use areas shall be located on the level of the principal exterior door.

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

~~(k)~~(n) The ceiling height throughout the facility shall be at least seven and one-half feet from the floor.

~~(l)~~(o) Elevation changes in the floor are not permitted in participant-use areas; areas. Steps and ramps between levels are not permitted.

~~(m)~~(p) The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms, and bathrooms.

~~(n)~~(q) ~~Windows shall be operable and~~ All windows that are designed to be operable shall be maintained operable. For the purposes of this Rule, "operable" means a window that may be opened and shut to allow outdoor-air ventilation. To inhibit participant elopement from any window, the window opening may be restricted to a six-inch opening.

~~(o)~~ Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

~~(p)(r)~~ The facility shall ~~comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section,~~ meet sanitation requirements set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential Care Facilities, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and editions. ~~The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27609. Copies of these Rules may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699 1632 at no cost or can be accessed electronically free of charge at~~ <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>. [<https://www.oah.nc.gov/>]

~~(q)(s)~~ The facility shall have a copy of the following inspection reports available for review upon request by the Construction Section:

- (1) a ~~current~~ sanitation inspection report from the sanitation division of the county health department; department dated within the past 12 months; and
- (2) a ~~current~~ fire and safety inspection report from the local fire ~~marshal.~~ marshal dated within the past 12 months.

~~(r)(t)~~ The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and sounding devices that are audible throughout the building. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72>.

(u) Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected to the fire alarm system. These heat detectors shall be interconnected and provided with battery backup. Corridors shall be equipped with smoke detectors that are connected to the fire alarm system.

~~(s)(v)~~ A building housing an overnight respite services program or an adult day care or adult health care program shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars (\$103.00).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13>.

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, 2017.2017;*

*Emergency Amendment Eff. July 1, 2026;*

*Temporary Adoption Amendment Eff. October 7, 2026.*



1 10A NCAC 13E .0308 is amended with changes under temporary procedures as follows:

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

4 (a) There shall be bedrooms sufficient in number and size to meet the individual needs of the ~~participant~~ **participants**  
5 according to their age and gender.

6 (b) A room used as a bedroom shall meet the requirements of this Rule and be approved by the Construction Section.

7 (c) A room accessed only through a bathroom, kitchen, or another bedroom shall not be approved for a participant's  
8 bedroom.

9 (d) Bedrooms occupied by one participant shall be provided with not less than 100 square feet of floor area, ~~including~~  
10 ~~excluding accessory areas such as vestibule, closet, or wardrobe space.~~ vestibules, closets, wardrobes, or bathrooms.

11 Bedrooms occupied by two participants shall be provided with not less than 160 square feet of floor area, ~~including~~  
12 ~~excluding accessory areas such as vestibule, closet, or wardrobe space.~~ vestibules, closets, wardrobes, or bathrooms.

13 (e) The total number of participants assigned to a bedroom shall be based on the square footage requirements of  
14 Paragraph (d) of this Rule as approved by the Construction Section for that bedroom.

15 (f) A bedroom shall not be occupied by more than two participants.

16 (g) Each participant bedroom shall have one or more operable windows with views to the outdoors. **For facilities with**

17 **a licensed capacity of less than seven participants, at least one operable window shall meet the requirements of the**

18 **North Carolina State Building Code: Residential Code for emergency egress.** ~~[for facilities with a licensed capacity~~

19 ~~of less than seven (7) participants.]~~ **For facilities with a licensed capacity of [seven] 7 to [twelve] 12 participants,**

20 **windows shall meet the requirements of the North Carolina State Building Code: Building Code.** The gross window  
21 area shall be equal to at least eight percent of the floor space required by Paragraph (d) of this **Rule.** ~~[Rule, and shall~~

22 ~~be equipped with insect proof screens. To inhibit participant elopement, the window opening may be restricted to a~~

23 ~~six inch opening, except windows meeting the emergency egress requirements of the North Carolina State Building~~

24 ~~Code: Residential Code.]~~ The windows shall have a maximum sill height of 44 inches.

25 (h) Bedroom closets or wardrobes shall be large enough to provide each participant with a minimum of 22 cubic feet  
26 of clothing storage, one-half of which shall be for hanging clothes with an adjustable-height hanging bar.

27  
28 *History Note: Authority G.S. 131D-6.1;*

29 *Eff. April 1, 2017-2017;*

30 **Emergency Amendment Eff. July 1, 2026;**

31 **Temporary Adoption Amendment Eff. October 7, 2026.**

1 10A NCAC 13E .0309 is amended with changes under temporary procedures as follows:

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

4 (a) An overnight respite services program shall have a minimum of one bathroom for each every six or fewer respite  
5 participants. A bathroom shall contain a toilet, a ~~lavatory~~, ~~[sink]~~ sink, and one of the following:

- 6 (1) a roll-in shower designed and equipped for unobstructed shower chair entry and use;  
7 (2) a bathtub accessible on three sides; or  
8 (3) a manufactured walk-in bathtub or a similar manufactured bathtub designed for transfer of  
9 participants into the bathtub that is accessible on one short side and one long side of the bathtub.

10 (b) The A bathroom required by Paragraph (a) of this Rule may be shared with the adult day care program or adult  
11 day health program only after the Division of Aging ~~and Adult Services~~ of the Department of Health and Human  
12 Services determines, in writing, that the requirements of 10A NCAC 06R .0401(g) for an adult day care facility and  
13 10A NCAC 06S .0301 for an adult day health facility are met.

14 (c) A bathroom shall be designed to provide privacy. A bathroom with two or more toilets shall have privacy partitions  
15 or curtains for each toilet. Each bathtub or shower shall have privacy partitions or curtains. [The requirements of this  
16 Paragraph shall apply to new and existing facilities.]

17 (d) The entrance to the bathroom shall not be through a kitchen, another participant's bedroom, or another bathroom.

18 (e) The bathroom shall be located so that there is no more than 40 feet between any participant's bedroom door and a  
19 participant-use bathroom door.

20 (f) Hand grips shall be installed at all toilets, bathtubs, and showers used by participants. Hand grips shall be physically  
21 attached [mechanically fastened or anchored] to the walls with screws, nails or other fasteners, be located to help  
22 participants in entering and exiting bathtubs, showers, manufactured walk-in tubs, or similar bathing fixtures, and be  
23 on the wall adjacent to toilets.

24 (g) Nonskid surfacing or strips shall be installed to the floor or bottom of ~~showers and bathtubs~~. showers, bathtubs,  
25 or similar bathing fixtures.

26 (h) A bathroom shall have ~~mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor~~  
27 ~~area.~~ an exhaust system per the North Carolina State Building Code: Residential Code for facilities licensed for less  
28 than [seven] 7 participants, and per the North Carolina State Building Codes: Building Codes for facilities licensed  
29 for [seven] 7 to [twelve] 12 participants. The mechanical ducted exhaust vent shall be vented directly to the outdoors.

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

31  
32 *History Note: Authority G.S. 131D-6.1;*

33 *Eff. April 1, 2017-2017;*

34 *Emergency Amendment Eff. July 1, 2026;*

35 *Temporary Adoption Amendment Eff. October 7, 2026.*



## Burgos, Alexander N

---

**Subject:** FW: Second Response to Tech changes

---

**From:** Barney, Meghan E <meghan.barney@oah.nc.gov>

**Sent:** Friday, September 25, 2026 11:49 AM

**To:** Black, Shanah <shanah.black@dhhs.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

**Subject:** Re: Second Response to Tech changes

Thank you so much for getting these to me so quickly. I think they generally look good and I should be able to recommend adoption. There are just a few final edits:

Rule .0302. .0303, .0308, and .0309 the line in the history note for the emergency rules disappeared. Please add that back in.

Rule .0303- (a)(3) line 10 delete the word "and"

Rule .0403 Lines 9-11, you don't need to incorporate the NCAC by reference just a cross reference is good so end the sentence with the rule number (.0205) the rest is not necessary. I'm sorry I didn't catch that before.

Again, thank you so much for your work on these.

Meghan

Meghan Barney

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1925

Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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## Burgos, Alexander N

---

**From:** Black, Shanah  
**Sent:** Friday, September 25, 2026 10:32 AM  
**To:** Barney, Meghan E; Burgos, Alexander N; Rules, Oah  
**Subject:** Second Response to Tech changes  
**Attachments:** 10A NCAC 13E .0302 - After Pre Review.docx; 10A NCAC 13E .0303 - After Pre Review-2.docx; 10A NCAC 13E .0308 - After Pre Review.docx; 10A NCAC 13E .0309 - After Pre Review.docx; 10A NCAC 13E .0403 - After Pre Review.docx; Second Temporary Rules-Responses to RRC Request.docx

Good morning and thank you for speaking with us about these changes.

Please let us know if additional changes need to be made.

We appreciate your assistance on these rules.

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

Work Cell: 919-896-9371  
Office: 919-855-3481  
Fax: 919-733-2757  
[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)

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Raleigh, NC 27699-2701

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1 10A NCAC 13E .0302 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0302 CAPACITY**

4 (a) Pursuant to G.S. 131D-6.1(c)(8), the Division of Health Service Regulation shall not approve a capacity of greater  
5 than ~~six~~ twelve (12) **12** participants for an overnight respite services program. For the purposes of this Rule,  
6 "capacity" means the maximum number of participants that the overnight respite services program is licensed to house  
7 at any given time.

8 (b) An overnight respite services program shall not exceed the capacity shown on its license. The license shall indicate  
9 the overnight respite services program's capacity for ambulatory and non-ambulatory participants permitted that an  
10 overnight respite services program facility can house at any given time. For the purposes of this Rule, "ambulatory"  
11 means the participant is able to respond and evacuate from the facility without verbal or physical assistance from  
12 others in the event of an emergency. "Non-ambulatory" means the participant is not able to respond and evacuate from  
13 the facility without verbal or physical assistance from others in the event of an emergency.

14 (c) Prior to an increase in capacity by adding rooms, altering ~~rooms, or~~ rooms, remodeling, changing use of ~~space,~~  
15 ~~space, or without building modifications,~~ the overnight respite services program shall submit a request for capacity  
16 increase and two building plans of each floor to the Construction Section. One plan shall indicate the current use of  
17 rooms in the existing building. The other plan shall indicate the proposed use of rooms in the existing building and its  
18 addition, alteration, remodeling, or change in use of space. For an addition to an existing building, the building plans  
19 shall also indicate how the addition will be tied into the existing building and any proposed changes to the building  
20 structure.

21 (d) When ~~the~~ an overnight respite services program increases its capacity by the addition to or alteration of an existing  
22 building, the entire overnight respite services program shall comply with the North Carolina ~~Fire Prevention Code,~~  
23 State Building Codes, which ~~is~~ are incorporated herein by reference including subsequent amendments and editions.  
24 Copies of ~~this code~~ these codes may be ~~purchased from the International Code Council online at~~  
25 ~~<http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of eighty five dollars (\$85.00) or~~ accessed electronically  
26 free of charge at ~~[http://codes.iccsafe.org/app/book/toe/2012/North\\_Carolina/Fire/index.html](http://codes.iccsafe.org/app/book/toe/2012/North_Carolina/Fire/index.html).~~  
27 <https://codes.iccsafe.org/codes/united-states/north-carolina>.

28  
29 *History Note: Authority G.S. 131D-6.1;*

30 *Eff. April 1, ~~2017~~ 2017;*

31 *Temporary ~~Adoption~~ **Amendment** Eff. October 7, 2026.*

1 10A NCAC 13E .0303 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0303 DESIGN AND CONSTRUCTION**

4 (a) For the purposes of this Rule the following definitions apply:

- 5 (1) "facility" "Facility" means a building or portion of a building housing an overnight respite services  
6 program as defined in G.S. 131D-6.1(a); 131D-6.1(a).
- 7 (2) "proposed facility" "Proposed facility" means the new construction of a building for a facility, an  
8 addition or alteration to an existing building for a facility, or the change in use of a building for a  
9 facility; facility.
- 10 (3) "existing facility" "Existing facility" means a currently licensed facility and ~~a proposed facility that~~  
11 ~~will be built according to building plans approved by the Construction Section for compliance with~~  
12 ~~the standards established in this Section, built prior to the effective date of this Rule; and Rule.~~
- 13 (4) "new facility" "New Facility" means a facility that has not been licensed previously as an overnight  
14 respite services program and for which an initial license is sought. The term also includes a proposed  
15 facility that will be built according to building plans approved by the Construction Section for  
16 compliance with the standards established in this Section, on or after the effective date of this Rule.

17 (b) The physical plant requirements for each facility shall be applied as follows:

- 18 (1) A new facility shall meet the standards established in this Section.
- 19 (2) An existing facility shall meet the standards established in this Section that were in existence at the  
20 time of change in use of ~~space, space, increase in capacity,~~ construction, addition, alteration, or  
21 repair. Copies of existing physical plant standards may be obtained from the N. C. Department  
22 of Health and Human Services, Division of Health Service Regulation, Construction Section, 1915  
23 Health Services Way, Raleigh, NC 27607 at no cost.
- 24 (3) An existing building converted from another use that a program intends to use for an overnight  
25 respite services program shall meet all the requirements of a new facility as indicated in  
26 Subparagraph (1) of this Paragraph.

27 (c) All new construction, ~~additions, additions, modifications, renovations,~~ or alterations for a new facility requesting  
28 licensure for less than seven participants shall meet the requirements of the North Carolina State Building Codes,  
29 Code: Residential Code. [Code for overnight respite services programs requesting licensure for less than seven (7)  
30 participants. ] Additionally, overnight respite services programs requesting licensure for four to six participants shall  
31 meet the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section in effect at  
32 the time of licensure. Before starting any construction or alterations, the [overnight respite services program] applicant  
33 or his appointed representative administrator or their designee shall [consult with] contact the local building code  
34 enforcement official for information about required permits and construction requirements.

35 (d) All new construction, additions, modifications, renovations, or alterations for a new facility requesting licensure  
36 for [seven (7)] 7 to [twelve (12)] 12 participants shall meet the requirements of the North Carolina State Building  
37 Code: Building Code, Licensed Large Residential Care Facilities Section in effect at the time of licensure. Before

starting any construction or alterations, the ~~[overnight respite services program]~~ applicant or his appointed representative administrator or their designee shall ~~[consult with]~~ contact the local building code enforcement official for information about required permits and construction requirements. The North Carolina State Building Codes, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~. Copies of these ~~codes~~ editions, may be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty seven dollars (\$527.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>. <https://codes.iccsafe.org/codes/united-states/north-carolina>. All new construction, additions, or repairs of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.

(e) All new construction, additions, modifications, renovations, or alterations of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, modification, renovation, alteration, or repair. Before starting any construction or alterations, the ~~[overnight respite services program]~~ applicant or his appointed representative administrator or their designee shall ~~[consult with]~~ contact the local building code enforcement official for information about required permits and construction requirements. The existing North Carolina State Building Codes may be accessed electronically free of charge at <https://www.ncosfm.gov/codes/codes-current-and-past>.

~~(d)~~(f) A facility shall be constructed, equipped, and maintained to comply with the standards established in this Section for the capacity indicated on its license.

~~(e)~~(g) The Construction Section Division may grant an equivalency to allow an alternate methods, procedures, design ~~or criteria, or~~ functional variation from the requirements of this Rule and the rules contained in this Section. For the purposes of this Rule, an "equivalency" is a Construction Section-approved alternate method, procedure, design ~~criteria, or and~~ functional variation to a requirement contained in the rules of this Section that meets the intent of the rule requirement but does not reduce the safety and operational effectiveness of the facility design and layout. If granted, the equivalency shall apply to a specific facility. ~~A program shall be granted an equivalency if: The equivalency may be granted by the Construction Section Division when the administrator, applicant, or their designee his appointed representative submits a written equivalency request to the Construction Section Division that states the following:~~

(1) ~~the overnight respite services program submits a written equivalency request to the Construction Section indicating:~~

(A) ~~the rule requirement that will not be met;~~

(B) ~~the justification for the equivalency; and~~

(C) ~~how the proposed equivalency meets the intent of the corresponding rule requirement; and~~

(2) ~~the program receives a written approval of the equivalency from the Construction Section.~~

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

(A) ~~impractical;~~

(B) unable to be met due to extraordinary circumstances. For the purpose of this Rule, "extraordinary circumstances" means situations that are unexpected and beyond the control of the facility; or

(C) unable to be met due to new programs.

(2) the justification for the equivalency; and

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

(h) In determining whether to grant an equivalency request, the Construction Section ~~[Division]~~ shall consider whether the request will reduce the safety and operational effectiveness of the facility. The administrator or their designee facility shall have maintain a copy of the approved equivalency issued by the Construction Section ~~[Division]~~.

~~(f)~~(i) If any of the rules, codes, or standards contained in this Section conflict, the most restrictive requirement shall apply.

~~(g)~~(j) For an existing facility whose license is revoked or suspended by the Division of Health Service Regulation pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the facility shall meet the requirements of a new facility as required by Subparagraph (b)(1) of this Rule prior to being relicensed.

~~(h)~~(k) Prior to commencement of construction or change in use of space, any program intending to offer overnight respite care services that is planning new construction, an ~~addition~~ addition, modification, renovation, or alteration to an existing building, or a change in use of space shall submit building plans and other documents to the Construction Section as specified in Rule .0301 of this Section.

~~(i)~~(l) If the building to be used for a facility is two or more stories in height, it shall meet the following additional requirements:

(1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building Code; Code: Building Code;

(2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c) of this Section; and

(3) participant-use areas shall be located on the level of the principal exterior door.

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

~~(k)~~(n) The ceiling height throughout the facility shall be at least seven and one-half feet from the floor.

~~(l)~~(o) Elevation changes in the floor are not permitted in participant-use areas; areas. Steps and ramps between levels are not permitted.

~~(m)~~(p) The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms, and bathrooms.

~~(n)~~(q) ~~Windows shall be operable and~~ All windows that are designed to be operable shall be maintained operable. For the purposes of this Rule, "operable" means a window that may be opened and shut to allow outdoor-air ventilation. To inhibit participant elopement from any window, the window opening may be restricted to a six-inch opening.

~~(o)~~ Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

~~(p)(r)~~ The facility shall ~~comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section,~~ meet sanitation requirements set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential Care Facilities, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and editions. ~~The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27609. Copies of these Rules may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699 1632 at no cost or can be accessed electronically free of charge at~~ <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>. [<https://www.oah.nc.gov/>]

~~(q)(s)~~ The facility shall have a copy of the following inspection reports available for review upon request by the Construction Section:

- (1) a ~~current~~ sanitation inspection report from the sanitation division of the county health department; department dated within the past 12 months; and
- (2) a ~~current~~ fire and safety inspection report from the local fire ~~marshal.~~ marshal dated within the past 12 months.

~~(r)(t)~~ The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and sounding devices that are audible throughout the building. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72>.

(u) Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected to the fire alarm system. These heat detectors shall be interconnected and provided with battery backup. Corridors shall be equipped with smoke detectors that are connected to the fire alarm system.

~~(s)(v)~~ A building housing an overnight respite services program or an adult day care or adult health care program shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars (\$103.00).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13>.

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, 2017.2017;*

*Temporary Adoption Amendment Eff. October 7, 2026.*

1 10A NCAC 13E .0308 is amended with changes under temporary procedures as follows:

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

4 (a) There shall be bedrooms sufficient in number and size to meet the individual needs of the ~~participant~~ **participants**  
5 according to their age and gender.

6 (b) A room used as a bedroom shall meet the requirements of this Rule and be approved by the Construction Section.

7 (c) A room accessed only through a bathroom, kitchen, or another bedroom shall not be approved for a participant's  
8 bedroom.

9 (d) Bedrooms occupied by one participant shall be provided with not less than 100 square feet of floor area, ~~including~~  
10 ~~excluding accessory areas such as vestibule, closet, or wardrobe space.~~ vestibules, closets, wardrobes, or bathrooms.

11 Bedrooms occupied by two participants shall be provided with not less than 160 square feet of floor area, ~~including~~  
12 ~~excluding accessory areas such as vestibule, closet, or wardrobe space.~~ vestibules, closets, wardrobes, or bathrooms.

13 (e) The total number of participants assigned to a bedroom shall be based on the square footage requirements of  
14 Paragraph (d) of this Rule as approved by the Construction Section for that bedroom.

15 (f) A bedroom shall not be occupied by more than two participants.

16 (g) Each participant bedroom shall have one or more operable windows with views to the outdoors. **For facilities with**  
17 **a licensed capacity of less than seven participants, at least one operable window shall meet the requirements of the**  
18 **North Carolina State Building Code: Residential Code for emergency egress.** ~~[for facilities with a licensed capacity~~  
19 ~~of less than seven (7) participants.]~~ **For facilities with a licensed capacity of** ~~seven~~ **7** ~~to twelve~~ **12** **participants,**  
20 **windows shall meet the requirements of the North Carolina State Building Code: Building Code.** The gross window  
21 area shall be equal to at least eight percent of the floor space required by Paragraph (d) of this **Rule.** ~~[Rule, and shall~~  
22 ~~be equipped with insect proof screens. To inhibit participant elopement, the window opening may be restricted to a~~  
23 ~~six inch opening, except windows meeting the emergency egress requirements of the North Carolina State Building~~  
24 ~~Code: Residential Code.]~~ The windows shall have a maximum sill height of 44 inches.

25 (h) Bedroom closets or wardrobes shall be large enough to provide each participant with a minimum of 22 cubic feet  
26 of clothing storage, one-half of which shall be for hanging clothes with an adjustable-height hanging bar.

27  
28 *History Note: Authority G.S. 131D-6.1;*

29 *Eff. April 1, ~~2017~~ 2017;*

30 *Temporary **Adoption Amendment** Eff. October 7, 2026.*

1 10A NCAC 13E .0309 is amended with changes under temporary procedures as follows:

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

4 (a) An overnight respite services program shall have a minimum of one bathroom for each every six or fewer respite  
5 participants. A bathroom shall contain a toilet, a ~~lavatory~~, ~~[sink]~~ sink, and one of the following:

- 6 (1) a roll-in shower designed and equipped for unobstructed shower chair entry and use;  
7 (2) a bathtub accessible on three sides; or  
8 (3) a manufactured walk-in bathtub or a similar manufactured bathtub designed for transfer of  
9 participants into the bathtub that is accessible on one short side and one long side of the bathtub.

10 (b) The A bathroom required by Paragraph (a) of this Rule may be shared with the adult day care program or adult  
11 day health program only after the Division of Aging ~~and Adult Services~~ of the Department of Health and Human  
12 Services determines, in writing, that the requirements of 10A NCAC 06R .0401(g) for an adult day care facility and  
13 10A NCAC 06S .0301 for an adult day health facility are met.

14 (c) A bathroom shall be designed to provide privacy. A bathroom with two or more toilets shall have privacy partitions  
15 or curtains for each toilet. Each bathtub or shower shall have privacy partitions or curtains. [The requirements of this  
16 Paragraph shall apply to new and existing facilities.]

17 (d) The entrance to the bathroom shall not be through a kitchen, another participant's bedroom, or another bathroom.

18 (e) The bathroom shall be located so that there is no more than 40 feet between any participant's bedroom door and a  
19 participant-use bathroom door.

20 (f) Hand grips shall be installed at all toilets, bathtubs, and showers used by participants. Hand grips shall be physically  
21 attached [mechanically fastened or anchored] to the walls with screws, nails or other fasteners, be located to help  
22 participants in entering and exiting bathtubs, showers, manufactured walk-in tubs, or similar bathing fixtures, and be  
23 on the wall adjacent to toilets.

24 (g) Nonskid surfacing or strips shall be installed to the floor or bottom of ~~showers and bathtubs~~. showers, bathtubs,  
25 or similar bathing fixtures.

26 (h) A bathroom shall have ~~mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor~~  
27 ~~area.~~ an exhaust system per the North Carolina State Building Code: Residential Code for facilities licensed for less  
28 than [seven] 7 participants, and per the North Carolina State Building Codes: Building Codes for facilities licensed  
29 for [seven] 7 to [twelve] 12 participants. The mechanical ducted exhaust vent shall be vented directly to the outdoors.

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

31  
32 *History Note: Authority G.S. 131D-6.1;*

33 *Eff. April 1, 2017-2017;*

34 *Temporary Adoption Amendment Eff. October 7, 2026.*

1 10A NCAC 13E .0403 is amended with changes under temporary procedures as follows:

3 **10A NCAC 13E .0403 STAFF AND STAFFING**

4 (a) Each staff person shall:

- 5 (1) have a job description that reflects actual duties and responsibilities determined by the program and  
6 shall be signed by the administrator and the employee;
- 7 (2) ~~have a tuberculin skin test within 12 months prior to hire and annually thereafter; be tested for~~  
8 ~~tuberculosis disease in compliance with control measures adopted by the Commission for Public~~  
9 ~~Health as specified in 10A NCAC 41A .0205, which is hereby incorporated by reference, including~~  
10 ~~subsequent amendments, copies of these Rules may be accessed online free of charge at~~  
11 ~~<https://www.oah.nc.gov/>; [http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2010A%20-](http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2010A%20-%20Health%20and%20Human%20Services\Chapter%2041%20-%20Epidemiology%20Health)~~  
12 ~~[%20Health%20and%20Human%20Services\Chapter%2041%20-%20Epidemiology%20Health](http://reports.oah.state.nc.us/ncac.asp?folderName=Title%2010A%20-%20Health%20and%20Human%20Services\Chapter%2041%20-%20Epidemiology%20Health)~~
- 13 (3) be able to implement all of the program's policies and procedures as defined in Rule .0501 of this  
14 Subchapter and accident, fire safety, and emergency procedures for the protection of the participants  
15 in accordance with the Rules of this Subchapter and Chapter 131D of the general statutes;
- 16 (4) be informed of the confidential nature of participant information and protect and preserve the  
17 information from unauthorized use and disclosure;
- 18 (5) not hinder or interfere with the exercise of the participants rights as defined by program ~~policy;~~  
19 policy in accordance with Rule .0501 of this Subchapter;
- 20 (6) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant  
21 to G.S. 131E-256;
- 22 (7) have a statewide criminal background check, upon hire, of the past five years in accordance with  
23 G.S. 143B-932; and
- 24 (8) cooperate with inspectors and the monitoring and licensing agencies in complying with the rules of  
25 this Subchapter.

26 (b) Any staff member left in charge of the care of participants shall be 18 years or older.

27 (c) ~~The staffing pattern shall be adequate~~ There shall be staff on duty to meet the needs of each participant, with at  
28 least one staff ~~person present on duty and awake~~ person on duty at all times qualified to administer medications as defined by Rule  
29 .0702 of this Subchapter and trained to provide personal care and supervision to current participants.

30 (d) In a facility with a census of 7 to 12 participants, there shall be at least two staff persons on duty and awake at all  
31 times who are responsible for providing personal care and supervision to participants, with at least one of the staff  
32 persons qualified to administer medications as defined by Rule .0702 of this Subchapter. The staff persons shall be  
33 trained to provide personal care and supervision to current participants.

34 (e) Staff assigned to provide personal care and supervision duties shall not provide food service and housekeeping  
35 duties, except when housekeeping duties are incidental to the rendering of care services and do not hinder the assigned  
36 staff's duties of care or immediate response to participants, nor impede the assigned staff member's ability to monitor  
37 the participants. For the purposes of this Rule, "food service duties" means tasks performed by staff related to serving

1 meals to participants, including assisting with food preparation, arranging and setting the dining tables, serving food  
2 and beverages, and cleaning the dining room after meal service is complete, and "housekeeping duties" means tasks  
3 performed by staff such as cleaning and sanitizing facility common areas and resident rooms.

4 (f) There shall be additional staff employed to provide food service and housekeeping duties.

5 ~~(d)(g)~~ Services required by participants beyond personal care and supervision shall ~~not only~~ be provided ~~unless by~~  
6 ~~licensed health professionals in accordance with North Carolina licensing laws. staff satisfies the license requirements~~  
7 ~~applicable to such services.~~

8 (h) There shall be documentation on file in the facility of staff qualifications required by Subparagraphs (1), (2), (6),  
9 and (7) in Paragraph (a) of this Rule and medication administration competency evaluation as required in Rule .0702  
10 of this Subchapter.

11  
12 *History Note: Authority G.S. 131D-6.1;*

13 *Eff. April 1, ~~2017~~ 2017;*

14 *Emergency Amendment Eff. July 1, 2026;*

15 *Temporary Amendment Eff. October 7, 2026.*

## Burgos, Alexander N

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**Subject:** FW: Technical changes for temporary rules 10A NCAC 13E

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**From:** Barney, Meghan E <meghan.barney@oah.nc.gov>

**Sent:** Thursday, September 24, 2026 8:31 AM

**To:** Black, Shanah <shanah.black@dhhs.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Sylvester, Tammy <tammy.sylvester@dhhs.nc.gov>

**Subject:** Re: Technical changes for temporary rules 10A NCAC 13E

Good Morning,

Tammy thank you for talking this through with me. I wanted to send this to summarize the conversation. I think the easiest way to meet the needs of the "frozen in time" building code is to clarify in the rule .0303(b)(2) similar to how it was done in other sections, that the previous rules are freely available on your website for clarity. I understand that you are going to streamline for the temporary rules and I think that is a great choice. When you make edits to your permanent rules the clarity of the rules on your website with the addition of a phrase indicating that this application is "unless otherwise noted in the individual rules" would help so that the subparagraphs that you want to be applied to "new and existing" facilities will be clear. I think this will address the issues I had with the timing component. I look forward to seeing your edits. Thank you for working with me.

Meghan

Meghan Barney

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1925

Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: Technical changes for temporary rules 10A NCAC 13E

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**From:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>

**Sent:** Wednesday, September 23, 2026 3:33 PM

**To:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: Technical changes for temporary rules 10A NCAC 13E

Thank you, I will let them know

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**From:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>

**Sent:** Wednesday, September 23, 2026 3:28 PM

**To:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** Re: Technical changes for temporary rules 10A NCAC 13E

Ms. Black,

In working further today I realized where an underlying issue in the rules was stemming from. I have edited my request for one rule to try and help clarify the issue. Again, I am in the office today if anyone would like to talk.

Meghan

Meghan Barney

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1925

Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: Technical changes for temporary rules 10A NCAC 13E

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**From:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>

**Sent:** Tuesday, September 22, 2026 3:44 PM

**To:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: Technical changes for temporary rules 10A NCAC 13E

Thank you, I will let them know.

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**From:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>

**Sent:** Tuesday, September 22, 2026 3:39 PM

**To:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** Re: Technical changes for temporary rules 10A NCAC 13E

Ms. Black,

I have attached a second request for changes with my responses to the original set of rules. There are some fairly significant issues that may need to be considered, and I know the timeline is short. If anyone on the drafting team needs to have a conversation, I would be happy to discuss any questions directly. I will be available today until 5 and tomorrow 9-5.

Thank you,  
Meghan

Meghan Barney  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1925  
Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: Technical changes for temporary rules 10A NCAC 13E

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**From:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>

**Sent:** Tuesday, September 22, 2026 9:17 AM

**To:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: Technical changes for temporary rules 10A NCAC 13E

Thank you.

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**From:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>

**Sent:** Tuesday, September 22, 2026 9:17 AM

**To:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** Re: Technical changes for temporary rules 10A NCAC 13E

Ms. Black,

I will need responses by Friday September 25 at 9:00am.

Meghan Barney

Rules Review Commission Counsel

Office of Administrative Hearings

Telephone: 984-236-1925

Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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**From:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>

**Sent:** Tuesday, September 22, 2026 8:37 AM

**To:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: Technical changes for temporary rules 10A NCAC 13E

Good morning,

Could you please give us a timeframe for when you need a response from us? Thanks

## Burgos, Alexander N

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**Subject:** FW: Technical changes for temporary rules 10A NCAC 13E

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**From:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>

**Sent:** Tuesday, September 22, 2026 7:26 AM

**To:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** RE: Technical changes for temporary rules 10A NCAC 13E

Good morning,

I forwarded this to the adult care section that drafted these rules and are answering these questions.

Thanks

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**From:** Barney, Meghan E <[meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)>

**Sent:** Monday, September 21, 2026 4:53 PM

**To:** Black, Shanah <[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)>; Rules, Oah <[oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov)>; Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>

**Subject:** Re: Technical changes for temporary rules 10A NCAC 13E

Ms. Black,

Thank you for getting the technical changes back to me. I will go through them as quickly as possible to provide feedback. However, as our timeline is short, I wanted to reply immediately with my first concern about authority so that you all have time to address that while I review each rule individually.

I understand that the General Assembly passed S.L. 2026-1 and included Section 3E. 1.(b) which states "The Medical Care Commission may adopt emergency and temporary rules as necessary to implement the requirements and limitations of G.S. 131D-6.1(c), **as amended by subsection (a) of this section.**" I read the addition of the highlighted language to mean that any temporary rules must be directly related to implementation of the amended subsections.

The Medical Care Commission clearly has broad rule making authority for their permanent rules under G.S. 131D-6.1(c)(1)-(11). However, the temporary ruling making authority, based on the amendment in the session law is narrower and directly related to (2) Staffing and (8) Bed Capacity. For some of the temporary rules submitted, the direct necessity based on the capacity and staffing increases are clear or the impact of the building code changes are clear. However, for other rules it is not. That doesn't mean it doesn't exist, just that as a non-expert I do not see it.

I specified rules .0305, .0306, .0312, .0316, .0317, .0318, and .0601 because the need for changes under temporary rules was not clear. For instance, in Rule .0305, why is it necessary to amend to require insect-proof screens and window opening distance? Is a different building code, which is newly applicable based on the increased number of participants, requiring those changes? If so, please point me to the new requirement that now applies based on the changes in the session law. If this change is not required by new building code requirements due to the increase in participants, then I do not believe there is authority to circumvent the traditional notice and hearing requirement for the amendment. The Medical Care Commission may have clear authority to amend this section of their permanent rule under (c)(3) building specifications, but the need for temporary rules may not be met.

I had similar concerns about the tuberculosis testing. Rules .0403 and .0601 both contain amended language concerning tuberculosis testing and incorporate 10A NCAC 41A .0205. You state that this update is required "to

meet current communicable disease requirements." Are those requirements changing based on the number of participants? Or is the same testing required no matter how many participants or staff are present? 10A NCAC 41A .0205 has not been amended since 2012 so that is not a new and pressing change impacted by the session law. Is there a medical or health code that is impacted by the amendment changing capacity? I completely understand that tuberculosis testing is important in any facility where participants are in close proximity. However, 10A NCAC 41A .0205 could have been incorporated in its current version any time in the last fourteen years via a permanent rule making amendment. What about the session law amendment makes it a new and necessary requirement?

Please look at rules .0305, .0306, .0312, .0316, .0317, .0318, and .0601 and let us know how the edits to each rule are specifically required by the amendments passed in S.L. 2026-1.

Thank you so much for your attention to this. I will return the individual rules to you as soon as I can.

Meghan

Meghan Barney  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1925  
Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: Technical changes for temporary rules 10A NCAC 13E  
**Attachments:** 10A NCAC 13E .0302.docx; 10A NCAC 13E .0303.docx; 10A NCAC 13E .0305.docx; 10A NCAC 13E .0306.docx; 10A NCAC 13E .0308.docx; 10A NCAC 13E .0309.docx; 10A NCAC 13E .0312.docx; 10A NCAC 13E .0316.docx; 10A NCAC 13E .0317.docx; 10A NCAC 13E .0318.docx; 10A NCAC 13E .0403.docx; 10A NCAC 13E .0601.docx; Responses to RRC Request for Changes ONR Temporary Rules.docx

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**From:** Black, Shanah <shanah.black@dhhs.nc.gov>  
**Sent:** Monday, September 21, 2026 2:47 PM  
**To:** Barney, Meghan E <meghan.barney@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** Technical changes for temporary rules 10A NCAC 13E

Good afternoon,

Hope you had a good weekend. Attached are the responses to the technical changes requested.

Please let us know if there are further changes that need to be made.

Thanks,

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

Work Cell: 919-896-9371  
Office: 919-855-3481  
Fax: 919-733-2757  
[shanah.black@dhhs.nc.gov](mailto:shanah.black@dhhs.nc.gov)

2701 Mail Service Center  
Raleigh, NC 27699-2701

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

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

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

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

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

**Note the following general instructions:**

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

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

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0305, .0306, .0312, .0316, .0317, .0318, .0601

**DEADLINE FOR RECEIPT:**

**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:

*Authority: S.L. 2026-1 states: "The Medical Care Commission may adopt emergency and temporary rules as necessary to implement the requirements and limitations of G.S. 131D-6.1(c), as amended by subsection (a) of this section." This clearly gives the Commission some discretionary authority to make temporary rules as needed to implement the changes in (c)(2) and (c)(8). It is also clear that the changes made in subsection (a) may impact additional rules because of issues such as the application of additional building codes due to the increased number of participants within the program. However, it is not clear why the changes in 10A NCAC 13E .0305, .0306, .0312, .0316, .0317, .0318, and .0601 are necessary based on (c)(2) and (c)(8) and warrant modification to notice and hearing requirements under G.S. 150B-21.2. Please provide clarification as to the necessity for each rule noted above.*

**Response:** Amendments to rules 10A NCAC 13E .0303, .0305, .0306, .0312, .0316, .0317, and .0318, that govern the physical plant requirements of overnight respite services in adult day programs are required to ensure the health and safety of program participants. When the number of allowable program participants in an overnight services facility increases to more than six, different requirements from the North Carolina State Building Code apply. Currently, the rules govern overnight respite programs for up to six residents, and do not include the references to the Building Code requirements for overnight facilities housing seven or more participants. When increasing capacity in an overnight facility, various physical plant requirements need to be updated to ensure there is adequate space for all of the participants to receive care and services and that the facility is safely constructed. Also, amendments made to 10A NCAC 13E .0601 update the tuberculosis testing requirements to meet current communicable disease requirements as set forth by the Commission for Public Health to keep staff and participants safe until temporary and permanent rulemaking can occur. Prevention of communicable disease is especially important since the number of allowable participants will be increasing to twelve and participants in these programs come from the community setting.

Meghan Barney  
Commission Counsel

Date submitted to agency: September 14, 2026

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

Meghan Barney  
Commission Counsel  
Date submitted to agency: September 14, 2026

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0302

**DEADLINE FOR RECEIPT: September 21, 2026**

**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:

(a) *Line 5 change "twelve (12)" to "12" See 26 NCAC 02C .0108(9): numbers one to nine are spelled out, figures are used for numbers over nine, or if a sentence contains both a number one to nine and a number over nine use figures for both. This is also reflected in the Style Guide at 5.1.*

**Response: Updated in text.**

(b) *Line 9 delete "permitted" for clarity as it is unnecessary.*

**Response: Updated in text.**

(b) *Line 10 Is there a rule or statute that clarifies the capacity allowance for ambulatory and non-ambulatory? If so, please cite to it. G.S. 131D-6.1(c)(8) only states 12 participants and does not specify ambulatory and non-ambulatory.*

**Response: The ambulatory and non-ambulatory designations for participants will affect which requirements under the North Carolina State Building Code: Building Code each facility must be in compliance with. The Building Code does limit the number of ambulatory and/or non-ambulatory participants that can be in a facility under certain criteria.**

(b) *Line 11 and 12, respond to what? Respond how? Is the "response" necessary or just the ability to evacuate without verbal or physical assistance?*

**Response: The language "respond and evacuate..." is taken directly from the North Carolina State Building Code: Building Code for Licensed Residential Care Facilities.**

(d) *Line 21 change "When the" to "When an"*

**Response: Updated in text.**

(d) *Line 27 Please remove hyperlink*

**Response: This hyperlink is provided in numerous other licensing rules. This hyperlink is used to help providers access the North Carolina State Building Code.**

*History Note, add the emergency rule  
change "Adoption" to "Amendment"*

**Response: Updated in text.**

Meghan Barney  
Commission Counsel

Date submitted to agency: September 14, 2026

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

Meghan Barney  
Commission Counsel  
Date submitted to agency: September 14, 2026

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0303

**DEADLINE FOR RECEIPT: September 21, 2026**

***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:

*(a)(1)-(4) Lines 5-15 Each subparagraph should start with a capital and end with a period.*

**Response: Updated in text.**

*(a)(3) Line 9 delete "and"*

**Response: Updated in text.**

*(b)(2) How will programs know what standards were in place at the time of change? Does the agency have all previous Rules available?*

**Response: Yes. The Construction Section can provide the previous Overnight Respite physical plant rules.**

*(c) Line 24 add "requesting licensure for less than seven participants" between "facility" and "shall" and delete "for overnight respite services programs requesting licensure for less than seven (7) participants" on lines 25-26.*

**Response: Updated in text.**

*(c) Line 26 delete "(7)"*

**Response: Updated in text.**

*(d) Line 29 and again at Line 34, what does consult mean? A program cannot consult, who would do the consulting? Please specify what would qualify as "consulting" local building code officials and who would be responsible.*

**Response: Updated in text. The language was changed to provide clarity of the intent of the original language.**

*(d) Line 32 change "seven (7) to twelve (12)" to "7 to 12"*

**Response: Updated in text.**

*(d) Line 32 add "Code" after "North Carolina State Building"*

**Response: Updated in text.**

*(e) Page 2, Line 7 again will all previous building codes be available with clear indications of what was required on what date?*

**Response: Previous building codes are available in DHSR Construction Section's office as well as on the Office of State Fire Marshall, NC Department of Insurance's website at <https://www.ncosfm.gov/codes/codes-current-and-past>.**

Meghan Barney  
Commission Counsel

Date submitted to agency: September 14, 2026

(e) Line 9 again what is consult?

**Response:** The language was changed to provide clarity of the intent of the original language.

(g) Line 13, Is there an authority allowing the agency to waive or modify its rule? If so please reference. Generally, 150B-19(6) prohibits an agency from creating a rule that "allows the agency to waive or modify a requirement set in a rule unless a rule establishes specific guidelines the agency must follow in determining whether to waive or modify a requirement." There are no such guidelines here.

**Response:** It is assumed the question is concerning granting equivalencies. The existing language was not touched here. However, the language has been modified to be in line with the most recently accepted readopted language used for equivalencies, which we believe is in line with 150B-19(6).

(k)(1) Line 36 You reference the "North Carolina State Building Code" but previously you differentiated between the North Carolina State Building Code: Building Code and the North Carolina State Building Code: Residential Code, which one is this referencing? Consistency will help clarity.

**Response:** Updated in text.

(q) Page 3, Line 23, Please use a direct link to the rule.

**Response:** Updated in text.

(r) Line 24, Do they need physical copies? If so, please specify.

**Response:** Updated in text.

(u) Page 4 Lines 8-9 please remove hyperlink

**Response:** Updated in text.

History Note Page 4, add the emergency rule  
change "Adoption" to "Amendment"

**Response:** Updated in text.

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

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0305

**DEADLINE FOR RECEIPT: September 21, 2026**

**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:

*(c) Lines 11-12 Does the eight percent language come from another rule or code?  
Since the floor area required by paragraph (a) is a known quantity, "not less than 40 square feet of floor area per participant," this could also be given as a known quantity, not less than 3.2 square feet of window area per participant. This may increase clarity for a reader.*

**Response:** This language is taken from the North Carolina State Building Code: Building Code and North Carolina State Building Code: Residential Code. While .0305(a) has a minimum floor area requirement per participant, the living area could be sized using a greater number of square feet per participant than required by this rule. By relating the gross window area to the floor area, would determine the minimum number of windows needed per floor area based on the design size of the living area provided for each facility.

*History Note add the emergency rule  
change "Adoption" to "Amendment"*

**Response:** Updated in text.

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

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0306

DEADLINE FOR RECEIPT: September 21, 2026

**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:

(a) *Line 5 Are there any restrictions as to the time or activities that the dining area may be used for? What qualifies as "during the day"?*

**Response:** There are no known restrictions, times, or activities that the dining area cannot be used for. "During the day" would mean anytime the dining area is not being used for eating meals.

(c) *Line 11 "shall be allowed" appears permissive but the following sentence indicates that it is not. Consider substituting "designated" for "allowed"*

**Response:** Updated in text.

(d) *Line 14 Does the eight percent language come from another rule or code? Since the floor area required by paragraph (a) is a known quantity, not less than 20 square feet of floor area per participant, this could also be given as a known quantity, not less than 1.6 square feet of window area per participant. This may increase clarity for a reader.*

**Response:** This language is taken from the North Carolina State Building Code: Building Code and North Carolina State Building Code: Residential Code. While .0306(a) has a minimum floor area requirement per participant, the dining area could be sized using a greater number of square feet per participant than required by this rule. By relating the gross window area to the floor area, would determine the minimum number of windows needed per floor area based on the design size of the dining area provided for each facility.

*History Note add the emergency rule  
change "Adoption" to "Amendment"*

**Response:** Updated in text.

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

Meghan Barney  
Commission Counsel

Date submitted to agency: September 14, 2026

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0308

DEADLINE FOR RECEIPT: September 21, 2026

**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:

*(a) Line 4 Replace "participant" with "participants"*

**Response: Updated in text.**

*(g) Line 18 delete "(7)"*

**Response: Updated in text.**

*(g) Lines 16-18 Do all bedrooms have to meet this standard or only those in facilities with a capacity of less than seven? If it's only those with a capacity of less than seven then the sentence needs to be edited to reflect that clarity. Suggest "For facilities with a licensed capacity of less than seven participants, at least one operable window shall meet the requirements for the North Carolina Building Code: Residential Code for emergency egress."*

**Response: Updated in text.**

*(g) Line 19 Replace "seven" with "7" and "twelve" with "12"*

**Response: Updated in text.**

*(g) Line 19-20 Need to be consistent with references to the North Carolina Building Code. This should probably be the "North Carolina Building Code: Building Code"*

**Response: Updated in text.**

*(g) Line 20 Does the eight percent language come from another rule or code? Since the floor area required by paragraph (d) is a known quantity, not less than 100 square feet of floor area for one participant and 160 square feet for two, this could also be given as a known quantity, not less than 8 square feet of window area for one participant or 12.8 square feet of window area for two participants. This may increase clarity for a reader.*

**Response: This language is taken from the North Carolina State Building Code: Building Code and North Carolina State Building Code: Residential Code. While .0308(d) has a minimum floor area requirement per participant, participant bedrooms could be sized using a greater number of square feet per participant than required by this rule. By relating the gross window area to the floor area, would determine the minimum number of windows needed per floor area based on the design size of each bedroom provided for the facility.**

Meghan Barney  
Commission Counsel

Date submitted to agency: September 14, 2026

*History Note add the emergency rule  
change "Adoption" to "Amendment"*

**Response: Updated in text.**

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

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0309

DEADLINE FOR RECEIPT: September 21, 2026

**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:

(a) *Line 4 the number of participants to bathrooms is not clear. Are they not allowed to have more than one bathroom? How many are required for more than six? Suggest "shall have a minimum of one bathroom for every six participants."*

**Response: Updated in text.** "Six or fewer respite participants" must be there to ensure it is understood that if the facility is licensed for less than six participants, such as four participants, at least one bathroom is required. Also, stating "respite participants" is clarification that minimum bathrooms are required for respite participants even if they are shared with an adult day care facility or an adult day health facility. Because an adult day care facility and an adult day health facility meet different portions of the North Carolina State Building Code: Building Code, the minimum number of bathrooms for those facilities could be different than the minimum number of bathrooms required for respite participants.

(a) *Line 5 Add a comma after "sink"*

**Response: Updated in text.**

(b) *Line 10 Replace "The" with "A"*

**Response: Updated in text.**

(c) *Line 15-16, You specify that this paragraph will apply to new and existing facilities. How is this different than any of the other paragraphs?*

**Response: Physical plant requirements of Section .0300 are generally "fixed" in time based on when a facility is licensed, constructed, altered, etc. Thus the language in .0303(b), (c), (d) and (e). However, since this specific paragraph is about the rights for privacy for participants in bathrooms with multiple devices, this paragraph would be applied to both new and existing facilities to ensure privacy is maintained in this area.**

(f) *Line 21 Are "mechanically fastened" and "anchored" distinctly different or defined somewhere? Does this requirement come from another Statute or Rule that could be referenced? If not, please make it clear exactly what is expected.*

**Response: In construction terms, these two are different in how they are applied. However, the text was updated to provide clarity.**

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*(g) Line 23 Remove "floor or"*

**Response: Updated in text.**

*(h) Line 27 Replace "seven" with "7" in both locations and "twelve" with "12"*

**Response: Updated in text.**

*(h) Line 27 For consistency replace "North Carolina State Building Codes" with "North Carolina State Building Code: Building Code"*

**Response: Updated in text.**

*History Note add the emergency rule*

*change "Adoption" to "Amendment"*

**Response: Updated in text.**

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

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0312

**DEADLINE FOR RECEIPT: September 21, 2026**

**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:

*(d) Lines 10 and 14 What does "at grade level" mean?*

**Response:** "Grade" is defined in the North Carolina Building Codes as "The finished ground level adjoining the building at all exterior walls." An exit "at grade level" means an exit at ground level without steps. If the exit is not at grade (having steps to exit to the ground), then the exit must be accessible by a ramp.

*(e) Line 15 "easily" is a subjective adverb that decreases clarity please delete.*

**Response:** Updated in text.

*(f) Line 20 The difference between "handrails" and "guards" is unclear. Is a handrail a guard when it's located on the open side of a step, porch, stoop or ramp adjacent to a change in elevation? Based on your definition of guard it would seem so. Are two separate things still necessary in that situation? Does this only apply to exterior stairs and ramps or do all interior stairs require ramps and guards as well?*

**Response:** Updated in text to include the definition of handrails. This definition is taken directly from the North Carolina State Building Codes. Rule .0312 are requirements for outside entrances and exits. Therefore, handrail and guard requirements here only apply to exterior stairs, ramps, stoops and porches.

*(g) Line 26 delete "appropriate"*

**Response:** Updated in text.

*(h) Line 33 If this a paragraph needs a statement that it applies to all new and existing facilities how is this different than the others? What do all the other paragraphs apply to?*

**Response:** Physical plant requirements of Section .0300 are generally "fixed" in time based on when a facility is licensed, constructed, altered, etc. Thus the language in .0303(b), (c), (d) and (e). However, since this specific paragraph is about participants who are determined by a physician or licensed health profession or observed by staff to be

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Date submitted to agency: September 14, 2026

disoriented or exhibiting wandering behavior to have sounding devices on doors to alert staff, this paragraph is applied to both new and existing facilities to ensure the safety of those participants since cognitive status can change over time.

*History Note Page 2 add the emergency rule  
change "Adoption" to "Amendment"*

**Response: Updated in text.**

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

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0316

**DEADLINE FOR RECEIPT: September 21, 2026**

**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:

(a) *Line 4 This is passive voice. Who shall provide them? To who? Please edit. Suggest "Each overnight respite services program shall have fire extinguishers that meet these requirements:"*

**Response: Updated in text.**

(a)(1) *Line 5 remove the parentheses. Suggest "one five-pound or larger, as measured by net charge,"*

**Response: Updated in text.**

(a)(2) *Line 7 edit to add "larger, as measured by net charge,"*

**Response: Updated in text.**

(a)(3) *Line 12 Please remove hyperlink*

**Response: Updated in text.**

(b) *Line 13 This is passive voice. However, is it even necessary? They would be required to meet all city and county ordinances whether directed by the Commission or not. Either edit or delete.*

**Response: Updated in text.**

(c) *Line 14-16 This is passive voice. Who prepares and posts? Who shall review it with participants? What does it mean to be "a part of" is it reviewed, taught, read, provided? Please edit.*

**Response: Updated in text.**

(d) *Line 17-19 This is passive voice. Who shall rehearse? Are participants involved? Who will maintain the records and where? Please edit.*

**Response: The existing language was not touched here. However, the language has been modified to be in line with the most recently accepted readopted language.**

(e) *Line 20-22 This is passive voice. Who shall prepare it, update it and maintain it? What does "maintained" mean in this context. Someone is preparing and updating it yearly. Does maintained mean that a copy has to be available? Please edit.*

**Response: The existing language was not touched here. However, the language has been modified to be in line with the most recently accepted readopted language.**

Meghan Barney  
Commission Counsel

Date submitted to agency: September 14, 2026

*History Note add the emergency rule and change "Adoption" to "Amendment"*

**Response: Updated in text.**

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

Meghan Barney  
Commission Counsel

Date submitted to agency: September 14, 2026

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0317

**DEADLINE FOR RECEIPT: September 21, 2026**

**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:

- (a) *Line 4 This is passive voice. Who is maintaining? Is there other rules or Statutes concerning maintenance that could be referenced? Please edit.*

**Response: Updated text to provide clarity.**

- (b) *Line 6 What is "winter design conditions"? Is this defined somewhere that can be referenced? Is it even necessary?*

**Response: Updated text to provide clarity.**

- (b) *Line 7 "so as to avoid hazards" is very vague. Are there requirements to the installation of "built-in electric heaters" that could be referenced to provide clarity and specificity?*

**Response: Updated text to provide clarity.**

- (c) *Line 9 Same questions for "summer design conditions" Is it even necessary?*

**Response: Updated text to provide clarity.**

- (f) *Line 20 "so as to avoid a burn hazard" is very vague. Are there requirements to the installation or creation of "fireplaces, fireplace inserts, and wood stoves" that could be referenced to provide clarity and specificity?*

**Response: Updated text to provide clarity.**

- (f) *Line 21 Replace "must" with "shall"*

**Response: Updated in text.**

*History Note add the emergency rule  
change "Adoption" to "Amendment"*

**Response: Updated in text.**

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

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0318

**DEADLINE FOR RECEIPT: September 21, 2026**

***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:

*(a) Lines 4-8 There are concerns for vagueness. What are "similar conditions" and "similar areas." Do you mean areas where a certain depth of water may accumulate? Do you mean unstable surfaces or those with changing depths? Will any preventative measure suffice? Please edit.*

**Response: Updated in text.**

*(b) Line 9 entering or exiting what? Just the building? All parts of the property or premises? Based on (a) above a fence could be a barrier to an area of the premises that contains a pool, creek or ditch. Is that not allowed? Please edit.*

**Response: Updated in text.**

*(d) Was (c) purposely left out? If so, who does it apply to?*

**Response: Yes (c) was purposely left out. The requirements of (c) applies to outdoor stairways and ramps and the requirement for these specific areas to have adequate lighting.**

*History Note add the emergency rule  
change "Adoption" to "Amendment"*

**Response: Updated in text.**

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

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0403

**DEADLINE FOR RECEIPT: September 21, 2026**

***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:

*(a)(1) Line 5 does this need to be written in order to comply with subparagraph (h)? If so please specify.*

**Response: No, the documents required in (a)(1) line 5 are required to be kept on file in accordance with subparagraph (h).**

*(a)(2) Lines 9-10 this incorporation is not correct. Please see G.S. 150B-21.6. It must specify where copies of the material may be accessed and the cost on the date the rule is adopted.*

**Response: Updated in text**

*(a)(3) Line 12 what accident, fire safety and emergency procedures? Is there a Rule or Statute that can be referenced for these?*

**Response: Updated in text**

*(a)(5) Line 16 Is there a reference for this? It is not clear what "the rights" are. Whose rights?*

**Response: Yes, updated reference in text.**

*(g) Page 2 Line 2 this reads that a service is required but it will not be provided but it is unclear what type of service is being considered. Is it services directed to the participants, other services like housekeeping or maintenance, or both? Suggest "Services required by participants beyond personal care and supervision shall only be provided by staff that possess the necessary licensure applicable to such services."*

**Response: This language refers to any services provided by licensed professionals. Updated text.**

*(h) Line 5 add "Rule" between "in" and ".0702"*

**Response: Updated in text.**

*History Note add the emergency rule*

**Response: Updated in text.**

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

Meghan Barney  
Commission Counsel

Date submitted to agency: September 14, 2026

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

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13E .0601

**DEADLINE FOR RECEIPT: September 21, 2026**

**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:

(a) *Line 6 what does "personal" mean in this context? In-person? One-on-one? Is it an unnecessary adjective? Please edit for clarity.*

**Response:** Updated text to remove personal and include "in-person"

(b) *Lines 16 This lists six different people who can give an opinion. What if their opinions don't agree? Is it as long as one of them agrees with the administrator? Please clarify.*

**Response:** The paragraph was rewritten for clarity.

(b) *Line 14, Please remove parenthetical, suggest "Any adult, 18 years of age or over, who,"*

**Response:** Updated in text.

(b) *Line 15 add "the" between home and purpose to read "home for the purpose"*

**Response:** Updated in text.

(b) *Line 16 delete "appropriate"*

**Response:** Updated in text.

(c)(3) *Line 21 Are there definitions for "professional nursing care" and "continuous medical supervision"? Are other types of "professional nursing care" provided but not those requiring continuous medical supervision? Please clarify.*

**Response:** Updated text. Participants should not need nursing care around the clock.

(c)(5) *Line 24 (c) is a list of the types of care that will not be provided and then (5) is a completely different topic, behavior that won't be tolerated. Suggest making (5) a separate paragraph.*

**Response:** (c) is a list of exemptions that prohibit admission to overnight respite programs

(d) *Lines 25-26 Is a medical examination report a form provided by the program that needs to be completed and signed? If so, then G.S. 150B-2(8a)d requires the contents or*

Meghan Barney

Commission Counsel

Date submitted to agency: September 14, 2026

substantive requirements to be included in a rule or statute. See the guidance document on Forms located on the OAH website. <https://www.oah.nc.gov/rrc-final-guidance-forms/open>. If not, then any medical examination, with any documentation, by any licensed health professional is sufficient? What would make someone an "appropriate" licensed health professional? Please delete "appropriate." Finally, this is written in a passive voice. Please edit to clarify.

**Response: Updated text for clarity.**

Line 28-31 change "assure" to "ensure" and delete "appropriate." How can a program ensure anything? What person is responsible? If the orders are not a part of the medical examination how would the program staff know that such orders are necessary? This sentence is passive and needs to be edited.

**Updated text for clarity. The administrator or their designee would know that such orders are necessary as required in Paragraph (d). If the information is missing, unclear, or insufficient from the medical examination report they would contact the physician or licensed health professional for clarification.**

**Response:**

(f) Line 33 change "assure" to "ensure"

**Response: Updated in text.**

(f) Line 38 this incorporation is not correct. Incorporation may not be necessary as the same information seems to be included in .0403. Please see GS 150B-21.6.

**Response: Updated in text**

History Note Page 2 add the emergency rule

change "Adoption" to "Amendment"

**Response: Updated in text.**

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

10A NCAC 13E .0302 is amended with changes under temporary procedures as follows:

### 10A NCAC 13E .0302 CAPACITY

(a) Pursuant to G.S. 131D-6.1(c)(8), the Division of Health Service Regulation shall not approve a capacity of greater than ~~six~~ **twelve** (12) participants for an overnight respite services program. For the purposes of this Rule, "capacity" means the maximum number of participants that the overnight respite services program is licensed to house at any given time.

(b) An overnight respite services program shall not exceed the capacity shown on its license. The license shall indicate the overnight respite services program's capacity for ambulatory and non-ambulatory participants **permitted** that an overnight respite services program facility can house at any given time. For the purposes of this Rule, "ambulatory" means the participant is able to respond and evacuate from the facility without verbal or physical assistance from others in the event of an emergency. "Non-ambulatory" means the participant is not able to respond and evacuate from the facility without verbal or physical assistance from others in the event of an emergency.

(c) Prior to an increase in capacity by adding rooms, altering ~~rooms, or~~ rooms, remodeling, changing use of ~~space,~~ space, or without building modifications, the overnight respite services program shall submit a request for capacity increase and two building plans of each floor to the Construction Section. One plan shall indicate the current use of rooms in the existing building. The other plan shall indicate the proposed use of rooms in the existing building and its addition, alteration, remodeling, or change in use of space. For an addition to an existing building, the building plans shall also indicate how the addition will be tied into the existing building and any proposed changes to the building structure.

(d) When ~~the~~ **an** overnight respite services program increases its capacity by the addition to or alteration of an existing building, the entire overnight respite services program shall comply with the North Carolina ~~Fire Prevention Code, State Building Codes,~~ which is ~~are~~ incorporated herein by reference including subsequent amendments and editions. Copies of ~~this code—~~ these codes may be ~~purchased from the International Code Council online at~~ http://www.iccsafe.org/Store/Pages/default.aspx at a cost of eighty five dollars (\$85.00) or accessed electronically free of charge at <http://codes.iccsafe.org/app/book/toc/2012/North-Carolina/Fire/index.html>. <https://codes.iccsafe.org/codes/united-states/north-carolina>.

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, ~~2017~~ 2017;*

***Emergency Amendment Eff. July 1, 2026.***

***Temporary ~~Adoption~~ Amendment Eff. October 7, 2026.***

10A NCAC 13E .0303 is amended with changes under temporary procedures as follows:

### 10A NCAC 13E .0303 DESIGN AND CONSTRUCTION

(a) For the purposes of this Rule the following definitions apply:

- (1) "facility" "Facility" means a building or portion of a building housing an overnight respite services program as defined in G.S. ~~131D-6.1(a);~~ 131D-6.1(a).
- (2) "proposed facility" "Proposed facility" means the new construction of a building for a facility, an addition or alteration to an existing building for a facility, or the change in use of a building for a ~~facility;~~ facility.
- (3) "existing facility" "Existing facility" means a currently licensed facility and ~~a proposed facility that will be built according to building plans approved by the Construction Section for compliance with the standards established in this Section, built~~ prior to the effective date of this ~~Rule; and~~ Rule.
- (4) "new facility" "New Facility" means a facility that has not been licensed previously as an overnight respite services program and for which an initial license is sought. The term also includes a proposed facility that will be built according to building plans approved by the Construction Section for compliance with the standards established in this Section, on or after the effective date of this Rule.

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

- (1) A new facility shall meet the standards established in this Section.
- (2) An existing facility shall meet the standards established in this Section that were in existence at the time of change in use of ~~space,~~ space, increase in capacity, construction, addition, alteration, or repair.
- (3) An existing building converted from another use that a program intends to use for an overnight respite services program shall meet all the requirements of a new facility as indicated in Subparagraph (1) of this Paragraph.

(c) All new construction, ~~additions,~~ additions, modifications, renovations, or alterations for a new facility requesting licensure for less than seven participants shall meet the requirements of the North Carolina State Building ~~Codes,~~ Code: Residential Code. Code for overnight respite services programs requesting licensure for less than seven (7) participants. Additionally, overnight respite services programs requesting licensure for four to six participants shall meet the North Carolina State Building Code: Building Code, Licensed Residential Care Facilities Section in effect at the time of licensure. Before starting any construction or alterations, the overnight respite services program applicant or his appointed representative shall consult with contact the local building code enforcement official for information about required permits and construction requirements.

(d) All new construction, additions, modifications, renovations, or alterations for a new facility requesting licensure for ~~seven (7)~~ 7 to twelve (12) 12 participants shall meet the requirements of the North Carolina State Building ~~Code;~~ Building Code, Licensed Large Residential Care Facilities Section in effect at the time of licensure. Before starting any construction or alterations, the overnight respite services program applicant or his appointed representative shall consult with contact the local building code enforcement official for information about required permits and

1 construction requirements. The North Carolina State Building Codes, which are incorporated herein by reference  
 2 reference, including subsequent amendments and editions. Copies of these codes editions, may be purchased from the  
 3 International Code Council online at <http://www.icesafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty-  
 4 seven dollars (\$527.00) or accessed electronically free of charge at <http://codes.icesafe.org/North%20Carolina.html>.  
 5 <https://codes.iccsafe.org/codes/united-states/north-carolina>. All new construction, additions, or repairs of an existing  
 6 facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction,  
 7 addition, alteration, or repair.

8 (e) All new construction, additions, modifications, renovations, or alterations of an existing facility shall meet the  
 9 requirements of the North Carolina State Building Codes in effect at the time of construction, addition, modification,  
 10 renovation, alteration, or repair. Before starting any construction or alterations, the overnight respite services program  
 11 administrator or his appointed representative shall consult with contact the local building code enforcement official  
 12 for information about required permits and construction requirements.

13 ~~(d)(f)~~ A facility shall be constructed, equipped, and maintained to comply with the standards established in this  
 14 Section for the capacity indicated on its license.

15 ~~(e)(g)~~ The Construction Section Division may grant an equivalency to allow an alternate methods, procedures, design  
 16 or criteria, or functional variation from the requirements of this Rule and the rules contained in this Section. For the  
 17 purposes of this Rule, an "equivalency" is a Construction Section-approved alternate method, procedure, design  
 18 criteria, or and functional variation to a requirement contained in the rules of this Section that meets the intent of the  
 19 rule requirement but does not reduce the safety and operational effectiveness of the facility design and layout. If  
 20 granted, the equivalency shall apply to a specific facility. A program shall be granted an equivalency if: The  
 21 equivalency may be granted by the Division when the administrator, applicant, or his appointed representative submits  
 22 a written equivalency request to the Division that states the following:

23 (1) the overnight respite services program submits a written equivalency request to the Construction  
 24 Section indicating:

25 (A) the rule requirement that will not be met;

26 (B) the justification for the equivalency; and

27 (C) how the proposed equivalency meets the intent of the corresponding rule requirement; and

28 (2) the program receives a written approval of the equivalency from the Construction Section.

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

31 (A) impractical;

32 (B) unable to be met due to extraordinary circumstances. For the purpose of this Rule,  
 33 "extraordinary circumstances" means situations that are unexpected and beyond the control  
 34 of the facility; or

35 (C) unable to be met due to new programs.

36 (2) the justification for the equivalency; and

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

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

~~(f)~~(i) If any of the rules, codes, or standards contained in this Section conflict, the most restrictive requirement shall apply.

~~(g)~~(j) For an existing facility whose license is revoked or suspended by the Division of Health Service Regulation pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the facility shall meet the requirements of a new facility as required by Subparagraph (b)(1) of this Rule prior to being relicensed.

~~(h)~~(k) Prior to commencement of construction or change in use of space, any program intending to offer overnight respite care services that is planning new construction, an ~~addition~~ addition, modification, renovation, or alteration to an existing building, or a change in use of space shall submit building plans and other documents to the Construction Section as specified in Rule .0301 of this Section.

~~(i)~~(l) If the building to be used for a facility is two or more stories in height, it shall meet the following additional requirements:

- (1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building ~~Code;~~ Code: Building Code;
- (2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c) of this Section; and
- (3) participant-use areas shall be located on the level of the principal exterior door.

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

~~(k)~~(n) The ceiling height throughout the facility shall be at least seven and one-half feet from the floor.

~~(l)~~(o) Elevation changes in the floor are not permitted in participant-use ~~areas;~~ areas. Steps and ramps between levels are not permitted.

~~(m)~~(p) The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms, and bathrooms.

~~(n)~~(q) ~~Windows shall be operable and~~ All windows that are designed to be operable shall be maintained operable. For the purposes of this Rule, "operable" means a window that may be opened and shut to allow outdoor-air ventilation. ~~To inhibit participant elopement from any window, the window opening may be restricted to a six inch opening.~~

~~(o)~~ Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

~~(p)~~(r) The facility shall ~~comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section,~~ meet sanitation requirements set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential Care Facilities, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and editions. ~~The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27609. Copies of these Rules may be obtained from the Environmental Health Services Section, 1632 Mail Service~~

~~Center, Raleigh, NC 27699 1632 at no cost or can be~~ accessed electronically free of charge at  
<http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>. <https://www.oah.nc.gov/>.

~~(e)~~(s) The facility shall have a copy of the following inspection reports available for review upon request by the  
 Construction Section:

- (1) a ~~current~~ sanitation inspection report from the sanitation division of the county health department;  
department dated within the past 12 months; and
- (2) a ~~current~~ fire and safety inspection report from the local fire ~~marshal.~~ marshal dated within the past  
12 months.

~~(e)~~(t) The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and  
 sounding devices that are audible throughout the building. The fire alarm system shall be equipped to transmit an  
 automatic signal to the local emergency fire department dispatch center, either directly or through a central station  
 monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection  
 Association (NFPA) 72, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and  
 editions editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy,~~  
~~MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50).~~ accessed electronically free of charge at  
<https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72>.

(u) Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected  
 to the fire alarm system. These heat detectors shall be interconnected and provided with battery backup. Corridors  
 shall be equipped with smoke detectors that are connected to the fire alarm system.

~~(e)~~(v) A building housing an overnight respite services program or an adult day care or adult health care program  
 shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by  
~~reference~~ reference, including subsequent amendments and editions editions, and may be ~~obtained from the National~~  
~~Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars~~  
~~(\$103.00).~~ accessed electronically free of charge at [https://www.nfpa.org/codes-and-standards/nfpa-13-standard-](https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13)  
[development/13](https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13).

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, 2017. 2017;*

*Emergency Amendment Eff. July 1, 2026;*

*Temporary Adoption Amendment Eff. October 7, 2026.*

1 10A NCAC 13E .0305 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0305 LIVING ROOM AREA**

4 (a) Each overnight respite care program shall have a living area with not less than 40 square feet of floor area per  
5 participant.

6 (b) The living area for the overnight respite care program required by Paragraph (a) of this Rule may be combined  
7 with the adult day care program or adult day health program activities and craft areas only after the Division of Aging  
8 ~~and Adult Services~~ of the Department of Health and Human Services determines, in writing, that the requirements of  
9 10A NCAC 06R .0401(d) for an adult day care program and 10A NCAC 06S .0301 for an adult day health program  
10 are met.

11 (c) The living ~~room~~ area shall have windows with views to the outdoors. The gross window area shall not be less than  
12 eight percent of the floor area required by Paragraph (a) of this ~~Rule.~~ Rule and be equipped with insect-proof screens.  
13 To inhibit participant elopement, the window opening may be restricted to a six-inch opening.

14  
15 *History Note: Authority G.S. 131D-6.1;*

16 *Eff. April 1, ~~2017~~ 2017;*

17 *Emergency Amendment Eff. July 1, 2026;*

18 *Temporary ~~Adoption~~ Amendment Eff. October 7, 2026.*

1 10A NCAC 13E .0306 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0306 DINING ROOM AREA**

4 (a) Each overnight respite services program shall have a dining area with not less than 20 square feet of floor area per  
5 participant. The dining area may be used for other activities during the day.

6 (b) The dining area for the overnight respite care program required by Paragraph (a) of this Rule may be combined  
7 with the adult day care program or adult day health program activities and craft areas only after the Division of Aging  
8 ~~and Adult Services~~ of the Department of Health and Human Services determines, in writing, that the requirements of  
9 10A NCAC 06R .0401(d) for an adult day care program and 10A NCAC 06S .0301 for an adult day health program  
10 are met.

11 (c) When the dining area is used in combination with a kitchen, an area five feet wide shall be **allowed designated** as  
12 work space between the kitchen and dining areas. The work space shall not be used as the dining area.

13 (d) The dining ~~room~~ area shall have windows with views to the ~~outdoors~~, outside, or a door unit with a vision panel  
14 directly to the outside. The gross window area shall not be less than eight percent of the floor area required by  
15 Paragraph (a) of this ~~Rule~~. Rule and be equipped with insect-proof screens. To inhibit participant elopement, the  
16 window opening may be restricted to a six-inch opening.

17  
18 *History Note: Authority G.S. 131D-6.1;*

19 *Eff. April 1, ~~2017~~.2017;*

20 **Emergency Amendment Eff. July 1, 2026:**

21 **Temporary ~~Adoption~~ Amendment Eff. October 7, 2026.**

10A NCAC 13E .0308 is amended with changes under temporary procedures as follows:

### **10A NCAC 13E .0308 BEDROOMS**

(a) There shall be bedrooms sufficient in number and size to meet the individual needs of the ~~participant~~ **participants** according to their age and gender.

(b) A room used as a bedroom shall meet the requirements of this Rule and be approved by the Construction Section.

(c) A room accessed only through a bathroom, kitchen, or another bedroom shall not be approved for a participant's bedroom.

(d) Bedrooms occupied by one participant shall be provided with not less than 100 square feet of floor area, ~~including~~ excluding accessory areas such as vestibule, closet, or wardrobe space. vestibules, closets, wardrobes, or bathrooms.

Bedrooms occupied by two participants shall be provided with not less than 160 square feet of floor area, ~~including~~ excluding accessory areas such as vestibule, closet, or wardrobe space. vestibules, closets, wardrobes, or bathrooms.

(e) The total number of participants assigned to a bedroom shall be based on the square footage requirements of Paragraph (d) of this Rule as approved by the Construction Section for that bedroom.

(f) A bedroom shall not be occupied by more than two participants.

(g) Each participant bedroom shall have one or more operable windows with views to the outdoors. For facilities with a licensed capacity of less than seven participants, at least one operable window shall meet the requirements of the North Carolina State Building Code: Residential Code for emergency egress. ~~for facilities with a licensed capacity of less than seven (7) participants.~~ For facilities with a licensed capacity of seven 7 to twelve 12 participants, windows shall meet the requirements of the North Carolina State Building Code: Building Code. The gross window area shall be equal to at least eight percent of the floor space required by Paragraph (d) of this ~~Rule.~~ Rule, and shall be equipped with insect-proof screens. To inhibit participant elopement, the window opening may be restricted to a six-inch opening, except windows meeting the emergency egress requirements of the North Carolina State Building Code: Residential Code. The windows shall have a maximum sill height of 44 inches.

(h) Bedroom closets or wardrobes shall be large enough to provide each participant with a minimum of 22 cubic feet of clothing storage, one-half of which shall be for hanging clothes with an adjustable-height hanging bar.

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, ~~2017.~~2017;*

*Emergency Amendment Eff. July 1, 2026.*

*Temporary ~~Adoption~~ Amendment Eff. October 7, 2026.*

10A NCAC 13E .0309 is amended with changes under temporary procedures as follows:

### 10A NCAC 13E .0309 BATHROOM

(a) An overnight respite services program shall have a minimum of one bathroom for each every six or fewer respite participants. A bathroom shall contain a toilet, a ~~lavatory,~~ sink sink, and one of the following:

- (1) a roll-in shower designed and equipped for unobstructed shower chair entry and use;
- (2) a bathtub accessible on three sides; or
- (3) a manufactured walk-in bathtub or a similar manufactured bathtub designed for transfer of participants into the bathtub that is accessible on one short side and one long side of the bathtub.

(b) The A bathroom required by Paragraph (a) of this Rule may be shared with the adult day care program or adult day health program only after the Division of Aging ~~and Adult Services~~ of the Department of Health and Human Services determines, in writing, that the requirements of 10A NCAC 06R .0401(g) for an adult day care facility and 10A NCAC 06S .0301 for an adult day health facility are met.

(c) A bathroom shall be designed to provide privacy. A bathroom with two or more toilets shall have privacy partitions or curtains for each toilet. Each bathtub or shower shall have privacy partitions or curtains. The requirements of this Paragraph shall apply to new and existing facilities.

(d) The entrance to the bathroom shall not be through a kitchen, another participant's bedroom, or another bathroom.

(e) The bathroom shall be located so that there is no more than 40 feet between any participant's bedroom door and a participant-use bathroom door.

(f) Hand grips shall be installed at all toilets, bathtubs, and showers used by participants. Hand grips shall be physically attached mechanically fastened or anchored to the walls with screws, nails or other fasteners, be located to help participants in entering and exiting bathtubs, showers, manufactured walk-in tubs, or similar bathing fixtures, and be on the wall adjacent to toilets.

(g) Nonskid surfacing or strips shall be installed to the floor or bottom of ~~showers and bathtubs,~~ showers, bathtubs, or similar bathing fixtures.

(h) A bathroom shall have ~~mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor area.~~ an exhaust system per the North Carolina State Building Code: Residential Code for facilities licensed for less than seven participants, and per the North Carolina State Building Codes: Building Codes for facilities licensed for seven 7 to twelve 12 participants. The ~~mechanical ducted- exhaust~~ vent shall be vented directly to the outdoors.

(i) The bathroom floor shall have a non-slippery water-resistant covering.

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, 2017-2017;*

*Emergency Amendment Eff. July 1, 2026;*

*Temporary Adoption Amendment Eff. October 7, 2026.*

10A NCAC 13E .0312 is amended with changes under temporary procedures as follows:

**10A NCAC 13E .0312 OUTSIDE ENTRANCE AND EXITS**

(a) Each overnight respite services program shall have at least two exit doors on all floor levels. If there are only two exit doors, the exit doors shall be located and constructed to minimize the possibility that both may be blocked by a fire or other emergency condition.

(b) One exterior door shall have a minimum width of three feet. Another exterior door shall have a minimum width of two feet and eight inches. For the purposes of this Rule, an "exterior door" means a door used by a participant to enter and exit the building to and from the outdoors.

(c) At least one principal exterior door for the participants' use shall be at grade level or accessible by a ramp with a one inch rise for each 12 inches of ramp length. For the purposes of this Rule, a "principal exterior door" means a door that is used by participants to access the vehicular pick-up and drop-off area. If the overnight respite services program serves any participant who must have physical assistance with evacuation, the building shall have two exterior doors at grade level or accessible by a ramp.

(d) All exit door locks shall be easily operable, by a single hand motion, from the inside at all times without ~~keys.~~ keys, tools, or special knowledge. Deadbolts or turn buttons on the inside of exit ~~doors~~ doors, including screen and storm doors, shall be disabled.

(e) Exit doors shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.

(f) ~~Steps,~~ All steps, porches, stoops, and ramps shall be provided with handrails ~~or guardrails.~~ and guards. Handrails shall be on both sides of steps and ramps, including sides bordered by the facility wall. Handrails shall extend the full length of steps and ramps. For the purpose of this Rule, "handrails" are horizontal or sloping rails intended for grasping by the hands for guidance or support. Guards shall be on open sides of steps, porches, stoops, and ramps. For the purposes of this Rule, "guards" are rails or barriers located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from a walking surface to an adjacent change in elevation.

(g) In each overnight respite services program with at least one participant who is determined by a physician or appropriate licensed health professional or is otherwise ~~known~~ observed by staff to be disoriented or ~~who wanders,~~ each exhibiting wandering behavior, all exit door doors for participant use shall be equipped with a continuously sounding device that is activated when the door is opened. The alarm shall be turned on at all times and, when activated by the door opening, the sound shall be continuous and of sufficient volume that it can be heard by staff, audible throughout the facility housing the overnight respite services program until turned off by a staff person. If a central system of remote sounding devices is provided, the control panel for the system shall be powered by the facility's electrical system, and be located in the office area or in a location an area accessible only to staff authorized by the administrator to operate the control panel. ~~staff.~~ The requirements of this Paragraph shall apply to new and existing facilities.

*History Note: Authority G.S. 131D-6.1;*

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Eff. April 1, ~~2017~~ 2017:

Emergency Amendment Eff. July 1, 2026:

Temporary ~~Adoption~~ Amendment Eff. October 7, 2026.

10A NCAC 13E .0316 is amended with changes under temporary procedures as follows:

### 10A NCAC 13E .0316 FIRE SAFETY AND DISASTER PLAN

(a) Each overnight respite services program shall have Fire fire extinguishers shall be provided that meet these requirements:

(1) one five-pound or larger larger, as measured by (net charge) net charge, "A-B-C" type centrally ~~located;~~ located in an area that can be accessed by staff and not stored in rooms with lockable doors or the kitchen;

(2) one five-pound or larger larger, as measured by net charge, "A-B-C" or CO/2 type located in the kitchen; and

(3) at any other location as required by the North Carolina State Building Code; Fire Prevention Code, which is incorporated herein by reference including subsequent amendments and editions. ~~The availability and cost of the Code is set forth in Rule .0302 of this Section.~~ The North Carolina State Building Code: Fire Prevention Code may be accessed electronically free of charge at <https://codes.iccsafe.org/codes/united-states/north-carolina>.

~~(b) All fire safety requirements required by city or county ordinances shall be met.~~

~~(c)(b) A~~ The facility shall have a written fire evacuation plan that includes a diagram and that has plan. For the purpose of this Rule, a written fire evacuation plan is a written document created by the administrator or their designee that details the procedures and steps that facility occupants shall follow in a fire or other emergency to ensure safe evacuation while minimizing the risk of injury or loss of life. The written fire evacuation plan shall include a diagram of the facility floor plan which clearly marks all emergency egress and escape routes from the facility. The fire evacuation plan shall have the approval of the local fire marshal code enforcement official. The approved diagram shall be prepared legible and be posted by the administrator or their designee in a central location on each floor, floor that is visible to staff, participants, and visitors. The administrator or their designee shall review The the fire evacuation plan and diagram shall be reviewed with each participant on upon enrollment and enrollment. The fire evacuation plan and diagram shall be a part of included in the orientation for all new staff.

~~(d)(c)~~ There shall be at least four rehearsals of the fire evacuation unannounced fire drills of the fire evacuation plan each year on each shift. For the purpose of this Rule, a fire drill is the method of practicing how occupants of the facility shall evacuate in the event of a fire or other emergency. Records of rehearsals Documentation of the fire drills shall be maintained kept for three years. years by the administrator or their designee in the facility and be made available upon request to the Division of Health Service Regulation and the local fire code enforcement official. The records documentation shall include the date and time of the rehearsals, staff members present, and a description of what the rehearsal involved. fire drill, the shift, the names of staff members present, and a short description of drill.

~~(e)(d)~~ A written disaster plan that has the written approval of, or has been documented as submitted to, the local emergency management agency and the local agency designated to coordinate special needs sheltering during disasters shall be prepared and updated annually and shall be maintained in the program offering overnight respite care services.

*History Note: Authority G.S. 131D-6.1;*

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*Eff. April 1, ~~2017~~ 2017:*

*Emergency Amendment Eff. July 1, 2026:*

*Temporary ~~Adoption~~ Amendment Eff. October 7, 2026.*

10A NCAC 13E .0317 is amended with changes under temporary procedures as follows:

**10A NCAC 13E .0317 BUILDING SERVICE EQUIPMENT**

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

(b) **There shall be a central heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions. Built-in electric heaters, if used, shall be installed or protected so as to avoid hazards to participants and room furnishings. Unvented fuel burning room heaters and portable electric heaters shall be prohibited. The facility shall have heating and cooling systems such that environmental temperature controls are capable of maintaining temperatures in the home at 75 degrees F minimum in the heating season, and not exceed 80 degree F during the non-heating season.**

(c) **~~Air conditioning shall provide conditions not to exceed 81 degrees F (27 degrees C) under summer design conditions. Built-in electrical heaters, if used, shall be installed or protected to avoid burn hazards to participants and room furnishings. Unvented fuel burning room heaters and portable electric heaters are prohibited.~~**

(d) The hot water tank shall be of such size to provide as much hot water as is needed by the kitchen, bathrooms, and laundry. The hot water temperature at all fixtures used by or accessible to participants shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C). The requirements of this Paragraph shall apply to new and existing overnight respite services programs.

(e) All participant-use areas shall be lighted for the safety and comfort of the participants. The minimum lighting required is:

- (1) 30 foot-candle of light at floor level in living rooms, dining rooms, bedrooms, and bathrooms;
- (2) 10 foot-candle of light for general lighting; and
- (3) one foot-candle of light at the floor for corridors at night.

(f) Fireplaces, fireplace inserts, and wood stoves shall be designed or installed **so as** to avoid **a burn hazard hazards** to participants. Fireplace inserts and wood stoves **must shall** be Underwriters Laboratories (U.L.) listed.

(g) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved by the local building code official, and protected by a guard or screen to prevent participants and furnishings from burns.

*History Note: Authority G.S. 131D-6.1;*

*Eff. April 1, 2017-2017;*

**Emergency Amendment Eff. July 1, 2026.**

**Temporary Adoption Amendment Eff. October 7, 2026.**

1 10A NCAC 13E .0318 is amended with changes under temporary procedures as follows:

2  
3 **10A NCAC 13E .0318 OUTSIDE PREMISES**

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

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

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

13 (d) The requirements of Paragraphs (a) and (b) of this Rule shall apply to new and existing programs.

14  
15 *History Note: Authority G.S. 131D-6.1;*

16 *Eff. April 1, 2017-2017;*

17 *Emergency Amendment Eff. July 1, 2026;*

18 *Temporary Adoption Amendment Eff. October 7, 2026.*

10A NCAC 13E .0403 is amended with changes under temporary procedures as follows:

### 10A NCAC 13E .0403 STAFF AND STAFFING

(a) Each staff person shall:

- (1) have a job description that reflects actual duties and responsibilities determined by the program and shall be signed by the administrator and the employee;
- (2) ~~have a tuberculin skin test within 12 months prior to hire and annually thereafter;~~ be tested for tuberculosis disease in compliance with control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205, which is hereby incorporated by reference, including subsequent amendments, copies of these Rules may be accessed online free of charge at <https://www.oah.nc.gov/>;
- (3) be able to implement all of the program's policies and procedures as defined in Rule .0501 of this Subchapter and accident, fire safety, and emergency procedures for the protection of the participants in accordance with the Rules of this Subchapter and Chapter 131D of the general statutes;
- (4) be informed of the confidential nature of participant information and protect and preserve the information from unauthorized use and disclosure;
- (5) not hinder or interfere with the exercise of the rights as defined by program ~~policy;~~ policy in accordance with Rule .0501 of this Subchapter;
- (6) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256;
- (7) have a statewide criminal background check, upon hire, of the past five years in accordance with G.S. 143B-932; and
- (8) cooperate with inspectors and the monitoring and licensing agencies in complying with the rules of this Subchapter.

(b) Any staff member left in charge of the care of participants shall be 18 years or older.

(c) ~~The staffing pattern shall be adequate~~ There shall be staff on duty to meet the needs of each participant, with at least one staff ~~person present on duty and awake~~ at all times qualified to administer medications as defined by Rule .0702 of this Subchapter and trained to provide personal care and supervision to current participants.

(d) In a facility with a census of 7 to 12 participants, there shall be at least two staff persons on duty and awake at all times who are responsible for providing personal care and supervision to participants, with at least one of the staff persons qualified to administer medications as defined by Rule .0702 of this Subchapter. The staff persons shall be trained to provide personal care and supervision to current participants.

(e) Staff assigned to provide personal care and supervision duties shall not provide food service and housekeeping duties, except when housekeeping duties are incidental to the rendering of care services and do not hinder the assigned staff's duties of care or immediate response to participants, nor impede the assigned staff member's ability to monitor the participants. For the purposes of this Rule, "food service duties" means tasks performed by staff related to serving meals to participants, including assisting with food preparation, arranging and setting the dining tables, serving food

1 and beverages, and cleaning the dining room after meal service is complete, and "housekeeping duties" means tasks  
2 performed by staff such as cleaning and sanitizing facility common areas and resident rooms.

3 (f) There shall be additional staff employed to provide food service and housekeeping duties.

4 ~~(d)(g)~~ Services required by participants beyond personal care and supervision shall not only be provided unless by  
5 licensed health professionals in accordance with North Carolina licensing laws. staff satisfies the license requirements  
6 applicable to such services.

7 (h) There shall be documentation on file in the facility of staff qualifications required by Subparagraphs (1), (2), (6),  
8 and (7) in Paragraph (a) of this Rule and medication administration competency evaluation as required in Rule .0702  
9 of this Subchapter.

10  
11 *History Note: Authority G.S. 131D-6.1;*

12 *Eff. April 1, 2017; 2017;*

13 *Emergency Amendment Eff. July 1, 2026;*

14 *Temporary Amendment Eff. October 7, 2026.*

10A NCAC 13E .0601 is amended with changes under temporary procedures as follows:

## SECTION .0600 - ENROLLMENT AND SERVICE PLANNING

### 10A NCAC 13E .0601 ENROLLMENT OF PARTICIPANTS

(a) Prior to enrollment the applicant, responsible party, or other caregiver shall have a personal in-person interview with a program staff member. During the interview, the staff shall complete initial documentation identifying the following:

- (1) social and medical care needs;
- (2) spiritual, religious, or cultural needs; and
- (3) whether the program can meet the applicant's expressed needs.

The staff person doing the interviewing shall sign the assessment of needs and the applicant, responsible party, or other caregiver shall sign the application for enrollment. These signed documents shall be obtained before the individual's first day of attendance as a participant in the program and shall be maintained in the participant's record.

~~(b) Any adult (18 years of age or over) who, because of a physical condition or mental disability, needs a substitute home for purpose of respite for the caregiver may be enrolled for overnight respite services when, in the opinion of the caregiver, family, participant, physician, appropriate licensed health professional, or social worker and the administrator, the services and accommodations of the facility will meet the respite needs of the participant.~~

(b) An individual may be enrolled in an overnight respite program when:

- (1) the individual is 18 years of age or older;
- (2) the individual has a need for respite services because of a physical condition or mental disability;  
and
- (3) the individual meets the criteria for the overnight respite program in accordance with the program policies and procedures and the determination by the administrator that the program can meet the applicant's expressed needs pursuant to Subparagraph (a)(3).

(c) Individuals shall not be admitted:

- (1) for treatment of mental illness or alcohol or drug abuse;
- (2) for maternity care;
- (3) for ~~professional nursing care under continuous medical supervision;~~ continuous licensed nursing care;
- (4) for lodging, when the personal assistance and supervision offered for the participant are not needed;
- or
- (5) who pose a threat to the health or safety of others.

(d) A medical examination report signed by a physician or ~~appropriate~~ licensed health professional completed within the prior three months, shall be obtained by the program at the time of enrollment. The report must be updated annually no later than the anniversary date of the initial report.

(e) The medication examination report required in Paragraph (d) of this Rule shall be documented on the North Carolina Medicaid Adult Care Home FL-2 form which is available at no cost on the Department's Medicaid website

at <https://medicaid.ncdhhs.gov/media/6549/open>. The program may use a medical examination report other than the North Carolina Medicaid Adult Care Home FL-2 as long as it contains the same information. The Adult Care Home FL-2 shall be signed and dated by the physician or licensed health professional completing the medical examination. The medical examination shall include the following:

- (1) resident's identification information, including the resident's name, date of birth, sex, admission date, county and Medicaid number, current facility and address, physician's name and address, a relative's name and address, current level of care, and recommended level of care;
- (2) resident's admitting diagnoses, including primary and secondary diagnoses and dates of onset;
- (3) resident's current medical information, including orientation, behaviors, personal care assistance needs, frequency of physician visits, ambulatory status, functional limitations, information related to activities and social needs, neurological status, bowel and bladder functioning status, manner of communication of needs, skin condition, respiratory status, and nutritional status including orders for therapeutic diets;
- (4) special care factors, including physician orders for blood pressure, diabetic urine testing, physical therapy, range of motion exercises, a bowel and bladder program, a restorative feeding program, speech therapy, and restraints;
- (5) resident's medications, including the name, strength, dosage, frequency and route of administration of each medication;
- (6) results of x-rays or laboratory tests determined by the physician or licensed health professional to be necessary information related to the resident's care needs; and
- (7) additional information as determined by the physician or licensed health professional to be necessary for the care of the resident.

~~(e)~~(f) The program administrator or their designee shall assure ensure that the participant's physician or appropriate licensed health professional is contacted for orders for medications, treatments, and special diets if current physician orders are not part of the medical examination report required in Paragraph (d) of this Rule for inclusion in the participant's record. Prior to or the day of admission, the participant's physician or appropriate licensed health professional shall be contacted for clarification of orders, if orders are not clear or complete.

~~(f)~~(g) The program shall assure ensure that the participant has been tested for tuberculosis disease within the past 12 months of each admission for overnight respite services in accordance with the NC Division of Public Health's Tuberculosis Policy Manual, incorporated herein by reference including any subsequent amendments and editions, and shall be free of active tuberculosis. This manual may be accessed free of charge at <http://epi-publichealth.nc.gov/ed/4hds/manuals/tb/toe.html>, in compliance with the control measures adopted by the Commission for Public Health as specified in 10A NCAC 41A .0205 including subsequent amendments and editions. 10A NCAC 41A.0205.

*History Note: Authority G.S. 131D-6.1;*  
*Eff. April 1, 2017; 2017;*  
*Emergency Amendment Eff. July 1, 2026;*

1  
2

Temporary Adoption Amendment Eff. October 7, 2026.

## Burgos, Alexander N

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**From:** Black, Shanah  
**Sent:** Monday, September 14, 2026 12:39 PM  
**To:** Barney, Meghan E  
**Cc:** Burgos, Alexander N; Jones, Shalisa R  
**Subject:** RE: September 2026 RRC Meeting- Request for Changes

Thank you. We will get these back to you with the technical changes.

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**From:** Barney, Meghan E <meghan.barney@oah.nc.gov>  
**Sent:** Monday, September 14, 2026 12:37 PM  
**To:** Black, Shanah <shanah.black@dhhs.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Jones, Shalisa R <shalisa.jones@dhhs.nc.gov>  
**Subject:** September 2026 RRC Meeting- Request for Changes

Good afternoon,

I'm the attorney who reviewed the temporary rules submitted by the Medical Care Commission for the September 2026 RRC meeting. The RRC will formally review these rules at its meeting on Tuesday, September 29, 2026, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised rules to me via email, no later than 5 p.m. on September 21, 2026. Let me know if you have any questions.

Thanks,  
Meghan

Meghan Barney  
Rules Review Commission Counsel  
Office of Administrative Hearings  
Telephone: 984-236-1925  
Email: [meghan.barney@oah.nc.gov](mailto:meghan.barney@oah.nc.gov)

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