

**STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**MEDICAL CARE COMMISSION CONFERENCE CALL MEETING
DIVISION OF HEALTH SERVICE REGULATION
809 RUGGLES DRIVE, RALEIGH, NORTH CAROLINA 27603
CONFERENCE ROOM 026A, EDGERTON BUILDING**

**September 11, 2017
11:00 A.M.**

Minutes

I. FULL COMMISSION CONFERENCE CALL MEETING:

MEMBERS PRESENT	MEMBERS ABSENT
John A. Fagg, M.D., Chairman Joseph D. Crocker, Vice-Chairman Robert S. Alphin, M.D. Vickie L. Beaver Linwood B. Hollowell, III Eileen C. Kugler, RN, MSN, MPH, FNP Albert F. Lockamy, Jr., RPh J. William Paugh Devdutta G. Sangvai, M.D. Patrick D. Sebastian Robert E. Schaaf, M.D. Paul M. Wiles	Charles H. Hauser Kenly P. Lewis, D.D.S. Henry A. Unger, M.D.
<u>DIVISION OF HEALTH SERVICE REGULATION STAFF</u>	
Mark Payne, Director, DHSR, Secretary, MCC Emery Milliken, Deputy Director, DHSR Steven Lewis, Chief, Construction Section, DHSR Jeff Harms, Engineering Supervisor, Construction Section, DHSR Nadine Pfeiffer, Rules Review Manager, DHSR Azzie Conley, Chief, Acute & Home Care Licensure Section Kathy Larrison, Auditor, MCC Crystal Abbott, Auditor, MCC Alice Creech, Executive Assistant, MCC	

II. CHAIRMAN'S COMMENTS:

Dr. Fagg welcomed everyone to the conference call meeting. He told us that he prefers face to face meetings but a conference call was more economical and everyone did not have to drive to Raleigh. He then asked Steven Lewis to explain the Temporary Hospital Rules that are being brought before the Commission for consideration. Mr. Lewis explained Session Law 2017-174 and the proposed temporary rules.

Commission for consideration. Mr. Lewis explained Session Law 2017-174 and the proposed temporary rules.

III. ADOPTION OF TEMPORARY RULES:

The Medical Care Commission (MCC) reviewed the following temporary rules to move forward in the rule promulgation process:

- 10A NCAC 13B.6003
- 10A NCAC 13B.6105
- 10A NCAC 13B.6228

See Exhibit A (Executive Summary)

- A summary document with the rationale for the temporary rules

See Exhibit A-1 (Hospital Construction Temporary Rules)

- The temporary rules approved

See Exhibit A-2 (Rules Flowchart Hospital Construction Temp)

- The flowchart for the temporary rule process for the approved rules

See Exhibit A-3 (Session Law 2017-174 (SB42))

- The Session Law directing the repeal of specific rules and the adoption of the approved rules

See Exhibit A-4 (FGI Guidelines Summary)


- Table of contents for the FGI Guidelines

COMMISSION ACTION: Motion was made to approve the temporary rules by Dr. Devdutta Sangvai, seconded by Mr. Albert Lockamy and unanimously approved.

IV. ADJOURNMENT:

There being no further business the call was adjourned at 11:13 a.m.

Respectfully Submitted,


S. Mark Payne, Secretary

Rule for: Hospital Construction
Type of Rule: Temporary Adoption
MCC Action: Initiate Rulemaking

Exhibit A/1
8/14/2017

1 10A NCAC 13B .6003 is proposed for adoption under temporary procedures as follows:

2

3 **10A NCAC 13B .6003 DEFINITIONS**

4 In addition to the definitions set forth in G.S. 131E-76, the following definitions shall apply in Sections .6000 through
5 .6200 of this Subchapter:

6 (1) “Construction documents” means final building plans and specifications for the construction of a
7 facility that a governing body submits to the Construction Section for approval as specified in Rule
8 .3102 of this Subchapter.

9 (2) “Construction Section” means the Construction Section of the Division of Health Service
10 Regulation.

11 (3) “Division” means the Division of Health Service Regulation of the North Carolina Department of
12 Health and Human Services.

13 (3) “Facility” means a hospital as defined in G.S. 131E-76.

14

15 *History Note: Authority G.S. 131E-76; 131E-79; S.L. 2017-174;*

16 *Temporary Adoption Eff. December 1, 2017.*

Rule for: Hospital Construction
Type of Rule: Temporary Adoption
MCC Action: Initiate Rulemaking

Exhibit A/1
8/14/2017

1 10A NCAC 13B .6105 is proposed for adoption under temporary procedures as follows:

2

3 **10A NCAC 13B .6105 INCORPORATION BY REFERENCE AND APPLICATION OF THE**
4 **REQUIREMENTS OF THE GUIDELINES**

5 (a) The Guidelines for the Design and Construction of Hospitals and Outpatient Facilities are incorporated herein by
6 reference, including all subsequent amendments and editions; however, the following chapters of the Guidelines shall
7 not be incorporated herein by reference:

8 (1) Chapter 2.6;

9 (2) Chapter 3.1;

10 (3) Chapter 3.2;

11 (4) Chapter 3.3;

12 (5) Chapter 3.4;

13 (6) Chapter 3.5;

14 (7) Chapter 3.6;

15 (8) Chapter 3.7;

16 (9) Chapter 3.8;

17 (10) Chapter 3.9;

18 (11) Chapter 3.10;

19 (12) Chapter 3.11;

20 (13) Chapter 3.12; and

21 (14) Chapter 3.14.

22 (b) The Guidelines for the Design and Construction of Hospitals and Outpatient Facilities incorporated by this Rule
23 may be purchased from the Facility Guidelines Institute online at [https://www.fgiguilines.org/guidelines-](https://www.fgiguilines.org/guidelines-main/purchase/)
24 main/purchase/ at a cost of two hundred dollars (\$200.00) or accessed electronically free of charge at
25 <https://www.fgiguilines.org/guidelines/2014-hospital-outpatient/read-only-copy/>.

26 (c) A new facility or any additions or alterations to an existing facility whose construction documents were approved
27 by the Construction Section on or after January 1, 2018 shall meet the standards established in Sections .6000 through
28 .6200 of this Subchapter.

29 (d) An existing facility whose construction documents were approved by the Construction Section prior to January 1,
30 2018 shall meet those standards established in Sections .6000 through .6200 of this Subchapter that were in effect at
31 the time the construction documents were approved by the Construction Section.

32 (e) Any existing building converted from another use to a new facility shall meet the requirements of Paragraph (c)
33 of this Rule.

34

35 *History Note: Authority G.S. 131E-79; S.L. 2017-174;*

36 *Temporary Adoption Eff. December 1, 2017.*

Rule for: Hospital Construction
Type of Rule: Temporary Adoption
MCC Action: Initiate Rulemaking

Exhibit A/1
8/14/2017

1 10A NCAC 13B .6228 is proposed for adoption under temporary procedures as follows:

2

3 **10A NCAC 13B .6228 NEONATAL LEVEL I, II, III, AND IV NURSERIES**

4 A facility that provides neonatal services as specified in Rule .4305 of this Subchapter shall meet the requirements of
5 the Guidelines for the Design and Construction of Hospitals and Outpatient Facilities, as incorporated by reference in
6 Rule .6105 of this Subchapter, as follows:

7 (1) a Neonatal Level I nursery shall comply with the requirements of Section 2.2- 2.12;

8 (2) a Neonatal Level II nursery shall comply with the requirements of Sections 2.2-2.12 and 2.2-
9 2.12.3.3;

10 (3) a Neonatal Level III nursery shall comply with the requirements of Section 2.2- 2.10; and

11 (4) a Neonatal Level IV nursery shall comply with the requirements of Section 2.2- 2.10.

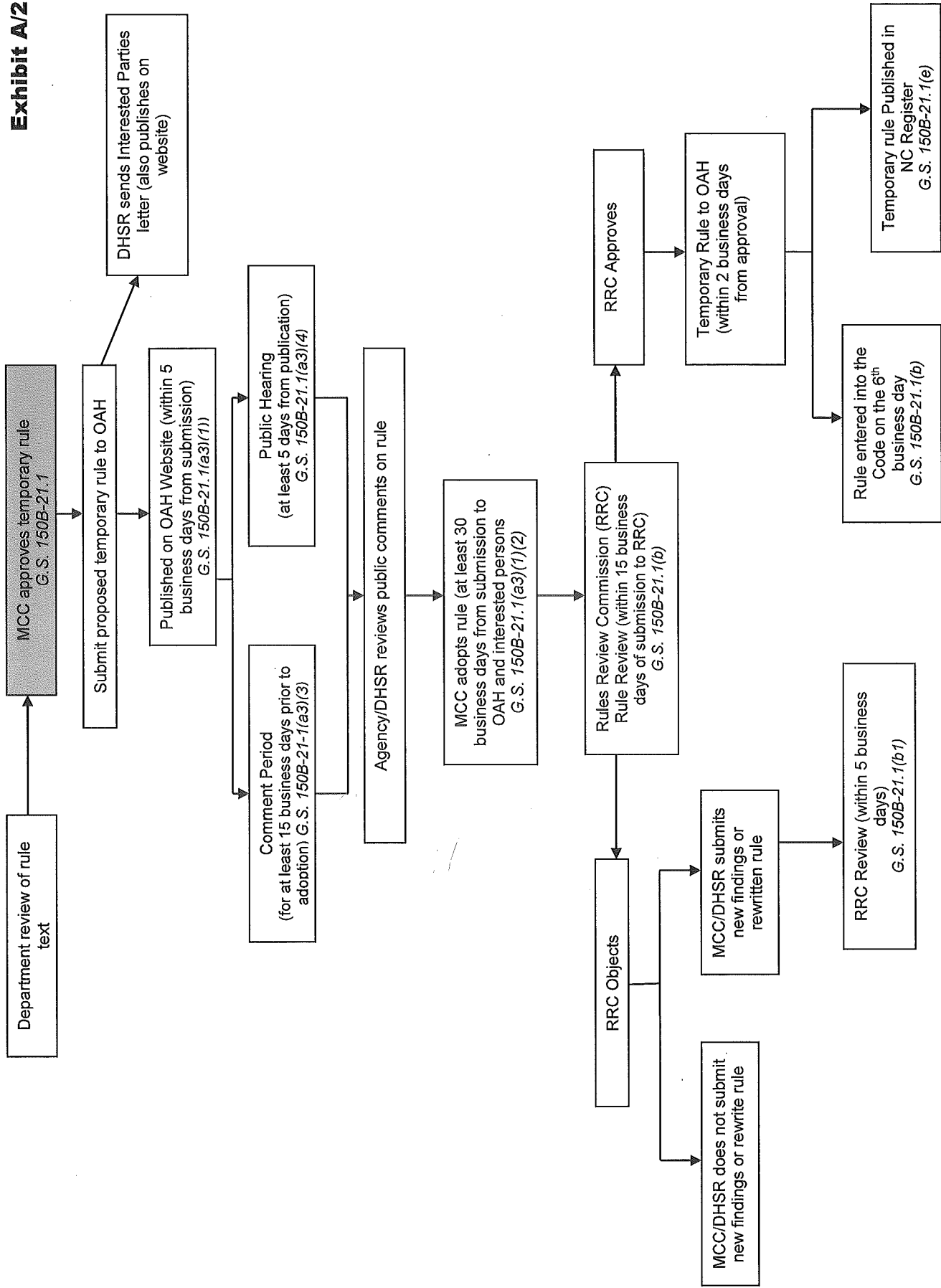
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13 *History Note: Authority G.S. 131E-79; S.L. 2017-174;*

14 *Temporary Adoption Eff. December 1, 2017.*

Temporary Rulemaking Process for Hospital Construction FGI Rules - 10A NCAC 13B .6003, .6105, & .6228

Exhibit A/2



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SESSION LAW 2017-174
SENATE BILL 42

AN ACT DIRECTING THE MEDICAL CARE COMMISSION TO ADOPT THE RECOMMENDATIONS OF THE AMERICAN SOCIETY OF HEALTHCARE ENGINEERING'S FACILITY GUIDELINES INSTITUTE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Definitions. – For purposes of this section and its implementation:

- (1) Commission or Medical Care Commission. – The Medical Care Commission created by Part 10 of Article 3 of Chapter 143B of the General Statutes.
- (2) Hospital Facilities Rules. – Means all of the following:
 - a. 10A NCAC 13B .6001 – Physical Plant: Location.
 - b. 10A NCAC 13B .6002 – Physical Plant: Roads and Parking.
 - c. 10A NCAC 13B .6104 – General Requirements: Access and Safety.
 - d. 10A NCAC 13B .6201 – Construction Requirements: Medical, Surgical, and Post-Partum Care Unit.
 - e. 10A NCAC 13B .6202 – Construction Requirements: Special Care Unit.
 - f. 10A NCAC 13B .6203 – Construction Requirements: Neonatal Level I and Level II Nursery Unit.
 - g. 10A NCAC 13B .6204 – Construction Requirements: Neonatal Level III and Level IV Nursery.
 - h. 10A NCAC 13B .6205 – Construction Requirements: Psychiatric Unit.
 - i. 10A NCAC 13B .6206 – Construction Requirements: Surgical Department Requirements.
 - j. 10A NCAC 13B .6207 – Construction Requirements: Obstetrical Department Requirements.
 - k. 10A NCAC 13B .6209 – Construction Requirements: Emergency Services.
 - l. 10A NCAC 13B .6210 – Construction Requirements: Imaging Services.
 - m. 10A NCAC 13B .6211 – Construction Requirements: Laboratory Services.
 - n. 10A NCAC 13B .6212 – Construction Requirements: Morgue.
 - o. 10A NCAC 13B .6213 – Construction Requirements: Pharmacy Services.
 - p. 10A NCAC 13B .6214 – Construction Requirements: Dietary Services.
 - q. 10A NCAC 13B .6215 – Construction Requirements: Administration.
 - r. 10A NCAC 13B .6216 – Construction Requirements: Medical Records Services.



- s. 10A NCAC 13B .6217 – Construction Requirements: Central Medical and Surgical Supply Services.
 - t. 10A NCAC 13B .6218 – Construction Requirements: General Storage.
 - u. 10A NCAC 13B .6219 – Construction Requirements: Laundry Services.
 - v. 10A NCAC 13B .6220 – Construction Requirements: Physical Rehabilitation Services.
 - w. 10A NCAC 13B .6221 – Construction Requirements: Engineering Services.
 - x. 10A NCAC 13B .6222 – Construction Requirements: Waste Processing.
 - y. 10A NCAC 13B .6223 – Construction Requirements: Details and Finishes.
 - z. 10A NCAC 13B .6224 – Construction Requirements: Elevator Requirements.
 - aa. 10A NCAC 13B .6225 – Construction Requirements: Mechanical Requirements.
 - bb. 10A NCAC 13B .6226 – Construction Requirements: Plumbing and Other Piping Systems Requirements.
 - cc. 10A NCAC 13B .6227 – Construction Requirements: Electrical Requirements.
- (3) Guidelines. – The American Society for Healthcare Engineering's Facility Guidelines Institute "Guidelines for Design and Construction of Hospitals and Outpatient Facilities."

SECTION 1.(b) Repeal Hospital Facilities Rules. – The Secretary of Health and Human Services and the Medical Care Commission shall repeal the Hospital Facilities Rules within 120 days after this act becomes law.

SECTION 1.(c) Implementation and Rule-Making Authority. – Before the effective date of the repeal of the Hospital Facilities Rules required pursuant to subsection (b) of this section, the Medical Care Commission shall adopt temporary rules to replace the Hospital Facilities Rules and incorporate by reference all applicable rules, standards, and requirements of the most current edition of the Guidelines. If temporary rules are not adopted before the repeal of the Hospital Facilities Rules required pursuant to subsection (b) of this section, the Commission shall utilize the 2014 Edition of the Guidelines until such time as temporary rules are adopted. Furthermore, the Commission shall adopt permanent rules pursuant to this section.

SECTION 1.(d) Additional Rule-Making Authority. – The Medical Care Commission shall adopt rules to replace the Hospital Facilities Rules. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall conform to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in subsection (b1) of G.S. 150B-21.3 as though 10 or more written objections had been received as provided by subsection (b2) of G.S. 150B-21.3. Furthermore, rules adopted pursuant to this section shall be exempt from the provisions of Chapter 150B of the General Statutes that require the preparation of fiscal notes for any rule proposed to incorporate the Guidelines by reference.

SECTION 1.(e) Exemption From Periodic Review. – Until such time as the Hospital Facilities Rules are repealed pursuant to subsection (b) of this section, the Hospital Facilities Rules shall be exempt from the periodic review process required pursuant to G.S. 150B-21.3A.

SECTION 2. This act is effective when it becomes law and applies to any licensee or prospective applicant who seeks to make specified types of alterations or additions to its hospital facilities or to construct new hospital facilities and who submits plans and specifications to the Department of Health and Human Services pursuant to Article 5 of Chapter 113E of the General Statutes on or after January 1, 2016.

In the General Assembly read three times and ratified this the 30th day of June, 2017.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 11:48 a.m. this 21st day of July, 2017

Executive Summary for September 11, 2017 Medical Care Commission Conference CallBackground

The Medical Care Commission (MCC) is statutorily authorized to promulgate rules regarding the physical plant requirements for licensed hospitals (physical plant rules). Currently, there are a number of previously promulgated physical plant rules. The latest edition of North Carolina's physical plant rules were promulgated in 1996 and have undergone few revisions to date. The existing physical plant rules were largely derived from the 1992-1993 edition of the *AIA Guidelines for Construction and Equipment of Hospital and Medical Facilities*. During the intervening years, that document has been retitled as the *Guidelines for Design and Construction of Hospitals and Outpatient Facilities* and is now written by the Facility Guidelines Institute (FGI) and referred to as the "*FGI Guidelines*."

The FGI is broadly represented by stakeholders in health care facility design and construction. Health care administrators, architects, engineers, interior designers, clinicians, infection preventionists, and authorities having jurisdiction all lend expertise to produce a true consensus document. Forty-two states use the *FGI Guidelines* in some form. Some states adopt the whole document, and a few of these automatically update to the new edition when it is published. Other states only use part of the document. It should be noted that North Carolina has been a member of the Revision Committee for the past two editions. The most recent version of the *FGI Guidelines*, now in its seventh edition, is the 2014 version.

Requirements of Session Law 2017-174 (Senate Bill 42)

By the Governor's signature on July 21, 2017, Senate Bill 42 became law – Session Law 2017-174 (Exhibit A-3). The new law mandates that the MCC repeal designated physical plant rules within 120 days from the law's enactment. (The MCC began to move forward with the repeal of these rules during its last quarterly meeting and is on time to meet the deadlines imposed by the new law.)

In addition to repeal of certain existing rules, new temporary rules need to be adopted by the MCC. The purpose of the September 11, 2017 conference call is to provide the MCC the opportunity to discuss and consider approval of the three attached proposed temporary rules. (The timing of this call is to assure new temporary rules can be promulgated prior to the legislative deadline for the repeal of the existing rules.)

Proposed Temporary Rules

Included as an attachment to this email are three proposed temporary rules (Exhibit A-1):

1. 10A NCAC 13B .6003: definitions,
2. 10A NCAC 13B .6105: incorporates by reference the requirements of the applicable portions of the *2014 FGI Guidelines*,

3. 10A NCAC 13B .6228: crosswalks the 10A NCAC 13B .4305 neonatal classification with the *2014 FGI Guidelines*' classification for physical plant requirements for neonatal units.

Process for Temporary Rules

The attached rules are for your consideration for approval during the conference call on September 11, 2017. If approval is given, it will allow these temporary rules to move forward in the rule promulgation process (see attached flow chart of temporary rule process, Exhibit A-2). Prior to becoming effective, these temporary rules will come back to the MCC for adoption at its next regularly scheduled November 2017 meeting.

Conclusion

The DHSR Construction Section is looking forward to the adoption of the *2014 FGI Guidelines* in place of the existing rules, some of which are outdated. The *2014 FGI Guidelines* will cover many more areas of a hospital than addressed with the existing rules. Additionally, the *2014 FGI Guidelines* will help facilities as they choose architects and engineers to design and build or renovate new hospitals since they will be using rules and regulations that are being used in other states. Approval and adoption of the proposed temporary rules will allow the DHSR Construction Section to effectively implement and enforce the *2014 FGI Guidelines*.