

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

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**MEDICAL CARE COMMISSION PLANNING MEETING  
DIVISION OF HEALTH SERVICE REGULATION  
809 RUGGLES DRIVE  
RALEIGH, NORTH CAROLINA 27603  
CONFERENCE ROOM #026A – EDGERTON BUILDING  
OR  
MICROSOFT TEAMS VIDEO LINK: [Click here to join the meeting](#)  
OR  
DIAL-IN: 1-984-204-1487 PASSCODE: 240 553 921#**

**THURSDAY, FEBRUARY 11, 2021  
3:00 P.M.  
AGENDA**

**I. Meeting Opens and Comments.....Dr. John Meier**

**II. Public Meeting Statement.....Dr. John Meier**

This meeting of the Medical Care Commission is open to the public but is not a public hearing. Therefore, any discussion will be limited to members of the Commission and staff unless questions are specifically directed by the Commission to someone in the audience.

**III. Ethics Statement.....Dr. John Meier**

The State Government Ethics Act requires members to act in the best interest of the public and adhere to the ethical standards and rules of conduct in the State Government Ethics Act, including the duty to continually monitor, evaluate, and manage personal, financial, and professional affairs to ensure the absence of conflicts of interest.

**IV. Old Business (Discuss Rules, fiscal note, and comments submitted)**

**A. Rules for Adoption**

1. Healthcare Personnel Registry Rule.....Nadine Pfeiffer & Jana Busick

Amendment of 1 rule following emergency and temporary rulemaking for nurse aide reciprocity

- Rule: 10A NCAC 130.0301  
(See Exhibits C thru C-2)

**V. New Business (Discuss Rules & Fiscal Note)**

**A. Rules for Initiating Rulemaking Approval**

1. Hospice Licensing Construction Rules.....Nadine Pfeiffer & Jeff Harms

Readoption of 13 rules following Periodic Review & 3 rule amendments

- Rules: 10A NCAC 13K.1109, .1112 -.1116, .1201, and .1204 - .1212  
(See Exhibits D thru D-2)

2. Nursing Home Licensing Rules.....Nadine Pfeiffer, Jeff Harms, & Beverly Speroff

Amendment of 1 rule for technical changes

- Rule: 10A NCAC 13D .2001  
(See Exhibit D-3)

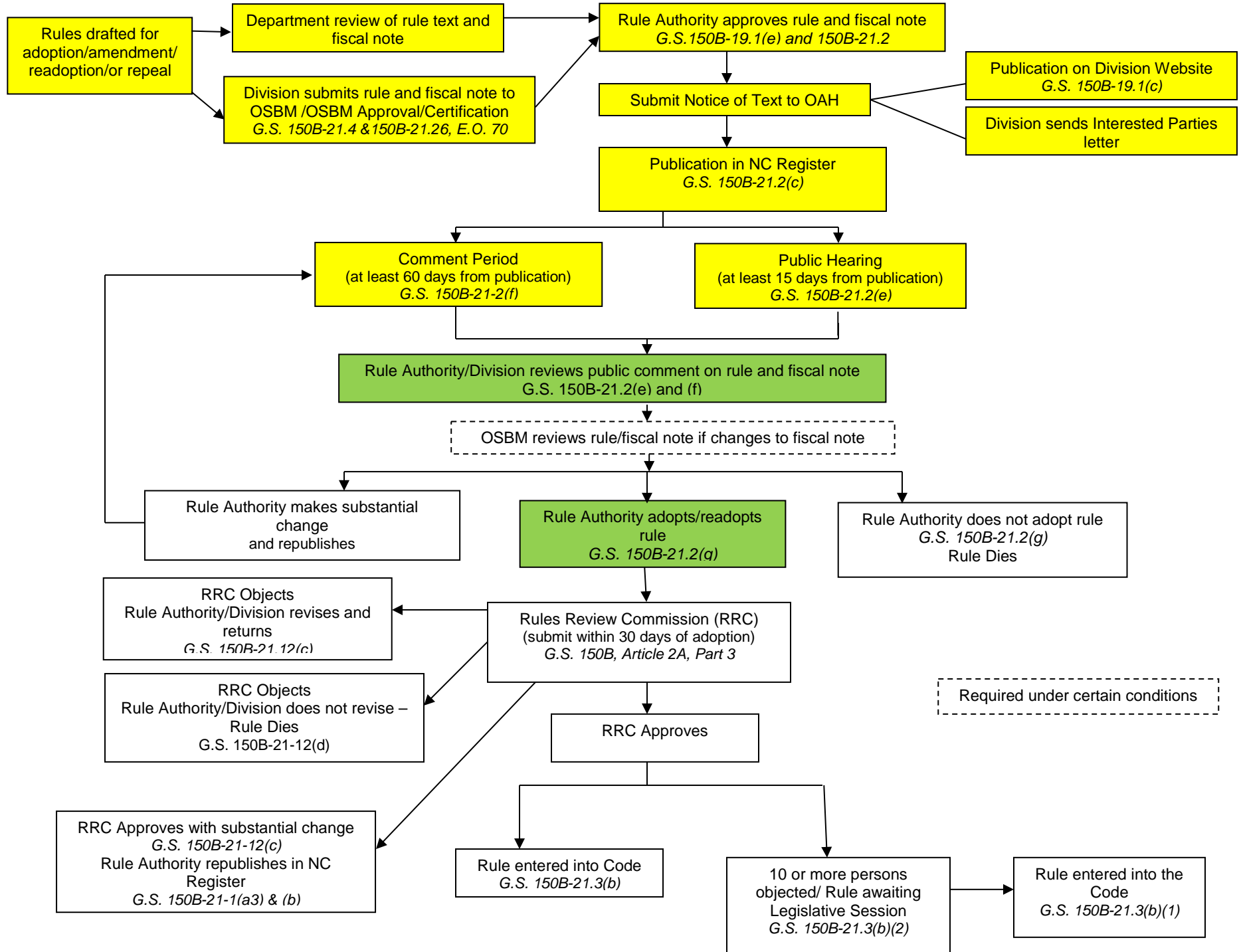
**VI. CCRC Financial Feasibility Presentation.....Geary W. Knapp  
(See Exhibit E)**

**VII. MCC Process Review.....Geary W. Knapp  
(See Exhibit F)**

**VIII. Meeting Adjournment – The Agenda is to be referred to the Friday, February 12, 2021 meeting without any action being taken.**

**Process for Medical Care Commission to Adopt/Readopt Rule**

**Exhibit C**



1 10A NCAC 130 .0301 is amended as published in 35:06 NCR 652-653 as follows:

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**SECTION .0300 - NURSE AIDE I REGISTRY**

**10A NCAC 130 .0301 NURSE AIDE I TRAINING AND COMPETENCY EVALUATION**

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

- (1) pass a Nurse Aide I training program approved by the Department in accordance with 42 CFR ~~Part~~ 483.151 through ~~Part~~ 42 CFR 483.152 and the State of North Carolina's Nurse Aide I competency ~~exam.~~ exam; or
- (2) apply to the Department for approval to be listed on the NC Nurse Aide I Registry by reciprocity of a nurse aide certification or registration from another State to North Carolina.

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

- (1) submit a completed application to the Department that includes the following:
  - (A) first, middle, and last name;
  - (B) the applicant's prior name(s), if any;
  - (C) mother's maiden name;
  - (D) gender;
  - (E) social security number;
  - (F) date of birth;
  - (G) mailing address;
  - (H) email address;
  - (I) home telephone number;
  - (J) any other State registries of nurse aides upon which the applicant is listed;
  - (K) certification or registration numbers for any State nurse aide registries identified in Part (b)(1)(J) of this Rule;
  - (L) original issue dates for any certifications or registrations identified in Part (b)(1)(K) of this Rule;
  - (M) expiration dates for any certifications or registrations identified in Part (b)(1)(K) of this Rule; and
  - (N) employment history;
- (2) provide documentation verifying that his or her registry listing is active and in good standing in the State(s) of reciprocity, dated no older than 30 calendar days prior to the date the application is received by the Department; and
- (3) provide a copy of his or her Social Security card and an unexpired government-issued identification containing a photograph and signature.

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

- 3 (1) the applicant has completed an application in accordance with Subparagraph (b)(1) of this Rule;
- 4 (2) the applicant is listed on another State's registry of nurse aides as active and in good standing;
- 5 (3) the applicant has no pending or substantiated findings of abuse, neglect, exploitation, or  
6 misappropriation of resident or patient property recorded on other State registries of nurse aides;
- 7 (4) if the applicant has been employed as a nurse aide for monetary compensation consisting of at least  
8 a total of eight hours of time worked performing nursing or nursing-related tasks delegated and  
9 supervised by a Registered Nurse, then the applicant shall provide the employer name, employer  
10 address, and dates of employment for the previous 24 consecutive months;
- 11 (5) the name listed on the Social Security card and government-issued identification containing a  
12 photograph and signature submitted with the application matches the name listed on another State's  
13 registry of nurse aides or that the applicant has submitted additional documentation verifying any  
14 name changes; and
- 15 (6) the applicant completed a State-approved nurse aide training and competency evaluation program  
16 that meets the requirements of 42 CFR 483.152 or a State-approved competency evaluation program  
17 that meets the requirements of 42 CFR 483.154.

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

- 20 (1) inform the applicant by letter whether he or she has been approved; or
- 21 (2) request additional information from the applicant.

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

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

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

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

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

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

1 ~~(g)~~ (j) Every North Carolina's Nurse Aide I competency exam candidate shall ~~have, as provided for in 42 CFR Part~~  
2 ~~483.154,~~ have the opportunity to take the exam at maximum three times before being required to retake and pass a  
3 Nurse Aide I training program.

4 ~~(h)~~ A person who is currently listed on any state's Nurse Aide I Registry shall not be required to take the Department-  
5 approved Nurse Aide I training program to be listed or, if his or her 24 month listing period has expired, relisted on  
6 the NC Nurse Aide I Registry, unless the person fails to pass the State of North Carolina's Nurse Aide I competency  
7 exam after three attempts.

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

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13 *History Note:* Authority G.S. 131E-255; 42 CFR ~~Part 483;~~ 483.150; 42 CFR 483.151; 42 CFR 483.152; 42 CFR  
14 483.154; 42 CFR 483.156; 42 CFR 483.158;  
15 Eff. January 1, 2016;  
16 Emergency Amendment Eff. April 20, 2020;  
17 Temporary Amendment Eff. June 26, 2020. 2020;  
18 Amended Eff. April 1, 2021.

**Impact Analysis: Healthcare Personnel Registry Nurse Aide Reciprocity Permanent Rule Amendment**

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Agency: N.C. Medical Care Commission

Rule Citation(s): 10A NCAC 130 .0301  
 (\*See proposed rule in Appendix)

Agency Contact: Jana Busick, Chief, HCPEC  
 jana.busick@dhhs.nc.gov  
 919-855-3757  
 Nadine Pfeiffer, Rule Review Manager  
 Nadine.pfeiffer@dhhs.nc.gov  
 919-855-3811

Rulemaking Authority: G.S. 131E-255

Impact Summary: State Government: Yes  
 Local Government: No  
 Private Entities: Yes  
 Substantial Impact: No

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**Introduction**

In April 2020, the North Carolina Medical Care Commission, in accordance with General Statute 150B-21.1A(b), adopted an emergency rule amendment and simultaneously proposed a temporary rule amendment for 10A NCAC 130 .0301 Nurse Aide I Training and Competency Evaluation due to the serious and unforeseen threat to the public health and safety by the COVID-19 virus. The emergency amendment, that became effective April 26, 2020, allowed reciprocity for out-of-state nurse aides who are active and in good standing on another State’s nurse aide registry, waiving the state’s competency examination. The temporary rule amendment that continued allowing reciprocity became effective June 26, 2020.

This rule proposes to make permanent the amendments to the rule allowing reciprocity for out-of-state nurse aides who are active and in good standing on another State’s nurse aide registry. Thus, reciprocity will directly benefit the citizens of North Carolina during the COVID-19 crisis and in the future as the population continues to grow and as more citizens are over the age of 65 and receive care in Skilled Nursing Facilities (SNFs) and Nursing Facilities (NFs).

**Background and Purpose**

Nurse aides augment the care nurses provide by performing routine duties of caring for patients or residents under the direction of a Registered Nurse or Licensed Practical Nurse. Federal law requires states to confirm and register nurse aides who provide care in nursing homes. This confirmation and registration is obtained through a state-approved nurse aide training program and a state-approved competency examination.

North Carolina’s population is growing and aging. In 2019, North Carolina had an estimated population of approximately 10.5 million people. In addition, approximately 16.5.% of individuals were aged 65 or

over. By 2038, North Carolina is projected to have a population of 12.9 million people. Between years 2019 and 2038, the population aged 65 and over is projected to grow at a rate of more than 2.5 times faster than the total population. By 2038, projections indicate that 21% of the population will be aged 65 and over.<sup>1</sup>

Every two years, in conjunction with the Bureau of Labor Statistics (BLS), the North Carolina Department of Commerce publishes a 10-year industry and occupation employment projections for statewide and sub-state areas. It is predicted that by 2026, the Healthcare Support Occupations group will be one of the fastest growing occupational groups in North Carolina with an annualized growth rate of 1.9%. The Healthcare Support Occupations group includes healthcare aides, assistants, etc. Table 1 depicts the employment estimate in 2017 and 2026 for the Health Care Support Occupations group.<sup>2</sup>

Table 1

<b>Occupational Group</b>	<b>Employment Estimate 2017</b>	<b>Employment Estimate 2026</b>	<b>Net Change</b>	<b>Percent Change</b>	<b>Annualized Growth Rate</b>	<b>2017 Annual Median Wage</b>
Healthcare Support Occupations	154,974	183,303	29,329	18.9%	1.9%	\$25,420

Mercer, a global health care staffing consultancy, conducted a labor market analysis and projected that the US will likely face a shortage of 95,000 nursing assistants in 2020.<sup>3</sup> Table 2 depicts the North Carolina Department of Commerce’s projected average annual openings for the Healthcare Support Occupations group from years 2017 to 2026.<sup>2</sup>

Table 2

<b>Average Annual Openings</b>	<b>Number of Positions</b>
Due to Occupational Separations	18,883
Due to Growth	3,259

On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No.116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The World Health Organization, the Center for Disease Control and Prevention and the United States Department of Health and Human Services declared COVID-19 a public health emergency. In conjunction with government guidance, on March 16, 2020, the state-approved nurse aide I competency exam vendor, NCS Pearson, Inc. d/b/a Pearson VUE, suspended all nurse aide competency examinations in North Carolina until conditions were deemed safe to re-open.

In response to the COVID-19 crisis, the Center for Medicaid and Medicare Services (CMS) waived 42 CFR §483.35(d), except for 42 CFR §483.35(d)(1)(i)), so that they do not present barriers for skilled nursing facilities (SNFs) or nursing facilities (NFs) to provide adequate levels of staffing for the duration of the COVID-19 pandemic. Included in the waiver was 42 CFR §483.35(d)(1)(ii)(A) which references the requirement that a facility must not use an individual working in the facility as a nurse aide for more

<sup>1</sup> OSBM population estimates and projections: <https://www.osbm.nc.gov/demog/county-projections>

<sup>2</sup> NC Department of Commerce – Labor & Economic Analysis Division: [https://files.nc.gov/nccommerce/documents/LEAD/Projections/2026\\_NC\\_Employment\\_Projections\\_Summary.pdf](https://files.nc.gov/nccommerce/documents/LEAD/Projections/2026_NC_Employment_Projections_Summary.pdf)

<sup>3</sup> CNN Business: <https://money.cnn.com/2018/05/04/news/economy/health-care-workers-shortage/index.html>



than 4 months, on a full-time basis, unless the individual has completed a training and competency evaluation program approved by the State.

Prior to COVID-19, states and health care providers were reporting a shortage of nurse aides. In a report to Congress, CMS determined that 2.4 nurse aide staffing hours per resident per day provided the most impact on short-stay quality outcomes related to hospital transfers for potentially avoidable causes (e.g., urinary tract infections, sepsis, electrolyte imbalance). In addition, CMS determined that 2.8 nurse aide staffing hours per resident per day provided the most impact on long-stay quality outcomes (e.g., functional improvement, incidence of pressure sores, incidence of skin trauma, resisting care improvement and weight loss).<sup>4</sup> Overall, an overwhelming majority of North Carolina’s skilled nursing facilities do not meet the recommended nurse aide staffing hours per resident per day threshold (Table 3 and Table 4).<sup>5</sup> The average nurse aide staffing hours per resident per day in North Carolina is 2.17.<sup>5</sup>

Table 3

State	The Percentage of Skilled Nursing Facilities Below the 2.4 Nurse Aide Staffing Hours Per Resident Per Day Threshold	N Value
US	62%	9,213
NC	78%	319
GA	87%	305
SC	66%	117
TN	87%	270
VA	82%	230

Table 4

State	The Percentage of Skilled Nursing Facilities Below the 2.8 Nurse Aide Staffing Hours Per Resident Per Day Threshold	N Value
US	84%	9,213
NC	90%	319
GA	96%	305
SC	83%	117
TN	96%	270
VA	90%	230

## Description of Proposed Rule

By implementing reciprocity, North Carolina will recognize the validity of other State nurse aide registries. An out-of-state nurse aide, provided they meet the criteria listed below, will no longer be required to complete the North Carolina nurse aide I competency examination in order to be listed on the North Carolina Nurse Aide I Registry. The current competency examination includes both a written (or oral) examination and a skills evaluation. An individual must pass both components of the examination to be listed on the North Carolina Nurse Aide I Registry.

<sup>4</sup> Congressional Report:

[https://www.justice.gov/sites/default/files/elderjustice/legacy/2015/07/12/Appropriateness\\_of\\_Minimum\\_Nurse\\_Staffing\\_Ratios\\_in\\_Nursing\\_Homes.pdf](https://www.justice.gov/sites/default/files/elderjustice/legacy/2015/07/12/Appropriateness_of_Minimum_Nurse_Staffing_Ratios_in_Nursing_Homes.pdf)

<sup>5</sup> Centers for Medicare and Medicaid Services: Nursing Home Compare data analyzed on May 1, 2020

The following reciprocity criteria must be met for an out-of-state nurse aide to be listed on the North Carolina Nurse Aide I Registry.

- The applicant must submit a complete reciprocity application.
- The applicant must be listed on another State’s registry of nurse aides as active and in good standing.
- The applicant has no pending or substantiated findings of abuse, neglect, exploitation, or misappropriation of resident or patient property recorded on other State registries of nurse aides.
- if the applicant has been employed as a nurse aide for monetary compensation consisting of at least a total of eight hours of time worked performing nursing or nursing-related tasks delegated and supervised by a Registered Nurse, then the applicant shall provide the employer name, employer address, and dates of employment for the previous 24 consecutive months.
- The name listed on an applicant’s Social Security card and unexpired government-issued identification containing a photograph and signature submitted with the application must match the name listed on another State’s registry of nurse aides or that the applicant has submitted additional documentation verifying any name changes.
- The applicant completed a State-approved nurse aide training and competency evaluation program that meets the requirements of 42 CFR 483.152 or a State-approved competency evaluation program that meets the requirements of 42 CFR 483.154.

## Impact Analysis

By allowing reciprocity, the agency expects to reduce costs and turnaround times for out-of-state nurse aides seeking work in North Carolina. In addition, reciprocity could increase the number of out-of-state applicants seeking approval to work in North Carolina compared to the past three years, but the extent of this effect is uncertain. Compared to current rules, reciprocity may help to address nurse aide staffing needs but waiving the competency exam also increases the potential risk to residents and patients.

### Out-of-State Nurse Aides

Under current rules, out-of-state nurse aides must pass the North Carolina nurse aide I competency examination. The fee to complete both the written (or oral) examination and skills evaluation is \$120. An individual continues to pay an examination fee each time they do not pass a component of the exam. An out-of-state nurse aide has three opportunities to complete and pass the examination before they are required to retake nurse aide training. Table 5 depicts the fees associated with the North Carolina nurse aide I competency examination.<sup>6</sup>

Table 5\*

Examination Type	Fee
Written Examination and Skills Evaluation	\$120
Oral (English or Spanish) Examination & Skills Evaluation	\$120
Written Examination Only (re-test)	\$30
Oral (English or Spanish) Examination Only (re-test)	\$30
Skills Evaluation Only (re-test)	\$90

\* The first time an individual takes the competency examination, they must complete both the written (or oral) examination and the skills evaluation.

<sup>6</sup> Fees are associated with NCS Pearson, Inc. d/b/a Pearson VUE. Pearson VUE is the state-approved nurse aide I competency evaluation program vendor

Reciprocity waives the competency examination requirement to be listed on the North Carolina Nurse Aide I Registry and therefore the associated fees that must be incurred by an out-of-state nurse aide. Table 6 indicates that in each of the last three years, at minimum, approximately 700 out-of-state nurse aides were approved by the agency to take the North Carolina nurse aide I competency examination in order to be listed on the NC Nurse Aide I Registry. If the trend continues, the total savings to out-of-state nurse aides is a minimum of \$84,000.

Table 6\*

<b>Calendar Year</b>	<b>The Total Number of Training Waivers Approved by the Agency</b>	<b>The Number of Training Waivers Approved from Out-of-State Nurse Aides to Take the Competency Examination in North Carolina</b>	<b>The Percentage of Total Training Waivers Approved from Out-of-State Nurse Aides</b>
2017	1520	900	59%
2018	1365	800	59%
2019	1300	700	54%

\*Approximations

Reciprocity expedites the timeframe by at least 12 days for an out-of-state nurse aide to be listed on the NC Nurse Aide I Registry and thus supports healthcare facilities in the ability to fill nurse aide vacancies sooner. Prior to reciprocity, out-of-state nurse aides were required to apply for a training waiver in order to not have to complete the state-approved nurse aide training in North Carolina. On average, each training waiver application is reviewed by the agency within two or three business days. Once the waiver application is approved, then the agency notifies the state-approved competency examination vendor so that the out-of-state nurse aide can register and select a date to take the competency examination. Out-of-state nurse aides can register within approximately two days of agency approval but must wait an additional 12 days to take the exam so that the state-approved competency examination vendor can ensure adequate examination personnel and testing materials are at each test site. In some instances, an out-of-state nurse aide may have to wait beyond the 12 days depending on the availability of test dates.

#### Healthcare Facilities and Clients

According to a report published in 2002 by the Office of Inspector General, nurse aides care for between 10-15 nursing home residents per shift and find it difficult to deliver quality care to all residents entrusted to them, especially when positions remain unfilled.<sup>7</sup> Therefore, reciprocity does address the nurse aide staffing shortage in North Carolina. However, reciprocity may increase the risk to clients and place an additional burden on healthcare facilities for on-the-job training since approximately 66% of out-of-state nurse aides do not pass the nurse aide I competency examination the first time. Assuming applicant trends continue, over 450 out of state nurse aide applicants fail their competency exam annually; these applicants would be added to North Carolina’s Registry under reciprocity.<sup>8</sup>

Tables 7 indicates that approximately 33% of out-of-state nurse aides successfully passed the North Carolina nurse aide I competency examination the first time. Table 8 depicts the number of out-of-state nurse aides that took the competency examination more than once and passed.<sup>8</sup>

<sup>7</sup> Office of Inspector General: <https://oig.hhs.gov/oei/reports/oei-05-01-00030.pdf>

<sup>8</sup> Data provided by NCS Pearson, Inc. d/b/a Pearson VUE. Pearson VUE is the state-approved nurse aide I competency evaluation program vendor.

Table 7\*

<b>Fiscal Year</b>	<b>Written (Or Oral) Examination Passed</b>	<b>Skills Evaluation Examination Passed</b>	<b>Passed Both Examinations</b>
July 1, 2016 to June 30, 2017	483	137	135
July 1, 2017 to June 30, 2018	430	137	134
July 1, 2018 to June 30, 2019	399	159	156

\*First time test takers only

Table 8\*

<b>Fiscal Year</b>	<b>Written (Or Oral) Examination Passed</b>	<b>Skills Evaluation Examination Passed</b>
July 1, 2016 to June 30, 2017	19	75
July 1, 2017 to June 30, 2018	12	72
July 1, 2018 to June 30, 2019	11	76

\*Repeat test takers only

To ensure the safety of those receiving care by nurse aides, the North Carolina Board of Nursing has determined the nursing tasks which can be performed by nurse aides in North Carolina. In addition, the North Carolina Board of Nursing requires that a registered nurse validate the competencies of each nurse aide prior to delegating nursing tasks. Ultimately, a licensed nurse maintains accountability and responsibility for the delivery of safe and competence care. The licensed nurse must monitor the client's status and response to care provided on an ongoing basis.<sup>9</sup>

Decisions regarding the delegation of tasks to nurse aides are made by the licensed nurse on a case-by-case basis. All the following criteria must be met before delegation of any task can occur:<sup>9</sup>

- The task is performed frequently in the daily care of a client or group of clients
- The task is performed according to an established sequence of steps.
- The task involves little to no modification from one client situation to another.
- The task may be performed with a predictable outcome.
- The task does not involve on-going assessment, interpretation or decision-making that cannot be separated from the task itself.
- The task does not endanger the client's life or well-being.

#### Division of Health Service Regulation (DHSR)

From April 20, 2020 to June 20, 2020, DHSR received 788 reciprocity applications.

- 368 applications were approved
- 27 applications were denied
- 374 applications were deemed incomplete
- 19 applications had a pending status

DHSR receives approximately 20 reciprocity applications per business day. If this trend continues, DHSR will receive approximately 5,000 reciprocity applications annually.

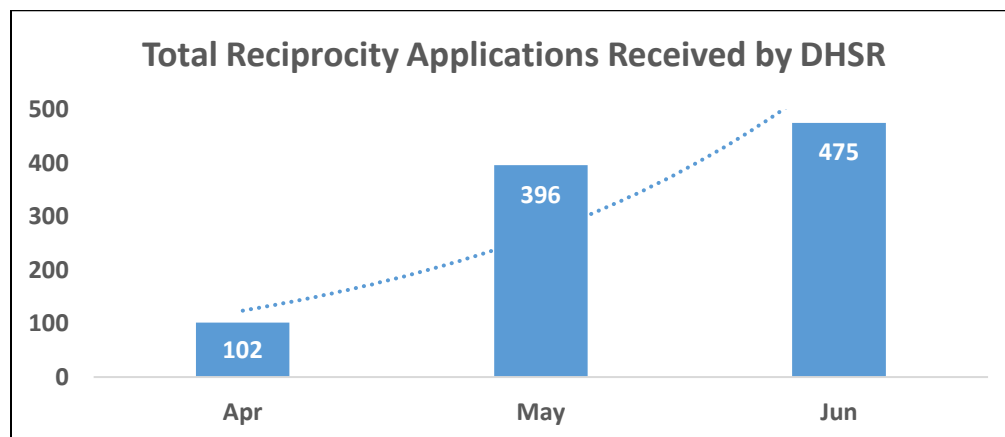
<sup>9</sup> North Carolina Board of Nursing: <https://www.ncbon.com/vdownloads/nurse-aide/nurse-aide-i-tasks-2010-revisions.pdf>

The amount of time needed by staff to process each reciprocity application is approximately 60 minutes. Staffing costs are approximately \$27 per hour including wages and benefits. The total estimated annual cost for DHSR staff to process 5,000 reciprocity applications is \$135,000.

The average number of days from when DHSR receives a reciprocity application to when DHSR notifies the applicant of the agency’s decision is approximately 4 business days. This timeframe is in alignment with other states.

- Georgia: 14 business days
- Missouri: 7-10 days
- Montana: 5-7 days
- Nebraska: 30 days
- Rhode Island: a minimum of 8 weeks for the entire licensure process to be completed
- Tennessee: 1 week
- Virginia: 30-45 business days

The permanent rule allows DHSR 10 business days to process a reciprocity application. Currently, DHSR’s processing rate is 4 business days. According to the graph below, the number of reciprocity applications received from April 20, 2020 to June 28, 2020 has increased each month. The rule currently allows for adequate processing time. However, if the number of applications continues to increase exponentially, DHSR will need additional staff to meet the 10-business day timeframe.



## Summary

Overall, North Carolina should implement reciprocity not only during the COVID-19 pandemic but seek to make reciprocity a permanent rule in year 2021. As the population in North Carolina continues to increase, specifically regarding individuals aged 65 and older, North Carolina will likely experience an annual nurse aide staffing shortage due to either occupational separations or occupational growth.<sup>10</sup> As vacancies regarding nurse aide positions in nursing homes increase, it becomes even more challenging for existing nurse aides to deliver quality of care to all residents entrusted to them.<sup>11</sup>

Reciprocity aims to reduce the nurse aide shortage in North Carolina. By implementing reciprocity, the requirement for all out-of-state nurse aides, in active and good standing status, to take the nurse aide I competency examination in order to be listed on the NC Nurse Aide I Registry is no longer required. In addition, reciprocity eliminates the financial burden for out-of-state nurse aides to pay at least \$120 to

<sup>10</sup> NC Department of Commerce – Labor & Economic Analysis Division: [https://files.nc.gov/nccommerce/documents/LEAD/Projections/2026\\_NC\\_Employment\\_Projections\\_Summary.pdf](https://files.nc.gov/nccommerce/documents/LEAD/Projections/2026_NC_Employment_Projections_Summary.pdf)  
<sup>11</sup> Office of Inspector General: <https://oig.hhs.gov/oei/reports/oei-05-01-00030.pdf>

take the nurse aide I competency examination. Furthermore, reciprocity expedites the timeframe by at least 12 days for an out-of-state nurse aide to be listed on the NC Nurse Aide I Registry and thus supports healthcare facilities in the ability to fill nurse aide vacancies sooner.

However, reciprocity may increase the risk to clients and place an additional burden on healthcare facilities for on-the-job training. Assuming applicant trends continue, approximately 66% of out-of-state nurse aide applicants fail the competency examination annually; these applicants would be added to the North Carolina Nurse Aide I Registry under reciprocity.<sup>12</sup>

The overall estimated projected annual cost to DHSR to implement reciprocity is \$135,000. Since the implementation of reciprocity in April 2020, as an emergency rule and temporary rule, DHSR has received approximately 20 reciprocity applications per business day. Of the applications received, approximately 50% are approved. Thus, if this trend continues, reciprocity has the potential to add more than 2,000 nurse aides annually to help alleviate the nurse aide shortage in North Carolina.

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<sup>12</sup> Data provided by NCS Pearson, Inc. d/b/a Pearson VUE. Pearson VUE is the state-approved nurse aide I competency evaluation program vendor.

## Appendix: Proposed Rule Text

10A NCAC 130 .0301 is proposed for amendment as follows:

### SECTION .0300 - NURSE AIDE I REGISTRY

#### 10A NCAC 130 .0301 NURSE AIDE I TRAINING AND COMPETENCY EVALUATION

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

- (1) pass a Nurse Aide I training program approved by the Department in accordance with 42 CFR ~~Part~~ 483.151 through ~~Part~~ 42 CFR 483.152 and the State of North Carolina's Nurse Aide I competency ~~exam.~~ exam; or
- (2) apply to the Department for approval to be listed on the NC Nurse Aide I Registry by reciprocity of a nurse aide certification or registration from another State to North Carolina.

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

- (1) submit a completed application to the Department that includes the following:
  - (A) first, middle, and last name;
  - (B) the applicant's prior name(s), if any;
  - (C) mother's maiden name;
  - (D) gender;
  - (E) social security number;
  - (F) date of birth;
  - (G) mailing address;
  - (H) email address;
  - (I) home telephone number;
  - (J) any other State registries of nurse aides upon which the applicant is listed;
  - (K) certification or registration numbers for any State nurse aide registries identified in Part (b)(1)(J) of this Rule;
  - (L) original issue dates for any certifications or registrations identified in Part (b)(1)(K) of this Rule;
  - (M) expiration dates for any certifications or registrations identified in Part (b)(1)(K) of this Rule; and
  - (N) employment history;
- (2) provide documentation verifying that his or her registry listing is active and in good standing in the State(s) of reciprocity, dated no older than 30 calendar days prior to the date the application is received by the Department; and
- (3) provide a copy of his or her Social Security card and an unexpired government-issued identification containing a photograph and signature.

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

- (1) the applicant has completed an application in accordance with Subparagraph (b)(1) of this Rule;
- (2) the applicant is listed on another State's registry of nurse aides as active and in good standing;
- (3) the applicant has no pending or substantiated findings of abuse, neglect, exploitation, or misappropriation of resident or patient property recorded on other State registries of nurse aides;
- (4) if the applicant has been employed as a nurse aide for monetary compensation consisting of at least a total of eight hours of time worked performing nursing or nursing-related tasks delegated and supervised by a Registered Nurse, then the applicant shall provide the employer name, employer address, and dates of employment for the previous 24 consecutive months;
- (5) the name listed on the Social Security card and government-issued identification containing a photograph and signature submitted with the application matches the name listed on another State's registry of nurse aides or that the applicant has submitted additional documentation verifying any name changes; and
- (6) the applicant completed a State-approved nurse aide training and competency evaluation program that meets the requirements of 42 CFR 483.152 or a State-approved competency evaluation program that meets the requirements of 42 CFR 483.154.

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

- (1) inform the applicant by letter whether he or she has been approved; or
- (2) request additional information from the applicant.

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

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

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

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

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

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

~~(g)~~ (j) Every North Carolina's Nurse Aide I competency exam candidate shall ~~have, as provided for in 42 CFR Part 483.154,~~ have the opportunity to take the exam at maximum three times before being required to retake and pass a Nurse Aide I training program.

~~(h) A person who is currently listed on any state's Nurse Aide I Registry shall not be required to take the Department-approved Nurse Aide I training program to be listed or, if his or her 24-month listing period has expired, relisted on~~



~~the NC Nurse Aide I Registry, unless the person fails to pass the State of North Carolina's Nurse Aide I competency exam after three attempts.~~

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

*History Note:* Authority G.S. 131E-255; 42 CFR ~~Part 483;~~ 483.150; 42 CFR 483.151; 42 CFR 483.152; 42 CFR 483.154; 42 CFR 483.156; 42 CFR 483.158;

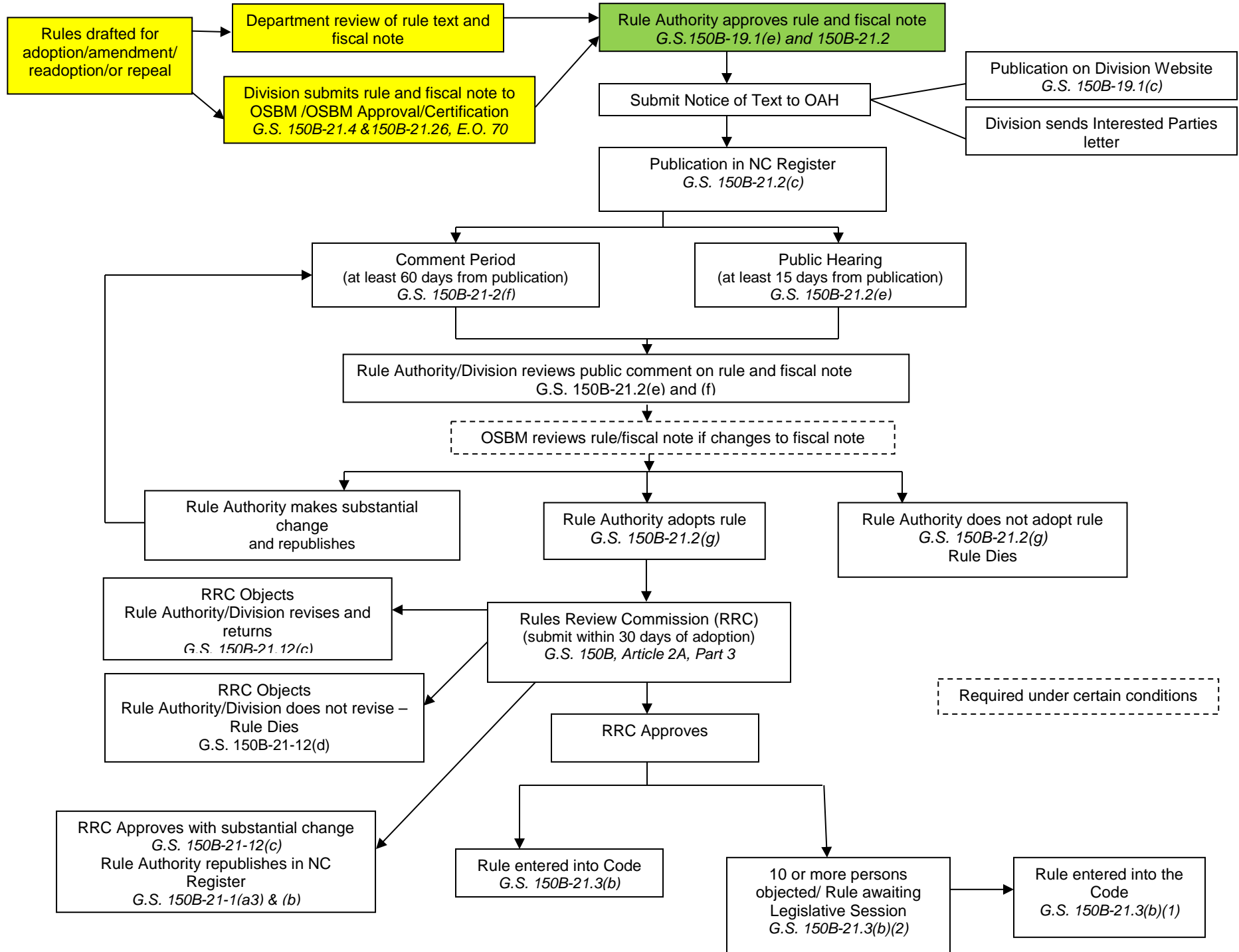
*Eff. January 1, 2016;*

*Emergency Amendment Eff. April 20, 2020;*

*Temporary Amendment Eff. June 26, ~~2020.~~ 2020;*

*Amended Eff. April 1, 2021.*

# Process for Medical Care Commission to Initiate Rulemaking



1 10A NCAC 13K .1109 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 13K .1109 RESIDENT CARE AREAS**

4 (a) ~~Resident rooms shall meet the following requirements:~~ A facility shall meet the following requirements for resident  
5 bedrooms:

6 (1) ~~There shall be private or semiprivate rooms;~~ private bedroom with not less than 100 square feet of  
7 floor area or semi-private bedroom with not less than 80 square feet of floor area per bed shall be  
8 provided;

9 (2) ~~Infants~~ infants and small children shall not ~~be assigned to share a room~~ bedroom with an adult  
10 resident unless requested by ~~residents~~ the resident and families;

11 (3) ~~Each resident room~~ each bedroom shall ~~contain at least~~ be furnished with a bed, a mattress protected  
12 by waterproof material, a mattress pad, a pillow, and ~~a chair;~~ one chair per resident;

13 (4) ~~Each resident room shall have a minimum of 48 cubic feet of closet space or wardrobe for clothing~~  
14 ~~and personal belongings that provides security and privacy for each resident. Each resident room~~  
15 ~~shall be equipped with a towel rack for each individual;~~ each bedroom shall be provided with one  
16 closet or wardrobe per bed. Each closet or wardrobe shall have clothing storage space of not less  
17 than 48 cubic feet per bed with one-half of this space for hanging clothes;

18 (5) ~~Each resident~~ each bedroom shall:

19 (A) be located at or above grade level;

20 (B) ~~have provisions to ensure visual privacy for treatment or visiting;~~ be provided with a  
21 curtain enclosing each bed to ensure visual privacy; and

22 (C) be equipped with a towel rack for each resident;

23 (6) ~~Artificial lighting shall be provided sufficient~~ each bedroom shall provide lighting for treatment and  
24 non-treatment needs, ~~50 foot candles~~ foot-candles for ~~treatment;~~ treatment needs, and 35 foot  
25 candles foot-candles for non-treatment ~~areas;~~ needs; and

26 (7) ~~A room where access is through a bathroom, kitchen or another bedroom will not be approved for a~~  
27 ~~resident's bedroom.~~ no resident bedroom shall be accessed through a bathroom, kitchen, or another  
28 bedroom.

29 (b) ~~Bathrooms shall meet the following requirements:~~ A facility shall meet the following requirements for bathrooms:

30 (1) ~~Bathroom facilities~~ bathrooms shall be ~~conveniently~~ directly accessible to ~~resident rooms.~~ each  
31 resident bedroom without going through the general corridors. One bathroom may serve up to four  
32 ~~residents and staff.~~ residents. ~~Minimum size of any bathroom shall be 18 square feet.~~ The door  
33 bathroom doorway shall be at least 32 inches wide. be a minimum 32-inch clear opening;

34 (2) ~~The~~ each bathroom shall be furnished with the following:

35 (A) a toilet with grab bars;

36 (B) ~~lavatory with four inch wrist blade controls;~~ a sink trimmed with valves that can be  
37 operated without hands. If the sink is equipped with blade handles, the blade handles shall

1 not be less than four inches in length. If the sink faucet depends on the building electrical  
2 service for operation, the faucet must have an emergency power source or battery backup  
3 capability. If the faucet has battery operated sensors, the facility shall have a maintenance  
4 policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;

5 (C) a mirror;

6 (D) soap, paper towel dispensers, and waste paper receptacle with a removable impervious  
7 liner; and

8 ~~(E)~~ water closet; and

9 ~~(F)~~~~(E)~~ a tub or shower.

10 (c) ~~Space shall be provided for:~~ Each facility shall provide:

11 (1) ~~charting, storage of supplies and personal effects of staff;~~ an area for charting;

12 (2) ~~the storage of resident care equipment;~~ storage provisions for personal effects of staff;

13 (3) ~~housekeeping equipment and cleaning supplies;~~ storage areas for supplies and resident care  
14 equipment;

15 (4) ~~storage of test reagents and disinfectants distinct from medication;~~ storage area(s) for housekeeping  
16 equipment and cleaning supplies;

17 (5) ~~locked medication storage and preparation; and~~ a medication preparation area with a counter, a sink  
18 trimmed with valves that can be operated without hands, locked medication storage, and a double  
19 locked narcotic storage area under visual control of staff. If the sink is equipped with blade handles,  
20 the blade handles shall not be less than four inches in length. If the sink faucet depends on the  
21 building electrical service for operation, the faucet must have an emergency power source or battery  
22 backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance  
23 policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;

24 (6) ~~drugs requiring refrigeration. They may be stored in a separate locked box in the refrigerator or in~~  
25 ~~a lockable drug only refrigerator, capable of maintaining a temperature range of 36 degrees F (2~~  
26 ~~degrees C) to 46 degrees F (8 degrees C). The storage and accountability of controlled substances~~  
27 ~~shall be in accordance with the North Carolina Controlled Substances Act, Article 5 of Chapter 90~~  
28 ~~of the General Statutes. a lockable refrigerator for drug storage only or a separate locked box in a~~  
29 ~~facility refrigerator. The refrigerator must be capable of maintaining a temperature range of 36~~  
30 ~~degrees F (2 degrees C) to 46 degrees F (8 degrees C);~~

31 (7) a kitchen with:

32 (A) a refrigerator;

33 (B) a cooking appliance ventilated to the outside;

34 (C) a 42- inch minimum double-compartment sink and domestic dishwashing machine capable  
35 of sanitizing dishes with 160 degrees F water; and

36 (D) storage space for non-perishables;

37 (8) a separate dining area measuring not less than 20 square feet per resident bed;

1           (9)       a recreational and social activities area with not less than 150 square feet of floor area exclusive of  
2                   corridor traffic;

3           (10)      a nurses' calling system shall be provided:

4           (A)       in each resident bedroom for each resident bed. The call system activator shall be such that  
5                   they can be activated with a single action and remain on until deactivated by staff at the  
6                   point of origin. The call system activator shall be within reach of a resident lying on the  
7                   bed. In rooms containing two or more call system activators, indicating lights shall be  
8                   provided at each calling station;

9           (B)       nurses' calling systems which provide two-way voice communication shall be equipped  
10                  with an indicating light at each calling station which lights and remains lighted as long as  
11                  the voice circuit is operating;

12          (C)       a nurses' call emergency activator shall be proved at each residents' use toilet fixture, bath,  
13                  and shower. The call system activator shall be accessible to a resident lying on the floor;  
14                  and

15          (D)       calls shall register with the floor staff and shall activate a visible signal in the corridor at  
16                  the resident's door. In multi-corridor units, additional visible signals shall be installed at  
17                  corridor intersections;

18          (11)      heating and air conditioning equipment that can maintain a temperature range between 68 degrees  
19                  and 80 degrees Fahrenheit, even upon loss of utility power.

20       ~~(d) Kitchen and dining areas shall have:~~

21           ~~(1) — a refrigerator;~~

22           ~~(2) — a cooking unit ventilated to the outside;~~

23           ~~(3) — a 42 inch minimum double compartment sink and domestic dishwashing machine capable of~~  
24                  ~~sanitizing dishes with 160 degrees F. water;~~

25           ~~(4) — dining space of 20 square feet per resident; and~~

26           ~~(5) — storage space for non-perishables.~~

27       ~~(e) Other areas shall include:~~

28           ~~(1) — a minimum of 150 square feet exclusive of corridor traffic for recreational and social activities;~~

29           ~~(2) — an audible and accessible call system furnished in each resident's room and bathroom; and~~

30           ~~(3) — heating and air cooling equipment to maintain a comfort range between 68 degrees and 80 degrees~~  
31                  ~~Fahrenheit.~~

33       *History Note: Authority G.S. 131E-202;*

34                   *Eff. June 1, 1991;*

35                   *Amended Eff. February 1, 1995. 1995;*

36                   *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1112 is proposed for amendment as follows:

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3 **10A NCAC 13K .1112 DESIGN AND CONSTRUCTION**

4 (a) ~~Hospice residences and inpatient units~~ A new facility or remodeling of an existing facility must shall meet the  
5 requirements of the North Carolina State Building ~~Code~~ Codes, which are incorporated by reference, including all  
6 subsequent amendments and editions, in effect at the time of licensure, construction, additions, alterations or repairs.  
7 Copies of these codes may be purchased from the International Code Council online at <https://shop.iccsafe.org/> at a  
8 cost of eight hundred fifty-eight dollars (\$858.00) or accessed electronically free of charge at  
9 <https://codes.iccsafe.org/codes/north-carolina>. Existing licensed facilities shall meet the requirements of the North  
10 Carolina State Building Codes in effect at the time of licensure, construction or remodeling.

11 (b) Each facility shall be planned, constructed, and equipped to support the services to be offered in the facility.

12 (c) Any existing building converted to a hospice facility shall meet all requirements of a new facility.

13 (d) The sanitation, water supply, sewage disposal, and dietary facilities ~~must comply with the rules of the Commission~~  
14 ~~for Public Health.~~ shall meet the requirements of Rule 15A NCAC 18A .1300, which is incorporated by reference  
15 including subsequent amendments and editions.

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17 *History Note: Authority G.S. 131E-202;*

18 *Eff. June 1, 1991;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
20 *22, ~~2018.~~ 2018;*

21 *Amended Eff. October 1, 2021.*

1 10A NCAC 13K .1113 is proposed for reoption with substantive changes as follows:

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**10A NCAC 13K .1113 PLANS AND SPECIFICATIONS**

(a) When construction or remodeling of a facility is planned, ~~final working drawings and specifications must one copy of construction documents and specifications shall~~ be submitted by the owner or the owner's appointed representative to the Department ~~of Health and Human Services, Division of Health Service Regulation~~ for review and approval. ~~Schematic~~ Schematic design drawings and ~~preliminary working design development~~ drawings ~~shall~~ may be submitted ~~by the owner prior to the required submission of final working drawings. for approval prior to the required submission of construction documents.~~ ~~The Department shall forward copies of each submittal to the Department of Insurance and Division of Environmental Health for review and approval. Three copies of the plans shall be provided at each submittal.~~

(b) ~~Construction work shall not be commenced until written approval has been given by the Department. Approval of final plans construction documents and specifications shall be obtained from the Department prior to licensure. Approval of construction documents and specifications shall expire one year from the date granted unless a contract for the construction has been signed prior to the expiration date. after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.~~

(c) If an approval expires, a renewed approval shall be issued by the Department, provided revised ~~plans construction documents and specifications~~ meeting ~~all current regulations, codes, and the standards established in Sections .1100 and .1200 of this Subchapter~~ are ~~submitted~~ submitted by the owner or owner's appointed representative and reviewed by the Department.

(d) ~~Completed construction shall conform to the minimum standards established in these Rules. Any changes made during construction shall require the approval of the Department to ensure compliance with the standards established in Sections .1100 and .1200 of this Subchapter.~~

(e) ~~The owner or designated agent shall notify the Department when actual construction starts and at points when construction is 75 percent and 90 percent complete and upon final completion, so that periodic and final inspections can be performed. Completed construction or remodeling shall conform to the standards established in Sections .1100 and .1200 of this Subchapter. Construction documents and building construction, including the operation of all building systems, shall be approved in writing by the Department prior to licensure or patient and resident occupancy.~~

(f) The owner or owner's ~~designated agent~~ appointed representative shall ~~submit for approval by the Department all alterations or remodeling changes which affect the structural integrity of the building, functional operation, fire safety or which add beds or facilities over those for which the facility is licensed. notify the Department in writing either by U.S. Mail or e-mail when the construction or remodeling is complete.~~

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991;  
Amended Eff. February 1, 1996. 1996;*





1 10A NCAC 13K .1114 is proposed for re adoption with substantive changes as follows:

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3 **10A NCAC 13K .1114 PLUMBING**

4 ~~(a) The water supply shall be designed, constructed and protected so as to assure that a safe, potable and adequate~~  
5 ~~water supply is available for domestic purposes in compliance with the North Carolina State Building Code.~~

6 ~~(b) All plumbing in the residence or unit shall be installed and maintained in accordance with the North Carolina~~  
7 ~~State Plumbing Code. All plumbing shall be maintained in good repair and free of the possibility of backflow and~~  
8 ~~backsiphonage, through the use of vacuum breakers and fixed air gaps, in accordance with state and local codes.~~

9 ~~(c)~~ For ~~homes~~ hospice residential facilities with five or more residents, a 50-gallon quick recovery water heater is  
10 required. For ~~homes~~ hospice residential facilities with fewer than five residents, a 40-gallon quick recovery water  
11 heater is required.

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13 *History Note: Authority G.S. 131E-202;*

14 *Eff. June 1, ~~1991~~, 1991;*

15 *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1115 is proposed for reoption with substantive changes as follows:

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3 **10A NCAC 13K .1115 WASTE DISPOSAL**

4 (a) Sewage shall be discharged into a public sewer system, or ~~if such is not available, it~~ in the absence of a public  
5 sewer system, sewage shall be disposed of in a manner approved by the North Carolina ~~Division of Environmental~~  
6 ~~Health.~~ Department of Health and Human Services, Division of Public Health, Environmental Health Section.

7 (b) Garbage and rubbish shall be stored in impervious containers in ~~such a manner as not to become a nuisance or a~~  
8 ~~health hazard.~~ to prevent insect breeding and public health nuisances. A sufficient number of impervious Impervious  
9 containers with tight-fitting lids shall be provided and kept clean and in good repair. ~~Refuse~~ Garbage shall be removed  
10 from the outside storage at least once a week to a disposal site approved by the local health ~~department.~~ department  
11 having jurisdiction.

12 (c) The ~~home~~ facility or unit shall ~~be maintained free of infestations of insects and rodents, and all openings to the~~  
13 ~~outside shall be screened.~~ take measures to keep insects, rodents, and other vermin out of the residential care facility.  
14 All openings to the outer air shall be protected against the entrance of flying insects by screens, closed doors, closed  
15 windows, or other means.

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17 *History Note: Authority G.S. 131E-202;*  
18 *Eff. June 1, 1991. 1991;*  
19 *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1116 is proposed for readoption with substantive changes as follows:

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**10A NCAC 13K .1116 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

The physical ~~plan~~ plant requirements for each hospice residential facility or unit shall be applied as follows:

- (1) New construction shall comply with all the requirements of ~~Section .1100 of this Subchapter; this~~ Section;
- (2) ~~Existing~~ Except where otherwise specified, existing buildings shall meet the licensure and code requirements in effect at the time of licensure, construction, alteration ~~alteration, or modification;~~ modification.
- (3) ~~New additions, alterations, modifications, and repairs shall meet the technical requirements of Section .1100 of this Subchapter; however, where strict conformance with current requirements would be impracticable, the authority having jurisdiction may approve alternative measures where the facility can demonstrate to the Department's satisfaction that the alternative measures do not reduce the safety or operating effectiveness of the facility;~~
- (4)(3) Rules contained in ~~Rule .1109 of this Section~~ are minimum requirements and are not intended to prohibit buildings, ~~systems~~ systems, or operational conditions that exceed minimum ~~requirements;~~ requirements.
- (5)(4) ~~Equivalency: Alternate methods, procedures, design criteria, and functional variations from the physical plant requirements, because of extraordinary circumstances, new programs, or unusual conditions, may be approved by the authority having jurisdiction when the facility can effectively demonstrate to the Department's satisfaction that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility; and~~ The Division may grant an equivalency to allow alternate methods, procedures, design criteria or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that states the following:
  - (a) the rule citation and the rule requirement that will not be met due to strict conformance with current requirements would be impractical, extraordinary circumstances, new programs, or unusual conditions;
  - (b) the justification for the equivalency; and
  - (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- (5) 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 governing body shall maintain a copy of the approved equivalence issued by the Division.
- (6) Where ~~rules or codes~~ rules, codes, or standards have any conflict, the more stringent requirement shall apply.

- 1 *History Note: Authority G.S. 131E-202;*
- 2 *Eff. February 1, ~~1996~~ 1996;*
- 3 *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1201 is proposed for readoption with substantive changes as follows:

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**SECTION .1200 - HOSPICE INPATIENT CARE**

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**10A NCAC 13K .1201 REQUIREMENTS FOR HOSPICE INPATIENT UNITS**

6 (a) Hospice inpatient facilities or units must shall conform to the rules outlined in ~~10A NCAC 13K~~ Sections .0100  
7 through .1100 of this Subchapter and those in this Section. the rules of this Section.

8 (b) Hospice inpatient units located in a licensed hospital shall meet the requirements of 10A NCAC ~~13B with the~~  
9 exception of: 13B, which is incorporated by reference with subsequent amendments and editions except for rules: 10A  
10 NCAC 13B .1912, .1919, .1922, and .1923.

11 (c) Hospice inpatient units located in a licensed nursing facility shall meet the requirements of 10A NCAC ~~13D with~~  
12 the exception of: 10A NCAC 13D .0507, .0600, .0800, .0907, .1004, .1200 and .1300. 13D, which is incorporated by  
13 reference with subsequent amendments and editions.

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15 *History Note: Authority G.S. 131E-202;*

16 *Eff. June 1, 1991. 1991;*

17 *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1204 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 13K .1204 ADDITIONAL PATIENT CARE AREA REQUIREMENTS FOR HOSPICE**  
4 **INPATIENT UNITS**

5 (a) ~~The floor area of a single bedroom shall not be less than 100 square feet and the floor area of a room for more~~  
6 ~~than one bed shall not be less than 80 square feet per bed. The 80 square feet and 100 square feet requirements shall~~  
7 ~~be exclusive of closets, toilet rooms, vestibules or wardrobes. A facility shall meet the following requirements for~~  
8 ~~patient bedrooms:~~

- 9 (1) private bedrooms shall be provided with not less than 100 square feet of floor area;  
10 (2) semi-private bedrooms with not less than 80 square feet of floor area per bed; and  
11 (3) floor space for closets, toilet rooms, vestibules, or wardrobes shall not be included in the floor areas  
12 required by this Paragraph.

13 (b) ~~The total space set aside for dining, recreation and other common uses shall not be less than 30 square feet per~~  
14 ~~bed. Physical therapy and occupational therapy space shall not be included in this total. A facility shall meet the~~  
15 ~~following requirements for dining, recreation, and common use areas:~~

- 16 (1) floor space for dining, recreation, and common use shall not be less than 30 square feet per bed;  
17 (2) the dining, recreation, and common use areas required by this Paragraph may be combined; and  
18 (3) floor space for physical and occupational therapy shall not be included in the areas required by this  
19 Paragraph.

20 (c) ~~A toilet room shall be directly accessible from each patient room and from each central bathing area without going~~  
21 ~~through the general corridor. One toilet room may serve two patient rooms but not more than eight beds. The lavatory~~  
22 ~~may be omitted from the toilet room if one is provided for each 15 beds not individually served. There shall be a~~  
23 ~~wheelchair and stretcher accessible central bathing area for staff to bathe a patient who cannot perform this activity~~  
24 ~~independently. There shall be at least one such area per each level in a multi-level facility. A facility shall meet the~~  
25 ~~following requirements for toilet rooms, tubs, showers, and central bathing areas:~~

- 26 (1) a toilet room shall contain a toilet fixture and a sink trimmed with valves that can be operated without  
27 hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches  
28 in length. If the sink faucet depends on the building electrical service for operation, the faucet shall  
29 be connected to the essential electrical system. If the faucet has battery operated sensors, the facility  
30 shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on  
31 premises for the faucets;  
32 (2) if a sink is provided in each bedroom, the toilet room is not required to have a sink;  
33 (3) a toilet room shall be accessible from each bedroom without going through the general corridors;  
34 (4) one toilet room may serve two bedrooms, but not more than four beds; and  
35 (5) a minimum of one central bathing area. In multi-level facilities, each patient floor shall contain a  
36 minimum of one central bathing area. Central bathing area(s) shall be provided with the following:

- 1           (A)     wheelchair and stretcher accessible for staff to bathe a patient who cannot perform this  
2                    activity independently;
- 3           (B)     a bathtub, a manufactured walk-in bathtub, a similar manufactured bathtub designed for  
4                    easy transfer of patients and residents into the tub, or a shower designed and equipped for  
5                    unobstructed ease of stretcher entry and bathing on three sides. Bathtubs shall be accessible  
6                    on three sides. Manufactured walk-in bathtubs or a similar manufactured bathtub shall be  
7                    accessible on two sides;
- 8           (C)     a roll-in shower designed and equipped for unobstructed ease of shower chair entry and  
9                    use. If a bathroom with a roll-in shower designed and equipped for unobstructed ease of  
10                   shower chair entry adjoins each bedroom in the facility, the central bathing area is not  
11                    required to have a roll-in shower;
- 12           (D)     toilet fixture and lavatory; and
- 13           (E)     an individual cubicle curtain enclosing each toilet, tub, and shower. A closed cubicle  
14                    curtain at one of these plumbing fixtures shall not restrict access to the other plumbing  
15                    fixtures.

16 (d) For each nursing unit ~~or fraction thereof~~ on each floor, the following shall be provided:

- 17           (1)     ~~an adequate medication preparation area with counter, sink with four inch handles, medication~~  
18                    ~~refrigerator, eye level medication storage, cabinet storage, and double locked narcotic storage room,~~  
19                    ~~located adjacent to the nursing station or under visual control of the nursing station; a medication~~  
20                    ~~preparation area with:~~
- 21                    (A)     a counter;
- 22                    (B)     a double locked narcotic storage area under the visual control of nursing staff;
- 23                    (C)     a medication refrigerator;
- 24                    (D)     medication storage visible by staff standing on the floor;
- 25                    (E)     cabinet storage; and
- 26                    (F)     a sink trimmed with valves that can be operated without hands. If the sink is equipped with  
27                    blade handles, the blade handles shall not be less than four inches in length. If the sink  
28                    faucet depends on the building electrical service for operation, the faucet shall be connected  
29                    to the essential electrical system. If the faucet has battery operated sensors, the facility shall  
30                    have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on  
31                    premises for the faucets;
- 32           (2)     ~~a clean utility room with counter, sink with four inch handles, wall and under counter storage; a~~  
33                    ~~clean utility room with:~~
- 34                    (A)     a counter;
- 35                    (B)     storage; and
- 36                    (C)     a sink trimmed with valves that can be operated without hands. If the sink is equipped with  
37                    blade handles, the blade handles shall not be less than four inches in length. If the sink

- 1 faucet depends on the building electrical service for operation, the faucet shall be connected  
2 to the essential electrical system. If the sink has battery operated sensors, the facility shall  
3 have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on  
4 premises for the faucets;
- 5 (3) ~~a soiled utility room with counter, sink with four inch handles, wall and under counter storage, a~~  
6 ~~flush rim clinical sink or water closet with a suitable device for cleaning bedpans and a suitable~~  
7 ~~means for washing and sanitizing bedpans and other utensils; a soiled utility room with:~~  
8 (A) a counter;  
9 (B) storage; and  
10 (C) a sink trimmed with valves that can be operated without hands. If the sink is equipped with  
11 blade handles, the blade handles shall not be less than four inches in length. If the sink  
12 faucet depends on the building electrical service for operation, the faucet shall be connected  
13 to the essential electrical system. If the faucet has battery operated sensors, the facility shall  
14 have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on  
15 premises for the faucets. The soiled utility room shall be equipped for the cleaning and  
16 sanitizing of bedpans as required by Rule 15A NCAC 18A .1312, which is incorporated  
17 by reference including subsequent amendments and editions;
- 18 (4) a nurses' toilet and locker space for personal belongings;  
19 (5) an audiovisual nurse-patient call system arranged to ensure that a patient's call in the facility ~~is noted~~  
20 ~~at a staffed station;~~ notifies and directs staff to the location where the call was activated;  
21 (6) a soiled linen storage ~~area;~~ room with a hand sanitizing dispenser. If the soiled linen storage room  
22 is combined with the soiled utility room, a separate soiled linen storage room is not required;  
23 (7) a clean linen storage room ~~area;~~ and provided in one or more of the following:  
24 (A) a separate linen storage room;  
25 (B) cabinets in the clean utility room; or  
26 (C) a linen closet; and  
27 (8) ~~at least one~~ a janitor's closet.
- 28 (e) Dietary and laundry each ~~must~~ shall have a separate janitor's closet.  
29 (f) Stretcher and wheelchair storage shall be provided.  
30 (g) ~~Bulk~~ The facility shall provide storage shall be provided at the rate of not less than five square feet of floor area  
31 per licensed bed. This storage space shall:  
32 (1) be used by patients to store personal belongings and suitcases;  
33 (2) be either in the facility or within 500 feet of the facility on the same site; and  
34 (3) be in addition to the other storage space required by this Rule.
- 35 (h) Office space shall be provided for ~~persons with administrative responsibilities for the unit.~~ business transactions.  
36 Office space shall be provided for persons holding the following positions if these positions are provided:  
37 (1) administrator;



- 1           (2)     director of nursing;
- 2           (3)     social services director;
- 3           (4)     activities director; and
- 4           (5)     physical therapist.

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6     *History Note:     Authority G.S. 131E-202;*  
7                     *Eff. June 1, 1991;*  
8                     *Amended Eff. February 1, ~~1996~~ 1996;*  
9                     *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1205 is proposed for readoption with substantive changes as follows:

2

3 **10A NCAC 13K .1205 FURNISHINGS FOR HOSPICE INPATIENT CARE**

4 (a) ~~Handgrips shall be provided for~~ A facility shall provide handgrips at all toilet and bath facilities used by patients.

5 Handrails shall be provided on both sides of all corridors where corridors are defined by walls and used by patients.

6 (b) For each nursing unit ~~or fraction thereof~~ on each floor, the following shall be provided:

7 (1) a nourishment station ~~with work space, cabinet, and refrigerated storage, a small stove or hotplate~~  
8 ~~in an area physically separated from the nurses' station; and~~ station with:

9 (A) work space;

10 (B) cabinets;

11 (C) refrigerated storage;

12 (D) a sink trimmed with valves that can be operated without hands. If the sink is equipped with  
13 blade handles, the blade handles shall not be less than four inches in length. If the sink  
14 faucet depends on the building electrical service for operation, the faucet shall be connected  
15 to the essential electrical system. If the faucet has battery operated sensors, the facility shall  
16 have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on  
17 premises for the faucets;

18 (E) a small stove, microwave, or hot plate; and

19 (2) ~~one a nurses' station consisting of adequate desk space for writing, storage space for office supplies~~  
20 ~~and storage space for patients' records. with:~~

21 (A) desk space for writing;

22 (B) storage space for office supplies; and

23 (C) storage space for patients' records.

24 (c) ~~Flameproof privacy screens or curtains shall be provided~~ A facility shall provide flame resistant cubicle curtains  
25 in multi-bedded rooms.

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27 *History Note: Authority G.S. 131E-202;*

28 *Eff. June 1, 1991. 1991;*

29 *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1206 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 13K .1206 HOSPICE INPATIENT FIRE AND SAFETY REQUIREMENTS**

4 ~~(a) A new facility shall meet the requirements of the current North Carolina State Building Code and the following~~  
5 ~~additional requirements:~~

6 (1) ~~Where nursing units are located on the same floor with other departments or services, the facility~~  
7 ~~shall be designed to provide separation from the other departments or services with a smoke barrier.~~

8 (2) ~~Horizontal exits are not permitted in any new facility.~~

9 (3) ~~An addition to an existing facility shall meet the same requirements as a new facility except that in~~  
10 ~~no case shall more than one horizontal exit be used to replace a required exit to the outside. For all~~  
11 ~~construction, an emergency generating set, including the prime mover and generator, shall be~~  
12 ~~located on the premises and shall be reserved exclusively for supplying the emergency electrical~~  
13 ~~system.~~

14 ~~(b)(a) The hospice shall establish written policies and procedures governing disaster preparedness and fire protection.~~

15 ~~(c) The hospice shall have an acceptable written plan periodically rehearsed with staff with procedures to be followed~~  
16 ~~in the event of an internal or external disaster, and for the care of casualties of patients and personnel arising from~~  
17 ~~such disasters.~~

18 (b) The hospice shall have detailed written plans and procedures to meet potential emergencies and disasters,  
19 including fire and severe weather.

20 (c) The plans and procedures shall be made available upon request to local or regional emergency management offices.

21 (d) The facility shall provide training for all employees in emergency procedures upon employment and annually.

22 (e) The facility shall conduct unannounced drills using the emergency procedures.

23 (f) The facility shall ensure that:

24 (1) the patients' environment remains as free of accident hazards as possible; and

25 (2) each patient receives adequate supervision and assistance to prevent accidents.

26 ~~(d)(g)~~ (g) The fire protection plan shall include:

27 (1) instruction for all personnel in use of alarms, ~~fire fighting~~ firefighting equipment, methods of fire  
28 containment, evacuation ~~routes and routes~~, procedures for calling the fire ~~department~~ department,  
29 and the assignment of specific tasks to all personnel in response to an alarm; and

30 (2) fire drills for each shift of personnel at least quarterly.

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32 *History Note: Authority G.S. 131E-202;*

33 *Eff. June 1, 1991- 1991;*

34 *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1207 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 13K .1207 HOSPICE INPATIENT REQUIREMENTS FOR HEATING/AIR CONDITIONING**

4 ~~Heating and cooling systems shall meet the current American Society of Heating, Refrigeration, and Air Conditioning~~  
5 ~~Engineers Guide and National Fire Protection Association Code 90A, which is hereby adopted by reference pursuant~~  
6 ~~to G.S. 150B-14(e), with the following modification: A facility shall provide heating and cooling systems complying~~  
7 ~~with the following:~~

8 (1) ~~Soiled linen, bathrooms, janitor closets and soiled utility rooms must have negative pressure with~~  
9 ~~relationship to adjacent areas. The American National Standards Institute and American Society of~~  
10 ~~Heating, Refrigerating, and Air Conditioning Engineers Standard 170: Ventilation of Health Care~~  
11 ~~Facilities, which is incorporated by reference, including all subsequent amendments and editions,~~  
12 ~~and may be purchased for a cost of ninety-four dollars (\$94.00) online at~~  
13 ~~<https://www.techstreet.com/ashrae/index.html>. This incorporation does not apply to Section 9.1,~~  
14 ~~Table 9-1 Design Temperature for Skilled Nursing Facility. The environmental temperature control~~  
15 ~~systems shall be capable of maintaining temperatures in the facility at 71 degrees F. minimum in~~  
16 ~~the heating season and a maximum of 81 degrees F. during non-heating season, even upon loss of~~  
17 ~~utility power; and~~

18 (2) ~~Clean linen, clean utility and drug rooms must have positive pressure with relationship to adjacent~~  
19 ~~areas. The National Fire Protection Association 90A: Standard for the Installation of Air-~~  
20 ~~Conditioning and Ventilating Systems, which is incorporated by reference, including all subsequent~~  
21 ~~amendments and editions, and may be purchased at a cost of fifty dollars and fifty cents (\$50.50)~~  
22 ~~from the National Fire Protection Association online at <http://www.nfpa.org/catalog/> or accessed~~  
23 ~~electronically \_\_\_\_\_ free \_\_\_\_\_ of \_\_\_\_\_ charge \_\_\_\_\_ at~~  
24 ~~<http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=90A>.~~

25 (3) ~~— All areas not covered in Paragraphs (1) and (2) of this Rule must have neutral pressure.~~

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27 *History Note: Authority G.S. 131E-202;*  
28 *Eff. June 1, 1991. 1991;*  
29 *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1208 is proposed for reoption with substantive changes as follows:

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**10A NCAC 13K .1208 HOSPICE INPATIENT ~~REQUIREMENTS/EMERGENCY~~ REQUIREMENTS  
FOR EMERGENCY ELECTRICAL SERVICE**

~~Emergency electrical service shall be provided~~ A facility shall provide an emergency electrical service for use in the event of failure of the normal electrical service. This emergency electrical service shall ~~be made up as follows:~~ consist of the following:

- (1) ~~In any existing facility, the following must be provided:~~ facility:
  - (a) ~~type 1 or 2 emergency lights as required by the North Carolina State Building Code;~~ Codes:  
Electrical Code;
  - (b) ~~additional emergency lights for all ~~nursing stations,~~ nurses' stations required by Rule .1205(b)(2) of this Section, ~~drug medication preparation areas required by Rule .1204(d)(1) of this Section,~~ and storage areas, and for the telephone switchboard, if applicable;~~
  - (c) ~~one or more portable battery-powered lamps at each ~~nursing station;~~ nurses' station; and~~
  - (d) ~~a ~~suitable~~ source of emergency power for life-sustaining ~~equipment~~ equipment, if the facility admits or cares for occupants needing such equipment, to ensure continuous operation with on-site fuel storage for a minimum of 72 hours.~~
- (2) ~~Any addition to an existing facility shall meet the same requirements as new construction. An emergency power generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the essential electrical system. For the purposes of this Rule, the "essential electrical system" means a system comprised of alternate sources of power and all connected distribution systems and ancillary equipment, designed to ensure continuity of electrical power to designated areas and functions of a facility during disruption of normal power sources, and also to minimize disruption within the internal wiring system as defined by the North Carolina State Building Codes: Electrical Code.~~
- (3) ~~Any conversion of an existing building such as a hotel, motel, abandoned hospital or abandoned school, shall meet the same requirements for emergency electrical services as required for new construction. Emergency electrical services shall be provided as required by the North Carolina State Building Codes: Electric Code with the following modification: Section 517.10(B)(2) of the North Carolina State Building Codes: Electrical Code shall not apply to new facilities.~~
- (4) ~~Battery powered corridor lights shall not replace the requirements for the emergency circuit nor be construed to substitute for the generator set. Sufficient fuel shall be stored for the operation of the emergency generator for a period not less than 72 hours, on a 24 hour per day operational basis. The system shall be test run for a period of not less than 15 minutes on a weekly schedule. Records of running time shall be maintained and kept available for reference.~~
- (5) ~~To ensure proper evaluation of design of emergency power systems, the owner or operator shall submit with final working drawings and specifications a letter describing the policy for admissions~~

1 and discharges to be used when the facility begins operations. If subsequent inspections for  
2 licensure indicate the admission policies have been changed, the facility will be required to take  
3 immediate steps to meet appropriate code requirements for continued licensure.

4 ~~(6)~~ Lighting for emergency electrical services shall be provided in the following places:

5 (a) — exit ways and all necessary ways of approach exits, including exit signs and exit direction  
6 signs, exterior of exits exit doorways, stairways, and corridors;

7 (b) — dining and recreation rooms;

8 (c) — nursing station and medication preparation area;

9 (d) — generator set location, switch gear location, and boiler room, if applicable; and

10 (e) — elevator, if required for emergency.

11 ~~(7)~~ The following emergency equipment which is essential to life, safety, and the protection of  
12 important equipment or vital materials shall be provided: The following equipment, devices, and  
13 systems that are essential to life safety and the protection of important equipment or vital materials  
14 shall be connected to the equipment branch of the essential electrical system as follows:

15 (a) nurses' calling system;

16 ~~(b)~~ alarm system, including fire alarm actuated at manual stations, water flow alarm devices  
17 of sprinkler systems if electrically operated, fire detecting and smoke detecting systems,  
18 paging or speaker systems if intended for issuing instructions during emergency conditions,  
19 and alarms required for nonflammable medical gas systems, if installed;

20 ~~(c)~~ fire pump, if installed;

21 ~~(d)~~ sewerage or sump lift pump, if installed;

22 ~~(e)~~ one elevator, where elevators are used for vertical transportation of patients;

23 ~~(f)~~ equipment such as burners and pumps necessary for operation of one or more boilers and  
24 their necessary auxiliaries and controls, required for heating and sterilization, if installed;  
25 and

26 ~~(g)~~ equipment necessary for maintaining telephone service.

27 ~~(h)~~ task illumination of boiler rooms, if applicable.

28 (5) The following equipment, devices, and systems that are essential to life safety and the protection of  
29 important equipment or vital materials shall be connected to the life safety branch of the essential  
30 electrical system as follows:

31 (a) alarm system, including fire alarm actuated at manual stations, water flow alarm devices  
32 of sprinkler systems if electrically operated, fire detecting and smoke detecting systems,  
33 paging or speaker systems if intended for issuing instructions during emergency conditions,  
34 and alarms required for nonflammable medical gas systems, if installed; and

35 (b) equipment necessary for maintaining telephone service.

36 ~~(8)(6)~~ Where electricity is the only source of power normally used for space heating, the emergency service  
37 the heating of space, an essential electrical system shall be provided for heating of patient rooms.

1 Emergency heating of patient rooms ~~will~~ shall not be required in areas where the facility is supplied  
2 by at least two separate generating ~~sources,~~ sources or a network distribution system with the facility  
3 feeders so routed, connected, and protected that a fault any place between the ~~generators~~ generating  
4 sources and the facility will not likely cause an ~~interruption.~~ interruption of more than one of the  
5 facility service feeders.

6 ~~(9)(7)~~ The emergency An essential electrical system shall be so controlled that after interruption of the  
7 normal electric power supply, the generator is brought to full voltage and frequency and connected  
8 within ~~ten~~ 10 seconds through one or more primary automatic transfer switches to all emergency  
9 lighting, alarms, ~~nurses' call,~~ and equipment necessary for maintaining telephone ~~service,~~ and  
10 ~~receptacles in patient corridors.~~ service. All other lighting and equipment required to be connected  
11 to the ~~emergency~~ essential electrical system shall either be connected through the ~~ten~~ 10 second  
12 primary automatic transfer switching or shall be ~~subsequently~~ connected through ~~other~~ delayed  
13 automatic or manual transfer switching. If manual transfer switching is provided, staff of the facility  
14 shall operate the manual transfer switch. Receptacles Electrical outlets connected to the ~~emergency~~  
15 essential electrical system shall be ~~distinctively~~ marked for identification.

16 ~~(8)~~ Fuel shall be stored for the operation of the emergency power generator for a period not less than  
17 72 hours, on a 24-hour per day operational basis with on-site fuel storage. The generator system  
18 shall be tested and maintained per National Fire Protection Association Health Care Facilities Code,  
19 NFPA 99, 2012 edition, which is incorporated by reference, including all subsequent amendments  
20 and editions. Copies of this code may be purchased at a cost of seventy-nine and fifty cents (\$79.50)  
21 from the National Fire Protection Association - online at <http://www.nfpa.org/catalog/> or accessed  
22 electronically \_\_\_\_\_ free \_\_\_\_\_ of \_\_\_\_\_ charge \_\_\_\_\_ at  
23 <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=99>. The facility shall maintain  
24 records of the generator system tests and shall make these records available to the Division for  
25 inspection upon request.

26 ~~(9)~~ The electrical emergency service at existing facilities shall comply with the requirements established  
27 in this Section in effect at the time a license is first issued. Any remodeling of an existing facility  
28 that results in changes to the emergency electrical service shall comply with the requirements  
29 established in this Section in effect at the time of remodeling.

31 *History Note:* Authority G.S. 131E-202;  
32 Eff. June 1, 1991, 1991;  
33 Readopted Eff. October 1, 2021.

1 10A NCAC 13K .1209 is proposed for amendment as follows:

2

3 **10A NCAC 13K .1209 HOSPICE INPATIENT REQUIREMENTS FOR GENERAL ELECTRICAL**

4 (a) All main water supply shut off valves in the sprinkler system must be electronically supervised so that if any valve  
5 is closed an alarm will sound at a continuously manned central station.

6 (b) No two adjacent emergency life safety branch lighting fixtures shall be on the same circuit.

7 (c) Receptacles in bathrooms must have ground fault protection.

8 (d) Each patient bed location must be provided with a minimum of ~~four~~ eight single or ~~two~~ four duplex receptacles.

9 (e) Each patient bed location must be supplied by at least two branch ~~circuits~~ circuits, one from the equipment branch  
10 and one from the normal system.

11 (f) The fire alarm system must be installed to transmit an alarm automatically to the fire department that is, legally  
12 committed to serve the area in which the facility is located, by the direct and reliable method approved by local  
13 ordinances.

14 (g) In patient areas, fire alarms shall be gongs or chimes rather than horns or bells.

15

16 *History Note: Authority G.S. 131E-202;*

17 *Eff. June 1, 1991;*

18 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
19 *22, ~~2018~~, 2018;*

20 *Amended Eff. October 1, 2021.*



1 10A NCAC 13K .1210 is proposed for amendment as follows:

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3 **10A NCAC 13K .1210 OTHER HOSPICE INPATIENT REQUIREMENTS**

4 (a) ~~In general patient areas, each room shall be served by at least one calling station and each bed shall be provided~~  
5 ~~with a call button. Two call buttons serving adjacent beds may be served by one calling station. Calls shall register~~  
6 ~~with the floor staff and shall activate a visible signal in the corridor at the patient's or resident's door. In multi-corridor~~  
7 ~~nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two or more~~  
8 ~~calling stations, indicating lights shall be provided at each station. Nurses' calling systems which provide two-way~~  
9 ~~voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted~~  
10 ~~as long as the voice circuit is operating. A nurses' call emergency button shall be provided for patients' use at each~~  
11 ~~patient toilet, bath, and shower room. A nurses' calling system shall be provided:~~

12 (1) in each patient bedroom for each patient bed. The call system activator shall be such that they can  
13 be activated with a single action and remain on until deactivated by staff at the point of origin. The  
14 call system activator shall be within reach of a patient lying on the bed. In rooms containing two or  
15 more call system activators, indicating lights shall be provided at each calling station;

16 (2) nurses' calling systems which provide two-way voice communication shall be equipped with an  
17 indicating light at each calling station which lights and remains lighted as long as the voice circuit  
18 is operating;

19 (3) a nurses' call emergency activator shall be proved at each patients' use toilet fixture, bath, and  
20 shower. The call system activator shall be accessible to a patient lying on the floor; and

21 (4) calls shall register with the floor staff and shall activate a visible signal in the corridor at the patient's  
22 door. In multi-corridor units, additional visible signals shall be installed at corridor intersections.

23 (b) At least one telephone shall be available in each area to which patients are admitted and additional telephones or  
24 extensions as are necessary to ensure availability in case of need.

25 (c) General outdoor lighting shall be provided adequate to illuminate walkways and drive.

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27 *History Note: Authority G.S. 131E-202;*

28 *Eff. June 1, 1991;*

29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
30 *22, 2018, 2018;*

31 *Amended Eff. October 1, 2021.*

1 10A NCAC 13K .1211 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 13K .1211 ADDITIONAL PLUMBING REQUIREMENTS/HOSPICE INPATIENT UNITS**

4 ~~For inpatient units, the hot water system shall be adequate to provide:~~

5

	Patient Areas	Dietary	Laundry
Gallons per hour per bed	6 ½	4	4 1/2
Temperature degrees F.	110-116	140 (min)	140 (min)

9 Hospice inpatient facilities or units shall provide a flow of hot water within safety ranges specified as follows:

- 10 (1) Patient Areas – 6 ½ gallons per hour per bed and at a temperature of 100 to 116 degrees F;
- 11 (2) Dietary Services – 4 gallons per hour per bed and at a minimum temperature of 140 degrees F; and
- 12 (3) Laundry Area – 4 ½ gallons per hour per bed and at a minimum temperature of 140 degrees F.

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14 *History Note: Authority G.S. 131E-202;*

15 *Eff. June 1, ~~1991~~, 1991;*

16 *Readopted Eff. October 1, 2021.*

1 10A NCAC 13K .1212 is proposed for readoption with substantive changes as follows:

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**10A NCAC 13K .1212 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

The physical plant requirements for each hospice inpatient facility or unit shall be applied as follows:

- (1) New construction shall comply with all the requirements of ~~Section .1200 of this Subchapter; this~~ Section.
- (2) ~~Existing~~ Except where otherwise specified, existing buildings shall meet the licensure and code requirements in effect at the time of licensure, construction, alteration, or ~~modification;~~ modification.
- (3) ~~New additions, alterations, modifications, and repairs shall meet the technical requirements of Section .1100 of this Subchapter; however, where strict conformance with current requirements would be impracticable, the authority having jurisdiction may approve alternative measures where the facility can demonstrate to the Department's satisfaction that the alternative measures do not reduce the safety or operating effectiveness of the facility;~~
- (4)(3) Rules contained in ~~Rule .1210 of this Section~~ are minimum requirements and are not intended to prohibit buildings, ~~systems~~ systems, or operational conditions that exceed minimum ~~requirements;~~ requirements.
- (5)(4) ~~Equivalency: Alternate methods, procedures, design criteria, and functional variations from the physical plant requirements, because of extraordinary circumstances, new programs, or unusual conditions, may be approved by the authority having jurisdiction when the facility can effectively demonstrate to the Department's satisfaction, that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility; and~~ The Division may grant an equivalency to allow alternate methods, procedures, design criteria or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that states the following:
  - (a) the rule citation and the rule requirement that will not be met due to strict conformance with current requirements would be impractical, extraordinary circumstances, new programs, or unusual conditions;
  - (b) the justification for the equivalency; and
  - (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- (5) 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 governing body shall maintain a copy of the approved equivalence issued by the Division.
- (6) Where ~~rules or codes~~ rules, codes, or standards have any conflict, the more stringent requirement shall apply.

- 1 *History Note: Authority G.S. 131E-202;*
- 2 *Eff. February 1, ~~1996~~ 1996;*
- 3 *Readopted Eff. October 1, 2021.*

**Fiscal Impact Analysis of  
Permanent Rule Readoption without Substantial Economic Impact**

**Agency Proposing Rule Change**

North Carolina Medical Care Commission

**Contact Persons**

Nadine Pfeiffer, DHSR Rules Review Manager – (919) 855-3811

Jeff Harms, Acting Section Chief, Construction – (919) 855-3915

Tammy Sylvester, Engineering Supervisor, Construction – (919) 855-3917

**Impact Summary**

Federal Government:	No Impact
State Government:	No Impact
Local Government:	No Impact
Private Sector:	Negligible Impact
Substantial Impact:	No

**Titles of Rule Changes and Statutory Citations**

(See Appendix for rule text)

**10A NCAC 13K**

**Section .1100** – Hospice Residential Care

- Resident Care Areas 10A NCAC 13K .1109 (Readopt)
- Design and Construction 10A NCAC 13K .1112 (Amended)
- Plans and Specifications 10A NCAC 13K .1113 (Readopt)
- Plumbing 10A NCAC 13K .1114 (Readopt)
- Waste Disposal 10A NCAC 13K .1115 (Readopt)
- Application of Physical Plant Requirements 10A NCAC 13K .1116 (Readopt)

**Section .1200** – Hospice Inpatient Care

- Requirements for Hospice Inpatient Units 10A NCAC 13K .1201 (Readopt)
- Additional Patient Care Area Requirements for Hospice Inpatient Units 10A NCAC 13K .1204 (Readopt)
- Furnishings for Hospice Inpatient Care 10A NCAC 13K .1205 (Readopt)
- Hospice Inpatient Fire and Safety Requirements 10A NCAC 13K .1206 (Readopt)
- Hospice Inpatient Requirements for Heating/Air Conditioning 10A NCAC 13K .1207 (Readopt)
- Hospice Inpatient Requirements for Emergency Electrical Service 10A NCAC 13K .1208 (Readopt)

- Hospice Inpatient Requirements for General Electrical 10A NCAC 13K .1209 (Amended)
- Other Hospice Inpatient Requirements 10A NCAC 13K .1210 (Amended)
- Additional Plumbing Requirements/Hospice Inpatient Units 10A NCAC 13K .1211 (Readopt)
- Application of Physical Plant Requirements 10A NCAC 13K .1212 (Readopt)

### **Authorizing Statutes**

G.S. 131E-202

### **Background**

Under authority of G.S. 150B-21.3A, periodic review and expirations of existing rules, the Medical Care Commission, Rule Review Commission, and the Joint Legislative Administrative Procedure Oversight Committee approved the Subchapter report with classifications for the rules located at 10A NCAC 13K – Hospice Licensing Rules – on August 10, 2018, October 18, 2018, and December 22, 2018, respectively. The following thirteen rules were proposed for readoption with substantive changes in this report: 10A NCAC 13K .1109, .1113, .1114, .1115, .1116, .1201, .1204, .1205, .1206, .1207, .1208, .1211, and .1212. The following three rules were amended: 10A NCAC 13K .1112, .1209, and .1210.

There is a total of 208 licensed Hospice Facilities in North Carolina. Of the 208 Hospice Facilities, only 41 facilities have beds in 35 counties. The total bed count includes 452 inpatient hospice beds and 159 residential hospice beds. The inpatient hospice beds are licensed by the State of North Carolina and certified to receive Medicare reimbursement from the Centers for Medicare and Medicaid Services (CMS), therefore meeting both state licensure requirements and CMS federal regulations.

The current physical plant rules in 10A NCAC 13K – Hospice Licensing Rules have not been amended since June of 1991. The rules are antiquated when compared to current trends in the design of hospice facilities. The majority of the proposed amendments to the Hospice Residential and Inpatient Care rules are technical changes intended to provide clarity for staff use, update the rules to reflect current procedures of the Construction Section, remove ambiguity, and provide consistency with other rules.

### **Rules Summary and Anticipated Fiscal Impact**

#### **Rules in Section .1100 – Hospice Residential Care**

Most of the rule changes applicable to hospice facilities' residential care beds involve re-organizing and re-formatting the rules, making them easier to use and to provide clarity. Due to duplicity, some rules were removed that are enforced by the North Carolina State Building Codes and the Division of Public Health.

Substantive changes to the facility requirements in these rules include:

- Bedroom minimum square footage,
- Sink and faucet specifications
- Nurses calling systems specifications,
- Facility design and construction approval processes, and
- Plans and Specifications

### **Rule .1109 – Resident Care Areas**

The agency is proposing to readopt this rule with substantive changes. Paragraph (a)(1) is revised to require all hospice residential bedrooms to be a minimum of 100 square feet per floor area for private bedrooms and a minimum of 80 square feet per floor area for semi-private bedrooms. With the probability of future conversion of residential bedrooms to licensed inpatient bedrooms upon Certificate of Need approval for that county, the proposed change to the rule coincides with the minimum requirements set forth under Rule .1204 for inpatient rooms. Adding minimum size requirements to the rule minimizes potential additional costs to convert rooms to minimum sizes in the future. Residential bedrooms are currently designed to meet or exceed the minimum requirements set forth in this rule.

Paragraph (b)(2) and Paragraph (c)(5) were revised to read the same as requirements added for sinks and faucets under Rule .1204. These changes were made to have consistency between the two Subchapters.

Paragraph (c)(10) was revised to provide clarity on the placement and location of nurse call devices to ensure the devices are accessible to all residents and notifies staff. These changes were made to be consistent with the same requirements under Rule .1210.

### **Rule .1112 – Design and Construction**

The agency is proposing to amend this rule. This rule is revised to update the information concerning access to current editions of the North Carolina State Building Codes, and to incorporate by reference the requirements of Rule 15A NCAC 18A – Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes, and Other Institutions. The North Carolina State Building Codes were incorporated by reference in the existing Rule .1112. 15A NCAC 18A were not incorporated by reference in the existing Rule .1112. However, existing Rule .1112 (d) required the sanitation, water supply, sewage disposal, and dietary facilities must comply with the rules of the Commission for Public Health.

### **Rule .1113 – Plans and Specifications**

The agency is proposing to readopt this rule with substantive changes. This rule did not impose new requirements. The rule was revised to eliminate the requirement to mandate submittal of schematic and preliminary working drawings prior to final construction drawings being submitted. The remaining changes made to this rule are technical changes and changes to provide clarity.

Fiscal Impact

Despite these new requirements, the agency does not anticipate any impact to hospice facilities due to the changes to the residential rules in Section .1100 because there are no freestanding hospice facilities with just residential hospice beds in North Carolina. All residential hospice beds are included as a separate building wing within a licensed hospice facility with inpatient hospice beds. All residential hospice beds are designed and built to meet the more stringent requirements of inpatient hospice beds so that these beds can convert easily to inpatient beds in the future when permitted by a Certificate of Need for that county. Any costs or benefits to hospice facilities would be due to changes to the inpatient rules which are discussed below.

**Rules in Section .1200 – Hospice Inpatient Care**

Most of the proposed amendments to the hospice inpatient care rules are clarifying technical edits. In addition, rule language that unnecessarily duplicates requirements enforced by other entities has been removed. Building and Electrical Code references have been updated where older versions have been superseded. These changes are not expected to have an impact. This analysis will focus on the substantive changes affecting patients, facilities, and the agency.

Substantive changes to the facility requirements in these rules include:

- Central bathing requirements
- Toilet room requirements
- Sink and faucet specifications
- Nurses calling systems specifications, and
- Equivalency requirements

**Rule .1201 – Requirements for Hospice Inpatient Units**

The agency is proposing to readopt this rule with substantive changes for clarity and accuracy. Paragraph (c) is revised to remove rules .0507, .0600, .0800, .0907, .1004, .1200, and .1300 which no longer exist.

Fiscal Impact

No fiscal impact associated with the readoption of this rule. Under the existing Rule .1201, hospice inpatient units in licensed nursing facilities are required to meet the requirements of 10A NCAC 13D with the exception of rules .0507, .0600, .0800, .0907, .1004, .1200, and .1300.



Removing these rules since they no longer exist will not change the requirement for hospice inpatient units in licensed nursing facilities to meet the remaining portions of 10A NCAC 13D.

### **Rule .1204 – Additional Patient Care Area Requirements for Hospice Inpatient Units**

The agency is proposing to readopt this rule with substantive changes. Changes to the proposed Rule .1204 are listed below:

- Paragraph (c)(1) adds the requirement for sinks in toilet rooms to be trimmed with valves that can be operated without the use of hands. Operating sinks without the use of hands limits the spread of bacteria or germs, keeping sinks and faucets more hygienic. This function can be achieved by equipping sinks with blade handles, electronic faucets, or other hands-free devices. The added requirement for faucets that depend on the building's electrical service for operation to be connected to the essential electrical system, or faucets that depend on batteries to have a maintenance policy to keep extra batteries is to ensure hand washing facilities are available at all time. Inpatient hospice facilities must meet the requirements of Rule .1208 which requires an essential electrical system. There will be negligible impact to connect faucets that depend on the building's electrical service to the essential electrical system because the essential electrical system is already a requirement for licensing and participation in CMS requirements. Having to have a maintenance policy for battery operated faucets will have no impact for inpatient hospice facilities due to the requirements of an essential electrical system. An additional battery system would be redundant. Providing hands-free devices is common industry standard for sinks used by patients and staff.
- Paragraph (c)(4) was revised to limit the number of beds (patients) served by a toilet room to not more than four beds (patients). The Interpretive Guideline for 42 CFR 418.110(f)<sup>1</sup> states that "Each patient's room must accommodate no more than two patients and their family members." As a result of these limitations on the number of patients in a patient room, the maximum number of beds (patients) served by an adjoining bathroom is limited to four beds (patients). This rule was changed for clarity to coincide with requirements of Rule .1204 Paragraph (a) and CMS requirements.
- Paragraph (c)(5) was revised to clarify the number of central bathing areas required in a facility. The existing Rule .1204 provides requirements for central bathing areas. However, the requirements are not descriptive. The proposed language rearranged to provide clarity of the requirements. In Paragraph (c)(5)(B), proposed language was added to provide optional devices in central bathing areas. These optional devices can be either a bathtub, a manufactured walk-in bathtub, a similar manufactured bathtub designed for easy transfer of patients and residents into the tub or, a shower stretcher accessible area.

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<sup>1</sup> The Centers for Medicare and Medicaid Services, *State Operations Manual Appendix M Guidance to Surveyors: Hospice*, February 2020, [SOM \(cms.gov\)](https://www.cms.gov/medicare/state-operations-manual-2020/appendix-m-guidance-to-surveyors-hospice).

In Paragraph (c)(5)(C), proposed language was added to require a roll-in shower in central bathing areas if each bedroom in the facility does not provide one. The proposed language was added to read the same as 10A NCAC 13D .3201 in the Rules for Licensing Nursing Homes.

- In Paragraph (c)(5)(E), the propose rule was added to add individual cubicle curtains enclosing the toilet, tub and shower in central bathing areas. The addition of cubical curtains provides privacy for patients when using toilets, tubs, and showers. The Construction Section currently requires cubicle curtains at toilets, tubs and showers located in a central bathing room even though the rule language does not specifically require it. All current facilities already meet this requirement, either because they are CMS certified and have to comply with federal regulations or because of their upscale facilities. Adding this requirement to the rule now notifies a future facility prior to submittal of plans for review that cubicle curtains are required. Given that this is now an industry norm in North Carolina, it is highly unlikely that this addition would create an extra cost that would not exist in the absence of this rule amendment.
- Paragraph (d) was revised to provide clarity on requirements for the medication preparation area, clean utility room, and soiled utility room. The existing Rule .1204 provides requirements for each of these rooms. The proposed revisions reorganized the way requirements are presented by providing them in list form. Paragraphs (d)(1)(F), (d)(2)(C), and (d)(3)(C) adds the requirement for sinks in these rooms to be trimmed with valves that can be operated without the use of hands. Operating sinks without the use of hands limits the spread of bacteria or germs, keeping sinks and faucets more hygienic. This function can be achieved by equipping sinks with blade handles, electronic faucets, or other hands-free devices. The added requirement for faucets that depend on the building's electrical service for operation to be connected to the essential electrical system, or faucets that depend on batteries to have a maintenance policy to keep extra batteries is to ensure hand washing facilities are available at all time. Inpatient hospice facilities must meet the requirements of Rule .1208 which requires an essential electrical system. There will be negligible impact to connect faucets that depend on the building's electrical service to the essential electrical system because the essential electrical system is already a requirement for licensing. Having to have a maintenance policy for battery operated faucets will have no impact for inpatient hospice facilities due to the requirements of an essential electrical system. An additional battery system would be redundant.

## **Impact**

### **Federal Impact**

No fiscal impact associated with the readoption of this rule.

### State Impact

No fiscal impact associated with the re adoption of this rule.

### Nursing Home Providers

The re adoption of this rule would result in a fiscal impact to nursing home providers related to the following paragraphs:

- Paragraph (c)(5)(B) and Paragraph (c)(5)(C) adds the requirements for optional bathroom devices in central bathing areas. The addition of a walk-in bathtub or similar manufactured bathtub to a central bathing area is estimated to cost between \$10,000 and \$20,000 per tub. If the design provided a stretcher accessible bathing area, the cost is estimated between \$3,000 and \$4000 for a stretcher designed for use in a shower.<sup>2</sup> The fiscal impact will depend on the device installed in central bathing areas.

### **Rule .1205 – Furnishings for Hospice Inpatient Care**

The agency is proposing to readopt this rule with substantive changes to provide technical edits and clarifications. The changes are related to reorganizing and reformatting the rule to make it easier to use. Paragraph(b)(1)(D) adds the requirement for a sink for the nourishment station trimmed with valves that can be operated without the use of hands. Operating sinks without the use of hands limits the spread of bacteria or germs, keeping sinks and faucets more hygienic. This function can be achieved by equipping sinks with blade handles, electronic faucets, or other hands-free devices. The added requirement for faucets that depend on the building's electrical service for operation to be connected to the essential electrical system, or faucets that depend on batteries to have a maintenance policy to keep extra batteries is to ensure hand washing facilities are available at all time. Inpatient hospice facilities must meet the requirements of Rule .1208 which requires an essential electrical system. There will be negligible impact to connect faucets that depend on the building's electrical service to the essential electrical system because the essential electrical system is already a requirement for licensing. Having to have a maintenance policy for battery operated faucets will have no impact for inpatient hospice facilities due to the requirements of an essential electrical system. An additional battery system would be redundant.

### Impact

No fiscal impact associated with the re adoption of this rule.

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<sup>2</sup> David R. Polston, Architect, Discussion concerning central bathing designs in hospice facilities, licensed Architect, (January 2020).

### **Rule .1208 – Hospice Inpatient Requirements for Emergency Electrical Service**

The agency is proposing to readopt this rule with substantive changes. The existing Rule .1208 provides requirements for emergency electrical service. The proposed changes are technical updates to the language of the rule due to changes in the North Carolina State Electrical Code and the 2012 NFPA 99 – *Health Care Facilities Code*. Inpatient hospice facilities must meet the requirements of the both the North Carolina State Electrical Code and 2012 NFPA 99.

#### Impact

No fiscal impact associated with the readoption of this rule.

### **Rule .1209 – Hospice Inpatient Requirements for General Electrical**

The agency is proposing to amend this rule. The proposed changes are technical changes to update the rules based on the updated changes in the North Carolina State Electrical Code and the 2012 NFPA 99 – *Health Care Facilities Code*. Due to the more stringent requirements in the North Carolina State Electrical Code and the 2012 NFPA 99, inpatient hospice facilities must meet these minimum requirements anyway.

#### Impact

No fiscal impact associated with the readoption of this rule.

### **Rule .1210 – Other Hospice Inpatient Requirements**

The agency is proposing to amend this rule. The proposed changes are technical changes to provide clarity of this rule. The existing Rule .1210 requires a calling system to be provided. The proposed changes clarify the placement of nurses' calling devices, and how the nurses' calling system is to function. The changes clarify the patient call station must be within reach of the patient lying on the bed, for patients lying on the floor, and notifies staff via visual and audible notifications. The proposed changes are industry standards for a nurses' calling system.

#### Impact

No fiscal impact associated with the readoption of this rule.

### **Rule .1212 – Application of Physical Plant Requirements**

The agency is proposing to readopt this rule with substantive changes. The proposed changes are technical changes to provide clarity of this rule. The existing Rule .1212 provides the ability to request an equivalency to allow for alternate methods, procedure, design criteria or functional variations from the requirements of the rules in this Section. The proposed changes are to clarify

the minimum documentation that must be submitted in order to evaluate the request. The documentation listed in this rule reflects current procedures of the Construction Section.

### Impact

No fiscal impact associated with the readoption of this rule.

### Summary

For 10A NCAC 13K .1109, .1112, .1113, .1114, and .1115, there will be no fiscal impact to any affected persons with the readoption of these rules.

For 10A NCAC 13K .1201, .1205, .1206, .1207, .1208, .1209, .1210, .1211, and .1212., the rule changes being proposed will provide residents with non-quantifiable benefits. These non-quantifiable benefits could include improvements to health and safety, and maintenance of their privacy and dignity.

For 10A NCAC 13 K .1204, there will also be some fiscal impact to the nursing home providers. The fiscal impact to nursing home providers depends on the type of bathing device to be provided in central bathing areas. The type of bathing device chosen might cause an impact on initial construction costs. The initial cost of providing a bathing device as described in the proposed revised rule, can range from \$3,000 to \$20,000. However, this cost would be offset by the cost of bathing devices installed per the existing rule. Without knowledge of the cost of bathing devices currently used, the total net cost impact cannot be estimated.

## Appendix

10A NCAC 13K .1109 is proposed for readoption with substantive changes as follows:

### 10A NCAC 13K .1109 RESIDENT CARE AREAS

(a) ~~Resident rooms shall meet the following requirements:~~ A facility shall meet the following requirements for resident bedrooms:

- (1) ~~There shall be private or semiprivate rooms; private bedroom with not less than 100 square feet of floor area or semi-private bedroom with not less than 80 square feet of floor area per bed shall be provided;~~
- (2) ~~Infants~~ infants and small children shall not ~~be assigned to share a room~~ bedroom with an adult resident unless requested by ~~residents~~ the resident and families;
- (3) ~~Each resident room~~ each bedroom shall ~~contain at least~~ be furnished with a bed, a mattress protected by waterproof material, a mattress pad, a pillow, and ~~a chair;~~ one chair per resident;
- (4) ~~Each resident room shall have a minimum of 48 cubic feet of closet space or wardrobe for clothing and personal belongings that provides security and privacy for each resident. Each resident room shall be equipped with a towel rack for each individual;~~ each bedroom shall be provided with one closet or wardrobe per bed. Each closet or wardrobe shall have clothing storage space of not less than 48 cubic feet per bed with one-half of this space for hanging clothes;
- (5) ~~Each resident~~ each bedroom shall:
  - (A) be located at or above grade level;
  - (B) ~~have provisions to ensure visual privacy for treatment or visiting;~~ be provided with a cubicle curtain enclosing each bed to ensure visual privacy; and
  - (C) be equipped with a towel rack for each resident;
- (6) ~~Artificial lighting shall be provided sufficient~~ each bedroom shall provide lighting for treatment and non-treatment needs, ~~50 foot-candles~~ foot-candles for ~~treatment,~~ treatment needs, and ~~35 foot-candles~~ foot-candles for non-treatment ~~areas;~~ needs; and
- (7) ~~A room where access is through a bathroom, kitchen or another bedroom will not be approved for a resident's bedroom.~~ no resident bedroom shall be accessed through a bathroom, kitchen, or another bedroom.

(b) ~~Bathrooms shall meet the following requirements:~~ A facility shall meet the following requirements for bathrooms:

- (1) ~~Bathroom facilities~~ bathrooms shall be ~~conveniently~~ directly accessible to ~~resident rooms.~~ each resident bedroom without going through the general corridors. One bathroom may serve up to four ~~residents and staff.~~ residents. ~~Minimum size of any bathroom shall be 18 square feet.~~ The ~~door~~ bathroom doorway shall ~~be at least 32 inches wide.~~ be a minimum 32-inch clear opening;
- (2) ~~The~~ each bathroom shall be furnished with the following:
  - (A) a toilet with grab bars;

- (B) ~~lavatory with four inch wrist blade controls;~~ a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (C) a mirror;
- (D) soap, paper towel dispensers, and waste paper receptacle with a removable impervious liner; and
- ~~(E) water closet; and~~
- ~~(F)~~(E) a tub or shower.

(c) ~~Space shall be provided for:~~ Each facility shall provide:

- (1) ~~charting, storage of supplies and personal effects of staff;~~ an area for charting;
- (2) ~~the storage of resident care equipment;~~ storage provisions for personal effects of staff;
- (3) ~~housekeeping equipment and cleaning supplies;~~ storage areas for supplies and resident care equipment;
- (4) ~~storage of test reagents and disinfectants distinct from medication;~~ storage area(s) for housekeeping equipment and cleaning supplies;
- (5) ~~locked medication storage and preparation; and~~ a medication preparation area with a counter, a sink trimmed with valves that can be operated without hands, locked medication storage, and a double locked narcotic storage area under visual control of staff. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet must have an emergency power source or battery backup capability. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (6) ~~drugs requiring refrigeration. They may be stored in a separate locked box in the refrigerator or in a lockable drug only refrigerator, capable of maintaining a temperature range of 36 degrees F (2 degrees C) to 46 degrees F (8 degrees C). The storage and accountability of controlled substances shall be in accordance with the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes.~~ a lockable refrigerator for drug storage only or a separate locked box in a facility refrigerator. The refrigerator must be capable of maintaining a temperature range of 36 degrees F (2 degrees C) to 46 degrees F (8 degrees C);
- (7) a kitchen with:
  - (A) a refrigerator;
  - (B) a cooking appliance ventilated to the outside;
  - (C) a 42- inch minimum double-compartment sink and domestic dishwashing machine capable of sanitizing dishes with 160 degrees F water; and

- (D) storage space for non-perishables;
  - (8) a separate dining area measuring not less than 20 square feet per resident bed;
  - (9) a recreational and social activities area with not less than 150 square feet of floor area exclusive of corridor traffic;
  - (10) a nurses' calling system shall be provided:
    - (A) in each resident bedroom for each resident bed. The call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of a resident lying on the bed. In rooms containing two or more call system activators, indicating lights shall be provided at each calling station;
    - (B) nurses' calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating;
    - (C) a nurses' call emergency activator shall be provided at each residents' use toilet fixture, bath, and shower. The call system activator shall be accessible to a resident lying on the floor; and
    - (D) calls shall register with the floor staff and shall activate a visible signal in the corridor at the resident's door. In multi-corridor units, additional visible signals shall be installed at corridor intersections;
  - (11) heating and air conditioning equipment that can maintain a temperature range between 68 degrees and 80 degrees Fahrenheit, even upon loss of utility power.
- (d) ~~Kitchen and dining areas shall have:~~
- ~~(1) — a refrigerator;~~
  - ~~(2) — a cooking unit ventilated to the outside;~~
  - ~~(3) — a 42 inch minimum double compartment sink and domestic dishwashing machine capable of sanitizing dishes with 160 degrees F. water;~~
  - ~~(4) — dining space of 20 square feet per resident; and~~
  - ~~(5) — storage space for non perishables.~~
- (e) ~~Other areas shall include:~~
- ~~(1) — a minimum of 150 square feet exclusive of corridor traffic for recreational and social activities;~~
  - ~~(2) — an audible and accessible call system furnished in each resident's room and bathroom; and~~
  - ~~(3) — heating and air cooling equipment to maintain a comfort range between 68 degrees and 80 degrees Fahrenheit.~~

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991;  
Amended Eff. February 1, 1995. 1995;*



Readopted Eff. October 1, 2021.

10A NCAC 13K .1112 is proposed for amendment as follows:

**10A NCAC 13K .1112 DESIGN AND CONSTRUCTION**

- (a) ~~Hospice residences and inpatient units~~ A new facility or remodeling of an existing facility must shall meet the requirements of the North Carolina State Building Code Codes, which are incorporated by reference, including all subsequent amendments and editions, in effect at the time of licensure, construction, additions, alterations or repairs. Copies of these codes may be purchased from the International Code Council online at <https://shop.iccsafe.org/> at a cost of eight hundred fifty-eight dollars (\$858.00) or accessed electronically free of charge at <https://codes.iccsafe.org/codes/north-carolina>. Existing licensed facilities shall meet the requirements of the North Carolina State Building Codes in effect at the time of licensure, construction or remodeling.
- (b) Each facility shall be planned, constructed, and equipped to support the services to be offered in the facility.
- (c) Any existing building converted to a hospice facility shall meet all requirements of a new facility.
- (d) The sanitation, water supply, sewage disposal, and dietary facilities ~~must comply with the rules of the Commission for Public Health.~~ shall meet the requirements of Rule 15A NCAC 18A .1300, which is incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 131E-202;*

*Eff. June 1, 1991;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018, 2018;*

*Amended Eff. October 1, 2021.*

10A NCAC 13K .1113 is proposed for readoption with substantive changes as follows:

**10A NCAC 13K .1113 PLANS AND SPECIFICATIONS**

- (a) When construction or remodeling of a facility is planned, ~~final working drawings and specifications must one~~ copy of construction documents and specifications shall be submitted by the owner or the owner's appointed representative to the Department of Health and Human Services, Division of Health Service Regulation for review and approval. ~~Schematic~~ Schematic design drawings and ~~preliminary working design development~~ drawings shall ~~may~~ be submitted by the owner ~~prior to the required submission of final working drawings.~~ for approval prior to the required submission of construction documents. ~~The Department shall forward copies of each submittal to the Department of Insurance and Division of Environmental Health for review and approval. Three copies of the plans shall be provided at each submittal.~~

- (b) ~~Construction work shall not be commenced until written approval has been given by the Department. Approval of final plans construction documents and specifications shall be obtained from the Department prior to licensure. Approval of construction documents and specifications shall expire one year from the date granted unless a contract for the construction has been signed prior to the expiration date. after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.~~
- (c) ~~If an approval expires, a renewed approval shall be issued by the Department, provided revised plans construction documents and specifications meeting all current regulations, codes, and the standards established in Sections .1100 and .1200 of this Subchapter are submitted-submitted by the owner or owner's appointed representative and reviewed by the Department.~~
- (d) ~~Completed construction shall conform to the minimum standards established in these Rules. Any changes made during construction shall require the approval of the Department to ensure compliance with the standards established in Sections .1100 and .1200 of this Subchapter.~~
- (e) ~~The owner or designated agent shall notify the Department when actual construction starts and at points when construction is 75 percent and 90 percent complete and upon final completion, so that periodic and final inspections can be performed. Completed construction or remodeling shall conform to the standards established in Sections .1100 and .1200 of this Subchapter. Construction documents and building construction, including the operation of all building systems, shall be approved in writing by the Department prior to licensure or patient and resident occupancy.~~
- (f) ~~The owner or owner's designated agent appointed representative shall submit for approval by the Department all alterations or remodeling changes which affect the structural integrity of the building, functional operation, fire safety or which add beds or facilities over those for which the facility is licensed. notify the Department in writing either by U.S. Mail or e-mail when the construction or remodeling is complete.~~

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991;  
Amended Eff. February 1, 1996- 1996;  
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1114 is proposed for readoption with substantive changes as follows:

#### **10A NCAC 13K .1114 PLUMBING**

- (a) ~~The water supply shall be designed, constructed and protected so as to assure that a safe, potable and adequate water supply is available for domestic purposes in compliance with the North Carolina State Building Code.~~
- (b) ~~All plumbing in the residence or unit shall be installed and maintained in accordance with the North Carolina State Plumbing Code. All plumbing shall be maintained in good repair and free of the possibility of backflow and backsiphonage, through the use of vacuum breakers and fixed air gaps, in accordance with state and local codes.~~

(e) For ~~homes~~ hospice residential facilities with five or more residents, a 50-gallon quick recovery water heater is required. For ~~homes~~ hospice residential facilities with fewer than five residents, a 40-gallon quick recovery water heater is required.

*History Note:* Authority G.S. 131E-202;  
Eff. June 1, ~~1991~~, 1991;  
Readopted Eff. October 1, 2021.

10A NCAC 13K .1115 is proposed for reoption with substantive changes as follows:

**10A NCAC 13K .1115 WASTE DISPOSAL**

(a) Sewage shall be discharged into a public sewer system, or if ~~such is not available, it~~ in the absence of a public sewer system, sewage shall be disposed of in a manner approved by the North Carolina ~~Division of Environmental Health, Department of Health and Human Services, Division of Public Health, Environmental Health Section.~~

(b) Garbage and rubbish shall be stored in impervious containers in ~~such a manner as not to become a nuisance or a health hazard, to prevent insect breeding and public health nuisances. A sufficient number of impervious~~ Impervious containers with tight-fitting lids shall be provided and kept clean and in good repair. ~~Refuse~~ Garbage shall be removed from the outside storage at least once a week to a disposal site approved by the local health ~~department.~~ department having jurisdiction.

(c) The ~~home~~ facility or unit shall ~~be maintained free of infestations of insects and rodents, and all openings to the outside shall be screened.~~ take measures to keep insects, rodents, and other vermin out of the residential care facility. All openings to the outer air shall be protected against the entrance of flying insects by screens, closed doors, closed windows, or other means.

*History Note:* Authority G.S. 131E-202;  
Eff. June 1, ~~1991~~, 1991;  
Readopted Eff. October 1, 2021.

10A NCAC 13K .1116 is proposed for reoption with substantive changes as follows:

**10A NCAC 13K .1116 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

The physical ~~plan~~ plant requirements for each hospice residential facility or unit shall be applied as follows:

- (1) New construction shall comply with all the requirements of ~~Section .1100 of this Subchapter;~~ this Section;

- (2) ~~Existing~~ Except where otherwise specified, existing buildings shall meet the licensure and code requirements in effect at the time of licensure, construction, ~~alteration~~ alteration, or ~~modification~~; modification.
- (3) ~~New additions, alterations, modifications, and repairs shall meet the technical requirements of Section .1100 of this Subchapter; however, where strict conformance with current requirements would be impracticable, the authority having jurisdiction may approve alternative measures where the facility can demonstrate to the Department's satisfaction that the alternative measures do not reduce the safety or operating effectiveness of the facility;~~
- (4)(3) Rules contained in ~~Rule .1109~~ of this Section are minimum requirements and are not intended to prohibit buildings, ~~systems~~ systems, or operational conditions that exceed minimum ~~requirements~~; requirements.
- (5)(4) ~~Equivalency: Alternate methods, procedures, design criteria, and functional variations from the physical plant requirements, because of extraordinary circumstances, new programs, or unusual conditions, may be approved by the authority having jurisdiction when the facility can effectively demonstrate to the Department's satisfaction that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility; and~~ The Division may grant an equivalency to allow alternate methods, procedures, design criteria or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that states the following:
- (a) the rule citation and the rule requirement that will not be met due to strict conformance with current requirements would be impractical, extraordinary circumstances, new programs, or unusual conditions;
- (b) the justification for the equivalency; and
- (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- (5) 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 governing body shall maintain a copy of the approved equivalence issued by the Division.
- (6) Where ~~rules or codes~~ rules, codes, or standards have any conflict, the more stringent requirement shall apply.

*History Note:* Authority G.S. 131E-202;  
Eff. February 1, ~~1996~~, 1996;  
Readopted Eff. October 1, 2021.

10A NCAC 13K .1201 is proposed for readoption with substantive changes as follows:

**SECTION .1200 - HOSPICE INPATIENT CARE**

**10A NCAC 13K .1201 REQUIREMENTS FOR HOSPICE INPATIENT UNITS**

- (a) Hospice inpatient ~~facilities or units must~~ shall conform to the rules outlined in ~~10A NCAC 13K Sections .0100 through .1100 of this Subchapter and those in this Section.~~ the rules of this Section.
- (b) Hospice inpatient units located in a licensed hospital shall meet the requirements of 10A NCAC ~~13B with the exception of: 13B, which is incorporated by reference with subsequent amendments and editions except for rules:~~ 10A NCAC 13B .1912, .1919, .1922, and .1923.
- (c) Hospice inpatient units located in a licensed nursing facility shall meet the requirements of 10A NCAC ~~13D with the exception of: 10A NCAC 13D .0507, .0600, .0800, .0907, .1004, .1200 and .1300.~~ 13D, which is incorporated by reference with subsequent amendments and editions.

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991, 1991;  
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1204 is proposed for re adoption with substantive changes as follows:

**10A NCAC 13K .1204 ADDITIONAL PATIENT CARE AREA REQUIREMENTS FOR HOSPICE INPATIENT UNITS**

- (a) ~~The floor area of a single bedroom shall not be less than 100 square feet and the floor area of a room for more than one bed shall not be less than 80 square feet per bed. The 80 square feet and 100 square feet requirements shall be exclusive of closets, toilet rooms, vestibules or wardrobes.~~ A facility shall meet the following requirements for patient bedrooms:
- (1) private bedrooms shall be provided with not less than 100 square feet of floor area;
  - (2) semi-private bedrooms with not less than 80 square feet of floor area per bed; and
  - (3) floor space for closets, toilet rooms, vestibules, or wardrobes shall not be included in the floor areas required by this Paragraph.
- (b) ~~The total space set aside for dining, recreation and other common uses shall not be less than 30 square feet per bed. Physical therapy and occupational therapy space shall not be included in this total.~~ A facility shall meet the following requirements for dining, recreation, and common use areas:
- (1) floor space for dining, recreation, and common use shall not be less than 30 square feet per bed;
  - (2) the dining, recreation, and common use areas required by this Paragraph may be combined; and
  - (3) floor space for physical and occupational therapy shall not be included in the areas required by this Paragraph.

~~(c) A toilet room shall be directly accessible from each patient room and from each central bathing area without going through the general corridor. One toilet room may serve two patient rooms but not more than eight beds. The lavatory may be omitted from the toilet room if one is provided for each 15 beds not individually served. There shall be a wheelchair and stretcher accessible central bathing area for staff to bathe a patient who cannot perform this activity independently. There shall be at least one such area per each level in a multi-level facility. A facility shall meet the following requirements for toilet rooms, tubs, showers, and central bathing areas:~~

- ~~(1) a toilet room shall contain a toilet fixture and a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;~~
- ~~(2) if a sink is provided in each bedroom, the toilet room is not required to have a sink;~~
- ~~(3) a toilet room shall be accessible from each bedroom without going through the general corridors;~~
- ~~(4) one toilet room may serve two bedrooms, but not more than four beds; and~~
- ~~(5) a minimum of one central bathing area. In multi-level facilities, each patient floor shall contain a minimum of one central bathing area. Central bathing area(s) shall be provided with the following:~~
  - ~~(A) wheelchair and stretcher accessible for staff to bathe a patient who cannot perform this activity independently;~~
  - ~~(B) a bathtub, a manufactured walk-in bathtub, a similar manufactured bathtub designed for easy transfer of patients and residents into the tub, or a shower designed and equipped for unobstructed ease of stretcher entry and bathing on three sides. Bathtubs shall be accessible on three sides. Manufactured walk-in bathtubs or a similar manufactured bathtub shall be accessible on two sides;~~
  - ~~(C) a roll-in shower designed and equipped for unobstructed ease of shower chair entry and use. If a bathroom with a roll-in shower designed and equipped for unobstructed ease of shower chair entry adjoins each bedroom in the facility, the central bathing area is not required to have a roll-in shower;~~
  - ~~(D) toilet fixture and lavatory; and~~
  - ~~(E) an individual cubicle curtain enclosing each toilet, tub, and shower. A closed cubicle curtain at one of these plumbing fixtures shall not restrict access to the other plumbing fixtures.~~

~~(d) For each nursing unit or fraction thereof on each floor, the following shall be provided:~~

- ~~(1) an adequate medication preparation area with counter, sink with four inch handles, medication refrigerator, eye level medication storage, cabinet storage, and double locked narcotic storage room, located adjacent to the nursing station or under visual control of the nursing station; a medication preparation area with:~~

- (A) a counter;
  - (B) a double locked narcotic storage area under the visual control of nursing staff;
  - (C) a medication refrigerator;
  - (D) medication storage visible by staff standing on the floor;
  - (E) cabinet storage; and
  - (F) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (2) ~~a clean utility room with counter, sink with four inch handles, wall and under counter storage;~~ a clean utility room with:
- (A) a counter;
  - (B) storage; and
  - (C) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the sink has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
- (3) ~~a soiled utility room with counter, sink with four inch handles, wall and under counter storage, a flush rim clinical sink or water closet with a suitable device for cleaning bedpans and a suitable means for washing and sanitizing bedpans and other utensils;~~ a soiled utility room with:
- (A) a counter;
  - (B) storage; and
  - (C) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets. The soiled utility room shall be equipped for the cleaning and sanitizing of bedpans as required by Rule 15A NCAC 18A .1312, which is incorporated by reference including subsequent amendments and editions;
- (4) a nurses' toilet and locker space for personal belongings;
- (5) an audiovisual nurse-patient call system arranged to ensure that a patient's call in the facility ~~is noted at a staffed station;~~ notifies and directs staff to the location where the call was activated;

- (6) a soiled linen storage ~~area;~~ room with a hand sanitizing dispenser. If the soiled linen storage room is combined with the soiled utility room, a separate soiled linen storage room is not required;
  - (7) a clean linen storage room ~~area; and~~ provided in one or more of the following:
    - (A) a separate linen storage room;
    - (B) cabinets in the clean utility room; or
    - (C) a linen closet; and
  - (8) ~~at least one~~ a janitor's closet.
- (e) Dietary and laundry each ~~must~~ shall have a separate janitor's closet.
- (f) Stretcher and wheelchair storage shall be provided.
- (g) ~~Bulk~~ The facility shall provide storage shall be provided at the rate of not less than five square feet of floor area per licensed bed. This storage space shall:
- (1) be used by patients to store personal belongings and suitcases;
  - (2) be either in the facility or within 500 feet of the facility on the same site; and
  - (3) be in addition to the other storage space required by this Rule.
- (h) Office space shall be provided for ~~persons with administrative responsibilities for the unit.~~ business transactions. Office space shall be provided for persons holding the following positions if these positions are provided:
- (1) administrator;
  - (2) director of nursing;
  - (3) social services director;
  - (4) activities director; and
  - (5) physical therapist.

*History Note:* Authority G.S. 131E-202;  
Eff. June 1, 1991;  
Amended Eff. February 1, ~~1996.~~ 1996;  
Readopted Eff. October 1, 2021.

10A NCAC 13K .1205 is proposed for readoption with substantive changes as follows:

**10A NCAC 13K .1205 FURNISHINGS FOR HOSPICE INPATIENT CARE**

- (a) ~~Handgrips shall be provided for~~ A facility shall provide handgrips at all toilet and bath facilities used by patients. Handrails shall be provided on both sides of all corridors where corridors are defined by walls and used by patients.
- (b) For each nursing unit ~~or fraction thereof~~ on each floor, the following shall be provided:
- (1) a nourishment station ~~with work space, cabinet, and refrigerated storage, a small stove or hotplate in an area physically separated from the nurses' station; and~~ station with:
    - (A) work space;



- (B) cabinets;
  - (C) refrigerated storage;
  - (D) a sink trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four inches in length. If the sink faucet depends on the building electrical service for operation, the faucet shall be connected to the essential electrical system. If the faucet has battery operated sensors, the facility shall have a maintenance policy to keep extra rechargeable or non-rechargeable batteries on premises for the faucets;
  - (E) a small stove, microwave, or hot plate; and
- (2) ~~one a nurses' station consisting of adequate desk space for writing, storage space for office supplies and storage space for patients' records. with:~~
- (A) desk space for writing;
  - (B) storage space for office supplies; and
  - (C) storage space for patients' records.
- (c) ~~Flameproof privacy screens or curtains shall be provided.~~ A facility shall provide flame resistant cubicle curtains in multi-bedded rooms.

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991, 1991;  
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1206 is proposed for readoption with substantive changes as follows:

#### **10A NCAC 13K .1206 HOSPICE INPATIENT FIRE AND SAFETY REQUIREMENTS**

- (a) ~~A new facility shall meet the requirements of the current North Carolina State Building Code and the following additional requirements:~~
- (1) ~~Where nursing units are located on the same floor with other departments or services, the facility shall be designed to provide separation from the other departments or services with a smoke barrier.~~
  - (2) ~~Horizontal exits are not permitted in any new facility.~~
  - (3) ~~An addition to an existing facility shall meet the same requirements as a new facility except that in no case shall more than one horizontal exit be used to replace a required exit to the outside. For all construction, an emergency generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the emergency electrical system.~~
- (b)(a) The hospice shall establish written policies and procedures governing disaster preparedness and fire protection.

~~(c) The hospice shall have an acceptable written plan periodically rehearsed with staff with procedures to be followed in the event of an internal or external disaster, and for the care of casualties of patients and personnel arising from such disasters.~~

(b) The hospice shall have detailed written plans and procedures to meet potential emergencies and disasters, including fire and severe weather.

(c) The plans and procedures shall be made available upon request to local or regional emergency management offices.

(d) The facility shall provide training for all employees in emergency procedures upon employment and annually.

(e) The facility shall conduct unannounced drills using the emergency procedures.

(f) The facility shall ensure that:

(1) the patients' environment remains as free of accident hazards as possible; and

(2) each patient receives adequate supervision and assistance to prevent accidents.

~~(d)~~(g) The fire protection plan shall include:

(1) instruction for all personnel in use of alarms, ~~fire fighting~~ firefighting equipment, methods of fire containment, evacuation ~~routes and~~ routes, procedures for calling the fire ~~department~~ department, and the assignment of specific tasks to all personnel in response to an alarm; and

(2) fire drills for each shift of personnel at least quarterly.

*History Note: Authority G.S. 131E-202;*

*Eff. June 1, 1991. 1991;*

*Readopted Eff. October 1, 2021.*

10A NCAC 13K .1207 is proposed for readoption with substantive changes as follows:

**10A NCAC 13K .1207 HOSPICE INPATIENT REQUIREMENTS FOR HEATING/AIR CONDITIONING**

~~Heating and cooling systems shall meet the current American Society of Heating, Refrigeration, and Air Conditioning Engineers Guide and National Fire Protection Association Code 90A, which is hereby adopted by reference pursuant to G.S. 150B-14(e), with the following modification: A facility shall provide heating and cooling systems complying with the following:~~

(1) Soiled linen, bathrooms, janitor closets and soiled utility rooms must have negative pressure with ~~relationship to adjacent areas.~~ The American National Standards Institute and American Society of Heating, Refrigerating, and Air Conditioning Engineers Standard 170: Ventilation of Health Care Facilities, which is incorporated by reference, including all subsequent amendments and editions, and may be purchased for a cost of ninety-four dollars (\$94.00) online at <https://www.techstreet.com/ashrae/index.html>. This incorporation does not apply to Section 9.1, Table 9-1 Design Temperature for Skilled Nursing Facility. The environmental temperature control systems shall be capable of maintaining temperatures in the facility at 71 degrees F. minimum in

the heating season and a maximum of 81 degrees F. during non-heating season, even upon loss of utility power; and

- (2) ~~Clean linen, clean utility and drug rooms must have positive pressure with relationship to adjacent areas. The National Fire Protection Association 90A: Standard for the Installation of Air-Conditioning and Ventilating Systems, which is incorporated by reference, including all subsequent amendments and editions, and may be purchased at a cost of fifty dollars and fifty cents (\$50.50) from the National Fire Protection Association online at <http://www.nfpa.org/catalog/> or accessed electronically free of charge at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=90A>.~~
- (3) ~~All areas not covered in Paragraphs (1) and (2) of this Rule must have neutral pressure.~~

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991. 1991;  
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1208 is proposed for reoption with substantive changes as follows:

**10A NCAC 13K .1208 HOSPICE INPATIENT ~~REQUIREMENTS/EMERGENCY~~ REQUIREMENTS FOR EMERGENCY ELECTRICAL SERVICE**

~~Emergency electrical service shall be provided~~ A facility shall provide an emergency electrical service for use in the event of failure of the normal electrical service. This emergency electrical service shall be made up as follows: consist of the following:

- (1) ~~In any existing facility, the following must be provided: facility:~~
- (a) ~~type 1 or 2 emergency lights as required by the North Carolina State Building Code; Codes:~~ Electrical Code;
  - (b) ~~additional emergency lights for all nursing stations, nurses' stations required by Rule .1205(b)(2) of this Section, drug medication preparation areas required by Rule .1204(d)(1) of this Section, and storage areas, and for the telephone switchboard, if applicable;~~
  - (c) ~~one or more portable battery-powered lamps at each nursing station; nurses' station; and~~
  - (d) ~~a suitable source of emergency power for life-sustaining equipment equipment, if the facility admits or cares for occupants needing such equipment, to ensure continuous operation with on-site fuel storage for a minimum of 72 hours.~~
- (2) ~~Any addition to an existing facility shall meet the same requirements as new construction. An emergency power generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the essential electrical system. For the purposes of this Rule, the "essential electrical system" means a system comprised of alternate~~

sources of power and all connected distribution systems and ancillary equipment, designed to ensure continuity of electrical power to designated areas and functions of a facility during disruption of normal power sources, and also to minimize disruption within the internal wiring system as defined by the North Carolina State Building Codes: Electrical Code.

- (3) ~~Any conversion of an existing building such as a hotel, motel, abandoned hospital or abandoned school, shall meet the same requirements for emergency electrical services as required for new construction.~~ Emergency electrical services shall be provided as required by the North Carolina State Building Codes: Electric Code with the following modification: Section 517.10(B)(2) of the North Carolina State Building Codes: Electrical Code shall not apply to new facilities.
- (4) ~~Battery-powered corridor lights shall not replace the requirements for the emergency circuit nor be construed to substitute for the generator set. Sufficient fuel shall be stored for the operation of the emergency generator for a period not less than 72 hours, on a 24-hour per day operational basis. The system shall be test run for a period of not less than 15 minutes on a weekly schedule. Records of running time shall be maintained and kept available for reference.~~
- (5) ~~To ensure proper evaluation of design of emergency power systems, the owner or operator shall submit with final working drawings and specifications a letter describing the policy for admissions and discharges to be used when the facility begins operations. If subsequent inspections for licensure indicate the admission policies have been changed, the facility will be required to take immediate steps to meet appropriate code requirements for continued licensure.~~
- (6) ~~Lighting for emergency electrical services shall be provided in the following places:~~
  - (a) ~~exit ways and all necessary ways of approach exits, including exit signs and exit direction signs, exterior of exits exit doorways, stairways, and corridors;~~
  - (b) ~~dining and recreation rooms;~~
  - (c) ~~nursing station and medication preparation area;~~
  - (d) ~~generator set location, switch-gear location, and boiler room, if applicable; and~~
  - (e) ~~elevator, if required for emergency.~~
- (7) ~~The following emergency equipment which is essential to life, safety, and the protection of important equipment or vital materials shall be provided: The following equipment, devices, and systems that are essential to life safety and the protection of important equipment or vital materials shall be connected to the equipment branch of the essential electrical system as follows:~~
  - (a) nurses' calling system;
  - (b) ~~alarm system, including fire alarm actuated at manual stations, water flow alarm devices of sprinkler systems if electrically operated, fire detecting and smoke detecting systems, paging or speaker systems if intended for issuing instructions during emergency conditions, and alarms required for nonflammable medical gas systems, if installed;~~
  - (~~e~~)(b) fire pump, if installed;
  - (~~d~~)(c) sewerage or sump lift pump, if installed;

- ~~(e)~~(d) one elevator, where elevators are used for vertical transportation of patients;
- ~~(f)~~(e) equipment such as burners and pumps necessary for operation of one or more boilers and their necessary auxiliaries and controls, required for heating and sterilization, if installed; and
- ~~(g)~~ equipment necessary for maintaining telephone service.
- ~~(f)~~ task illumination of boiler rooms, if applicable.
- (5) The following equipment, devices, and systems that are essential to life safety and the protection of important equipment or vital materials shall be connected to the life safety branch of the essential electrical system as follows:
  - (a) alarm system, including fire alarm actuated at manual stations, water flow alarm devices of sprinkler systems if electrically operated, fire detecting and smoke detecting systems, paging or speaker systems if intended for issuing instructions during emergency conditions, and alarms required for nonflammable medical gas systems, if installed; and
  - (b) equipment necessary for maintaining telephone service.
- ~~(8)~~(6) Where electricity is the only source of power normally used for ~~space heating, the emergency service~~ the heating of space, an essential electrical system shall be provided for heating of patient rooms. Emergency heating of patient rooms ~~will~~ shall not be required in areas where the facility is supplied by at least two separate generating ~~sources,~~ sources or a network distribution system with the facility feeders so routed, connected, and protected that a fault any place between the ~~generators~~ generating sources and the facility will not likely cause an ~~interruption.~~ interruption of more than one of the facility service feeders.
- ~~(9)~~(7) ~~The emergency~~ An essential electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and connected within ~~ten~~ 10 seconds through one or more primary automatic transfer switches to all emergency lighting, alarms, ~~nurses' call, and~~ equipment necessary for maintaining telephone service, and receptacles in patient corridors. ~~service.~~ All other lighting and equipment required to be connected to the ~~emergency~~ essential electrical system shall either be connected through the ~~ten~~ 10 second primary automatic transfer switching or shall be ~~subsequently~~ connected through other delayed automatic or manual transfer switching. If manual transfer switching is provided, staff of the facility shall operate the manual transfer switch. ~~Receptacles~~ Electrical outlets connected to the ~~emergency~~ essential electrical system shall be ~~distinctively~~ marked for identification.
- (8) Fuel shall be stored for the operation of the emergency power generator for a period not less than 72 hours, on a 24-hour per day operational basis with on-site fuel storage. The generator system shall be tested and maintained per National Fire Protection Association Health Care Facilities Code, NFPA 99, 2012 edition, which is incorporated by reference, including all subsequent amendments and editions. Copies of this code may be purchased at a cost of seventy-nine and fifty cents (\$79.50) from the National Fire Protection Association - online at <http://www.nfpa.org/catalog/> or accessed

electronically free of charge at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=99>. The facility shall maintain records of the generator system tests and shall make these records available to the Division for inspection upon request.

- (9) The electrical emergency service at existing facilities shall comply with the requirements established in this Section in effect at the time a license is first issued. Any remodeling of an existing facility that results in changes to the emergency electrical service shall comply with the requirements established in this Section in effect at the time of remodeling.

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991; 1991;  
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1209 is proposed for amendment as follows:

**10A NCAC 13K .1209 HOSPICE INPATIENT REQUIREMENTS FOR GENERAL ELECTRICAL**

- (a) All main water supply shut off valves in the sprinkler system must be electronically supervised so that if any valve is closed an alarm will sound at a continuously manned central station.
- (b) No two adjacent emergency life safety branch lighting fixtures shall be on the same circuit.
- (c) Receptacles in bathrooms must have ground fault protection.
- (d) Each patient bed location must be provided with a minimum of ~~four~~ eight single or ~~two~~ four duplex receptacles.
- (e) Each patient bed location must be supplied by at least two branch ~~circuits.~~ circuits, one from the equipment branch and one from the normal system.
- (f) The fire alarm system must be installed to transmit an alarm automatically to the fire department that is, legally committed to serve the area in which the facility is located, by the direct and reliable method approved by local ordinances.
- (g) In patient areas, fire alarms shall be gongs or chimes rather than horns or bells.

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, ~~2018.~~ 2018;  
Amended Eff. October 1, 2021.*

10A NCAC 13K .1210 is proposed for amendment as follows:

**10A NCAC 13K .1210 OTHER HOSPICE INPATIENT REQUIREMENTS**

(a) ~~In general patient areas, each room shall be served by at least one calling station and each bed shall be provided with a call button. Two call buttons serving adjacent beds may be served by one calling station. Calls shall register with the floor staff and shall activate a visible signal in the corridor at the patient's or resident's door. In multi-corridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two or more calling stations, indicating lights shall be provided at each station. Nurses' calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating. A nurses' call emergency button shall be provided for patients' use at each patient toilet, bath, and shower room. A nurses' calling system shall be provided:~~

- (1) in each patient bedroom for each patient bed. The call system activator shall be such that they can be activated with a single action and remain on until deactivated by staff at the point of origin. The call system activator shall be within reach of a patient lying on the bed. In rooms containing two or more call system activators, indicating lights shall be provided at each calling station;
- (2) nurses' calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating;
- (3) a nurses' call emergency activator shall be provided at each patients' use toilet fixture, bath, and shower. The call system activator shall be accessible to a patient lying on the floor; and
- (4) calls shall register with the floor staff and shall activate a visible signal in the corridor at the patient's door. In multi-corridor units, additional visible signals shall be installed at corridor intersections.

(b) At least one telephone shall be available in each area to which patients are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.

(c) General outdoor lighting shall be provided adequate to illuminate walkways and drive.

*History Note: Authority G.S. 131E-202;*

*Eff. June 1, 1991;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018; 2018;*

*Amended Eff. October 1, 2021.*

10A NCAC 13K .1211 is proposed for reoption with substantive changes as follows:

**10A NCAC 13K .1211 ADDITIONAL PLUMBING REQUIREMENTS/HOSPICE INPATIENT UNITS**

~~For inpatient units, the hot water system shall be adequate to provide:~~

	Patient Areas	Dietary	Laundry
Gallons per hour per bed	6 ½	4	4 1/2
Temperature degrees F.	110-116	140 (min)	140 (min)

Hospice inpatient facilities or units shall provide a flow of hot water within safety ranges specified as follows:

- (1) Patient Areas – 6 ½ gallons per hour per bed and at a temperature of 100 to 116 degrees F;
- (2) Dietary Services – 4 gallons per hour per bed and at a minimum temperature of 140 degrees F; and
- (3) Laundry Area – 4 ½ gallons per hour per bed and at a minimum temperature of 140 degrees F.

*History Note: Authority G.S. 131E-202;  
Eff. June 1, 1991. 1991;  
Readopted Eff. October 1, 2021.*

10A NCAC 13K .1212 is proposed for reoption with substantive changes as follows:

**10A NCAC 13K .1212 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

The physical plant requirements for each hospice inpatient facility or unit shall be applied as follows:

- (1) New construction shall comply with all the requirements of ~~Section .1200 of this Subchapter; this Section.~~
- (2) ~~Existing~~ Except where otherwise specified, existing buildings shall meet the licensure and code requirements in effect at the time of licensure, construction, alteration, or ~~modification; modification.~~
- (3) ~~New additions, alterations, modifications, and repairs shall meet the technical requirements of Section .1100 of this Subchapter; however, where strict conformance with current requirements would be impracticable, the authority having jurisdiction may approve alternative measures where the facility can demonstrate to the Department's satisfaction that the alternative measures do not reduce the safety or operating effectiveness of the facility;~~
- ~~(4)~~(3) Rules contained in ~~Rule .1210 of this Section~~ are minimum requirements and are not intended to prohibit buildings, ~~systems~~ systems, or operational conditions that exceed minimum ~~requirements; requirements.~~
- ~~(5)~~(4) ~~Equivalency: Alternate methods, procedures, design criteria, and functional variations from the physical plant requirements, because of extraordinary circumstances, new programs, or unusual conditions, may be approved by the authority having jurisdiction when the facility can effectively demonstrate to the Department's satisfaction, that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility; and The Division may grant an equivalency to allow alternate methods, procedures, design criteria or~~



functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that states the following:

- (a) the rule citation and the rule requirement that will not be met due to strict conformance with current requirements would be impractical, extraordinary circumstances, new programs, or unusual conditions;
  - (b) the justification for the equivalency; and
  - (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- (5) 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 governing body shall maintain a copy of the approved equivalence issued by the Division.
- (6) Where ~~rules or codes~~ rules, codes, or standards have any conflict, the more stringent requirement shall apply.

*History Note: Authority G.S. 131E-202;  
Eff. February 1, ~~1996~~ 1996;  
Readopted Eff. October 1, 2021.*

1 10A NCAC 13D .2001 is proposed for amendment as follows:  
2

3 **SECTION .2000 – GENERAL INFORMATION**  
4

5 **10A NCAC 13D .2001 DEFINITIONS**

6 In addition to the definitions set forth in G.S. 131E-101, the following definitions shall apply throughout this  
7 Subchapter:

- 8 (1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or  
9 punishment with resulting physical harm, pain, or mental anguish.
- 10 (2) "Accident" means an unplanned event resulting in the injury or wounding of a patient or other  
11 individual.
- 12 (3) "Addition" means an extension or increase in floor area or height of a building.
- 13 (4) "Administrator" as defined in G.S. 90-276(4).
- 14 (5) "Alteration" means any construction or renovation to an existing structure other than repair,  
15 maintenance, or addition.
- 16 (6) "Brain injury long term care" means an interdisciplinary, intensive maintenance program for patients  
17 who have incurred brain damage caused by external physical trauma and who have completed a  
18 primary course of rehabilitative treatment and have reached a point of no gain or progress for more  
19 than three consecutive months. Brain injury long term care is provided through a medically  
20 supervised interdisciplinary process and is directed toward maintaining the individual at the optimal  
21 level of physical, cognitive, and behavioral functions.
- 22 (7) "Capacity" means the maximum number of patient or resident beds for which the facility is licensed  
23 to maintain at any given time.
- 24 (8) "Combination facility" means a combination home as defined in G.S. 131E-101.
- 25 (9) "Comprehensive, inpatient rehabilitation program" means a program for the treatment of persons  
26 with functional limitations or chronic disabling conditions who have the potential to achieve a  
27 significant improvement in activities of daily living, including bathing, dressing, grooming,  
28 transferring, eating, and using speech, language, or other communication systems. A  
29 comprehensive, inpatient rehabilitation program utilizes a coordinated and integrated,  
30 interdisciplinary approach, directed by a physician, to assess patient needs and to provide treatment  
31 and evaluation of physical, psychosocial, and cognitive deficits.
- 32 (10) "Department" means the North Carolina Department of Health and Human Services.
- 33 (11) "Director of nursing" means a registered nurse who has authority and responsibility for all nursing  
34 services and nursing care.
- 35 (12) "Discharge" means a physical relocation of a patient to another health care setting; the discharge of  
36 a patient to his or her home; or the relocation of a patient from a nursing bed to an adult care home  
37 bed, or from an adult care home bed to a nursing bed.

- 1 (13) "Existing facility" means a facility currently ~~licensed, a proposed facility, a proposed addition to a~~  
2 ~~licensed facility, or a proposed remodeled licensed facility that will be built according to design~~  
3 ~~development drawings and specifications approved by the Department for compliance with the~~  
4 ~~standards established in Sections .3100, .3200, and .3400 of this Subchapter, licensed and built prior~~  
5 ~~to the effective date of this Rule.~~
- 6 (14) "Facility" means a nursing facility or combination facility as defined in this Rule.
- 7 (15) "Incident" means any accident, event, or occurrence that is unplanned, or unusual, and has caused  
8 harm to a patient, or has the potential for harm.
- 9 (16) "Inpatient rehabilitation facility or unit" means a free-standing facility or a unit (unit pertains to  
10 contiguous dedicated beds and spaces) within an existing licensed health service facility approved  
11 in accordance with G.S. 131E, Article 9 to establish inpatient, rehabilitation beds and to provide a  
12 comprehensive, inpatient rehabilitation program.
- 13 (17) "Interdisciplinary" means an integrated process involving representatives from disciplines of the  
14 health care team.
- 15 (18) "Licensee" means the person, firm, partnership, association, corporation, or organization to whom  
16 a license to operate the facility has been issued. The licensee is the legal entity that is responsible  
17 for the operation of the business.
- 18 (19) "Medication error rate" means the measure of discrepancies between medication that was ordered  
19 for a patient by the health care provider and medication that is administered to the patient. The  
20 medication error rate is calculated by dividing the number of errors observed by the surveyor by the  
21 opportunities for error, multiplied times 100.
- 22 (20) "Misappropriation of property" means the deliberate misplacement, exploitation, or wrongful,  
23 temporary or permanent use of a patient's belongings or money without the patient's consent.
- 24 (21) "Neglect" means a failure to provide goods and services necessary to avoid physical harm, mental  
25 anguish, or mental illness.
- 26 (22) "New facility" means a ~~proposed facility,~~ facility for which an initial license is sought, a proposed  
27 addition to an existing facility, or a proposed remodeled portion of an existing facility that will be  
28 built according to ~~design development drawings~~ construction documents and specifications  
29 approved by the Department for compliance with the standards established in Sections .3100, .3200,  
30 and .3400 of this ~~Subchapter after the effective date of this Rule.~~ Subchapter.
- 31 (23) "Nurse Aide" means a person who is listed on the N.C. Nurse Aide Registry and provides nursing  
32 or nursing-related services to patients in a nursing home. A nurse aide is not a licensed health  
33 professional. Nursing homes that participate in Medicare or Medicaid shall comply with 42 CFR  
34 483.35, which is incorporated by reference, including subsequent amendments. The Code of Federal  
35 Regulations may be accessed at <https://www.ecfr.gov>.
- 36 (24) "Nursing facility" means a nursing home as defined in G.S. 131E-101.
- 37 (25) "Patient" means any person admitted for nursing care.

- 1 (26) "Remodeling" means alterations, renovations, rehabilitation work, repairs to structural systems, and  
2 replacement of building systems at a nursing or combination facility.
- 3 (27) "Repair" means reconstruction or renewal of any part of an existing building for the purpose of its  
4 maintenance.
- 5 (28) "Resident" means any person admitted for care to an adult care home part of a combination facility.
- 6 (29) "Respite care" means services provided for a patient on a temporary basis, not to exceed 30 days.
- 7 (30) "Surveyor" means a representative of the Department who inspects nursing facilities and  
8 combination facilities to determine compliance with rules, laws, and regulations as set forth in G.S.  
9 131E-117; Subchapters 13D and 13F of this Chapter; and 42 CFR Part 483, Requirements for States  
10 and Long Term Care Facilities.
- 11 (31) "Violation" means a failure to comply with rules, laws, and regulations as set forth in G.S. 131E-  
12 117 and 131D-21; Subchapters 13D and 13F of this Chapter; or 42 CFR Part 483, Requirements for  
13 States and Long Term Care Facilities, that relates to a patient's or resident's health, safety, or welfare,  
14 or that creates a risk that death, or physical harm may occur.

15  
16 *History Note:* *Authority G.S. 131E-104;*  
17 *RRC objection due to lack of statutory authority Eff. July 13, 1995;*  
18 *Eff. January 1, 1996;*  
19 *Readopted Eff. July 1, 2016;*  
20 *Amended Eff. October 1, 2021; January 1, 2021.*

# North Carolina Medical Care Commission

Education Session on  
Senior Living  
Communities

February 11, 2021



[www.pearlcreekadvisors.com](http://www.pearlcreekadvisors.com)

# Pearl Creek Advisors

- **Pearl Creek Advisors**, a municipal advisory firm, assists senior living organizations and hospitals in **creating flexible and low-cost capital structures** to empower non-profit organizations to fulfill their missions.
- Prior to forming Pearl Creek Advisors, LLC, Mr. Franklin spent 30 years as an investment banker, completing over **250 healthcare and senior living financings totaling more than \$10.0 billion**.
- In addition to developing **capital formation strategies**, Mr. Franklin also educates Boards and Executive Management Teams in the areas of Affiliation, Governance, Leadership, Healthcare Delivery Integration and overall Enterprise Strategy. His emphasis recently has focused on **corporate leadership and enterprise strategy**.



# Discussion Outline

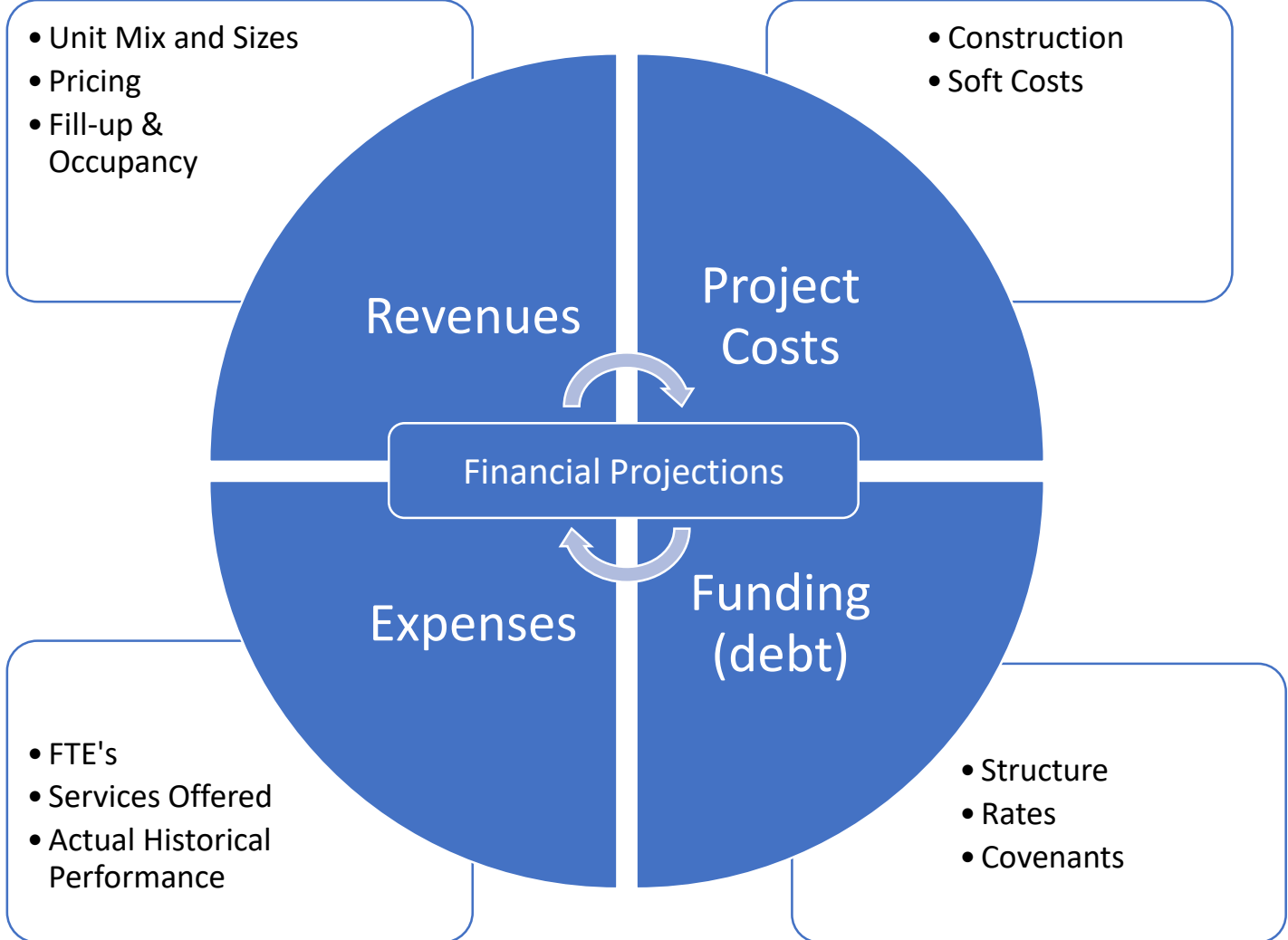
- Senior Living Community Business Model
- Qualitative Credit Metrics
- Quantitative Credit Metrics

# Types of Non-Profit Senior Living Communities

- Entrance Fee Model
  - Type A (Life Care)
  - Type B (Modified Life Care)
  - Type C (Fee-for-Service)
- Rental Model
- Equity Model (co-ops)



# Life Plan Community Business Model



# Qualitative Credit Factors

- Demand
  - ✓ Level of Pre-Sales (70%)
  - ✓ Velocity of Pre-Sales
- Service Area
  - ✓ Favorable Demographic Trends
  - ✓ Real Estate Trends
  - ✓ Occupancy of Other Communities
- Pricing
  - ✓ Relative to Competition
  - ✓ Relative to Home Values
- Management
  - ✓ Development Experience
  - ✓ Operating Experience

# Quantitative Credit Factors

Ratio	Minimum	Green	Yellow	Red
Debt Service Coverage	1.30x	> 1.35x	1.25x – 1.35x	< 1.25x
Days Cash on Hand	225 Days	> 300 Days	200 – 300 Days	< 200 Days

- Other Ratios
  - ✓ Operating Ratio (Expenses as a % of Revenues)
  - ✓ DSCR without Entrance Fees
  - ✓ Age of Plant

# Selected Financial Ratios

		Hospital			LPC	
	<u>AA</u>	<u>A</u>	<u>BBB</u>	<u>A</u>	<u>BBB</u>	<u>NR</u>
DSCR (Higher)	5.9	3.8	2.7	3.0	2.2	1.2
DCOH (Higher)	276.8	219.0	151.2	649.3	495.8	306.7
DSCR w/o EF. (Higher)	x	x	x	1.4	0.8	0.6
Operating Ratio (Lower)	x	x	x	92.5	97.4	101.2
Age of Plant (Lower)	10.6	12.0	11.8	11.7	11.9	11.7

# Risks and Mitigating Factors

## ■ Construction Risk

- ✓ Guaranteed Maximum Price (GMP)
- ✓ Payment and Performance Bond
- ✓ Liquidated Damages
- ✓ Contractor Experience
- ✓ Architect Experience
- ✓ Owners Rep

## ■ Fill-up and Occupancy Risk

- ✓ Pre-Sales with 10% Deposits
- ✓ Market Occupancy

## ■ Operating Risk

- ✓ Operator and Sponsor Track Record
- ✓ Sponsor Financial Backing - Liquidity Support Agreement, etc.



EXHIBIT F

# NC Medical Care Commission

Health Care Facilities Finance Act Process

# Health Care Facilities Finance Act

- ▶ Goal of HCFFA: Promote the public health and welfare by providing means for financing, refinancing, acquiring, constructing, equipping and providing of health care facilities to serve the people of the State and to make accessible to them modern and efficient health care facilities (G.S 131A - 2).
- ▶ NCMCC accomplishes the goal of the HCFFA by issuing tax-exempt bonds to qualified health care facilities (501(c)3 CCRCs) for construction and equipment projects



# STEP 1: APPLICATION

- ▶ Application Components:
  - ▶ Description of project
  - ▶ Financing Structure
  - ▶ Sources & Uses of Funds for the Project
  - ▶ Past 3 years of Audited Financial Statements
    - ▶ Over past 15 years, only a small number of “new” program participants
  - ▶ Current & 5 Year Forecast of LTDSCR
  - ▶ Diversity Info
    - ▶ Hospitals - Provide Board Diversity
    - ▶ CCRCs - Provide Board & Resident Diversity
  - ▶ Community Benefits
    - ▶ Hospitals - As reported on IRS Form 990 (Schedule H)
    - ▶ CCRCs - As reported on NC DOR Form AV-11
  - ▶ Resident Fees for CCRCs
  - ▶ Any required Certificate of Need for project

# STEP 2: REVIEW APPLICATION

- ▶ NCMCC Staff
  - ▶ Goal: Project meets initial standards of financial feasibility and qualifies for an approval request from the NCMCC
    - ▶ Statutory Guidance (G.S. § 131A-5)
      - ▶ Need
      - ▶ Financially responsible and capable of fulfilling obligation
      - ▶ Adequate provisions for payment (principle and interest)
      - ▶ Public services and facilities available (utilities)
    - ▶ Review Audited Financial Statements
    - ▶ Review compliance history for current program participants
      - ▶ For non-program participant would review any EMMA filings for past public debt obligations (if any)
    - ▶ Review 5 year forecasted LTDSCR Ratio
- ▶ DHSR Construction Staff
  - ▶ Goal: Project appears to be code compliant; has the potential to meet applicable Licensure rules, NC Building Codes, and any referenced standards; and useful life of project will equal term of the bond
  - ▶ Review drawings/description of project (SDs/DDs/CDs)
- ▶ Preliminary meeting with Facility to vet project, discuss project timeline, and any compliance issues

# STEP 3: PREPARE NCMCC PRELIMINARY RESOLUTION

- ▶ “Attachment”
  - ▶ Compliance Findings
  - ▶ Financial Information from last Audited Financial Statements
    - ▶ Net Income/Position; Operating Revenue; Operating Expenses; Change in Net Assets; Net Cash provided by Operating Activities; Unrestricted Cash; Change in Cash
  - ▶ Ratings
  - ▶ Community Benefits
  - ▶ LTDSVC Coverage Ratio Forecast
  - ▶ Transaction Participants
  - ▶ Diversity Numbers
  - ▶ Bond Sale Approval Form (Interest Estimates)
- ▶ Presentation
  - ▶ Address any concerns raised by NCMCC Staff (Financial trends/Diversity/Community Benefits)
  - ▶ Overview of Facility; Description of Project; Forecasted Financials; Summary of Financing
- ▶ Resolution
  - ▶ Project Description
  - ▶ Sources & Uses of Funds
  - ▶ Asking for preliminary Approval

# STEP 4: PRELIMINARY APPROVAL OF PROJECT

- ▶ Preliminary Approval subject to final financial feasibility & final construction approval
- ▶ New Construction Projects are presented at Quarterly Meeting
- ▶ Refundings can occur via teleconference with Executive Committee of NCMCC
- ▶ Statutory Guidance (G.S. § 131A-5) for approving a project
  - ▶ Need
  - ▶ Financially responsible and capable of fulfilling obligation
  - ▶ Adequate provisions for payment (principle and interest)
  - ▶ Public services and facilities available (utilities)

# STEP 5: FINALIZE FINANCIAL FEASIBILITY & LEGAL DOCUMENTS

- ▶ Final Financial Feasibility
  - ▶ Feasibility Study
  - ▶ 5 Year AUP Forecast (Independent Auditor)
  - ▶ 5 Year AUP Forecast (Internally generated)
- ▶ Feasibility Study/Forecast contain 5 year forecasted:
  - ▶ Balance Sheet; Statement of Operations and Changes in Net Assets; Statement of Cash Flows; Financial Ratios; Summary of Significant Forecast Assumptions and Accounting Policies
- ▶ NCMCC Staff will notify the Executive Committee if the “final” financial feasibility has materially changed from what was presented on initial application/presentation
  - ▶ Further approval required
- ▶ Legal Documents include:
  - ▶ Loan Agreement; Trust Agreement; Official Statement; Continuing Disclosure Agreement; Bond Purchase Agreement; Tax Certificate

# STEP 6: FINALIZE DHSR CONSTRUCTION REVIEW

- ▶ Sign-off on CDs
  - ▶ Complete set of architectural, structural, & engineering drawings
  - ▶ Used by contractor to bid, obtain permits, & build the project
- ▶ GMP (Guaranteed Maximum Price) is fixed
- ▶ Local Jurisdiction has approved drawings/issues
- ▶ Project meets relevant Licensure Rules, applicable codes, applicable standards, and has a useful life equal to the term of the bonds (30 years)

# STEP 7: OBTAIN LGC APPROVAL

- ▶ NC requires LGC approval before NCMCC can issue bonds
- ▶ LGC facilitates the issuance of NCMCC bonds after approval
- ▶ Currently, LGC requires Steps 1 thru 6 to be complete prior to putting a NCMCC Bond Project on their agenda
  - ▶ For CCRCs, LGC also requires NC Department of Insurance (NCDOI) to approve “Step 3” for Independent Living construction
  - ▶ NCDOI is charged with annual financial review of CCRCs
- ▶ LGC meets monthly to approve projects

# STEP 8: OBTAIN NCMCC FINAL APPROVAL

- ▶ Resolution containing final Bond sizing and Legal Documents executed for the transaction
- ▶ NCMCC Staff schedules a final approval call only after final feasibility and final DHSR Construction approval is secured
- ▶ Executive Committee Grants Final Approval
  - ▶ For a public offering; Approval occurs the day after the bonds are sold
- ▶ Executive Committee meets when needed via teleconference



# STEP 9: ANNUAL COMPLIANCE REVIEW

- ▶ Compliance is based on the terms agreed upon in the various legal documents
- ▶ Terms in the legal documents address:
  - ▶ SEC Filing Requirements (if a Public Offering)
  - ▶ Bank Filing Requirements (if a Private Placement (Bank-Bought) Offering)
  - ▶ Bond-Holder Requirements
    - ▶ Items Bond-Holders require for their interest in purchasing
  - ▶ NCMCC Requirements
    - ▶ Quarterly Financial Statements
    - ▶ Officer Certificates
    - ▶ Independent Auditor Certificate
    - ▶ Various “notice” requirements

# Public Finance Authority vs. NCMCC

## PFA Process

- ▶ STEP 1 - Application
  - ▶ Project promotes economic development and demonstrates tangible public benefits to the community in which it resides
- ▶ STEP 2 - Review Application
  - ▶ Focus on bond financing and market-required financial feasibility
  - ▶ Encourage the use of minority and women-owned businesses as part of the finance project "team"
- ▶ STEP 3 - Prepare Resolution
  - ▶ Market-required financial feasibility & Legal Docs are complete
- ▶ STEP 4 - Obtain Final Approval
  - ▶ PFA meets twice a month via teleconference

## NCMCC Process

- ▶ STEP 1 - Application
- ▶ STEP 2 - Review Application
- ▶ STEP 3 - Prepare Preliminary Resolution
- ▶ STEP 4 - Obtain NCMCC Preliminary Approval
- ▶ STEP 5 - Finalize Financial Feasibility & Legal Docs
- ▶ STEP 6 - Finalize DHSR Construction Review
- ▶ STEP 7 - Obtain LGC Approval
- ▶ STEP 8 - Obtain NCMCC Final Approval
- ▶ STEP 9 - Annual Compliance Review

# Key Differences Between PFA & NCMCC

- ▶ PFA charges an Application and Issuance Fee
- ▶ PFA does not review past financial information
  - ▶ Focus is on project and financing terms and facilities ability to meet those terms
- ▶ PFA relies only on market-required financial feasibility guidelines
- ▶ PFA does not perform compliance examinations
  - ▶ PFA only requires Facilities to document post-issuance compliance requirements and procedures in the legal documents (Tax Certificate) to ensure bonds maintain tax-exempt status
- ▶ PFA does not have a construction review
- ▶ PFA does not review diversity/community benefit information
- ▶ PFA is a one-step approval process
- ▶ PFA only imposes EMMA filing requirements in their legal documents
- ▶ PFA bond issuances typically garner 10-20 basis points higher than a NCMCC bond issuance