

1 10A NCAC 14C .0303 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 14C .0303 REPLACEMENT EQUIPMENT**

4 ~~(a) The purpose of this Rule is to define the terms used in the definition of "replacement equipment" set forth in G.S. 131E-176(22a).~~

6 ~~(b) "Activities essential to acquiring and making operational the replacement equipment" means those activities which are indispensable and requisite, absent which the replacement equipment could not be acquired or made operational.~~

8 ~~(c) "Comparable medical equipment" means equipment which is functionally similar and which is used for the same diagnostic or treatment purposes.~~

10 ~~(d) Replacement equipment is comparable to the equipment being replaced if:~~

11 ~~(1) it has the same technology as the equipment currently in use, although it may possess expanded capabilities due to technological improvements; and~~

13 ~~(2) it is functionally similar and is used for the same diagnostic or treatment purposes as the equipment currently in use and is not used to provide a new health service; and~~

15 ~~(3) the acquisition of the equipment does not result in more than a 10% increase in patient charges or per procedure operating expenses within the first twelve months after the replacement equipment is acquired.~~

18 ~~(e) Replacement equipment is not comparable to the equipment being replaced if:~~

19 ~~(1) the replacement equipment is new or reconditioned, the existing equipment was purchased second-hand, and the replacement equipment is purchased less than three years after the acquisition of the existing equipment; or~~

22 ~~(2) the replacement equipment is new, the existing equipment was reconditioned when purchased, and the replacement equipment is purchased less than three years after the acquisition of the existing equipment; or~~

25 ~~(3) the replacement equipment is capable of performing procedures that could result in the provision of a new health service or type of procedure that has not been provided with the existing equipment; or~~

28 ~~(4) the replacement equipment is purchased and the existing equipment is leased, unless the lease is a capital lease; or~~

30 ~~(5) the replacement equipment is a dedicated PET scanner and the existing equipment is:~~

31 ~~(A) a gamma camera with coincidence capability; or~~

32 ~~(B) nuclear medicine equipment that was designed, built, or modified to detect only the single photon emitted from nuclear events other than positron annihilation.~~

34 (a) This Rule defines the terms used in the definition of "replacement equipment" set forth in G.S. 131E-176(22a).

35 (b) "Currently in use" means that the equipment to be replaced has been used by the person requesting the exemption at least 10 times to provide a health service during the 12 months prior to the date the written notice required by G.S. 131E-184(a) is submitted to the CON Section.

- 1 (c) Replacement equipment is not “comparable” if:
- 2 (1) the replacement equipment to be acquired is capable of providing a health service that the equipment
- 3 to be replaced cannot provide; or
- 4 (2) the equipment to be replaced was acquired less than 12 months prior to the date the written notice
- 5 required by G.S. 131E-184(a) is submitted to the CON Section and it was refurbished or
- 6 reconditioned when it was acquired by the person requesting the exemption.

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8 *History Note: Authority G.S. 131E-177(1);*

9 *Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule*

10 *becomes effective, whichever is sooner;*

11 *Eff. January 4, 1994;*

12 *Amended Eff. April 1, 1999; November 1, 1996;*

13 *Temporary Amendment Eff. June 3, 2002;*

14 *Amended Eff. April 1, ~~2003~~, 2003;*

15 *Readopted Eff. January 1, 2021.*