

1 10A NCAC 13D .3033 is proposed for amendment as follows:

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3 **10A NCAC 13D .3003 VENTILATOR — ASSISTED RESPIRATORY CARE, QUALIFIED**
4 **PROFESSIONALS, NON-INVASIVE MECHANICAL VENTILATION, SPECIAL**
5 **REQUIREMENTS FOR INVASIVE MECHANICAL VENTILATION AND**
6 **STAFFING REQUIREMENTS IN SPECIAL CARE UNIT**

7 (a) ~~For the purpose of this Rule, ventilator assisted individuals, means as defined in the federal State Operations~~
8 ~~Manual, Appendix PP — Guidance to Surveyors for Long Term Care Facilities, herein incorporated by reference~~
9 ~~including subsequent amendments and editions. Copies of the State Operations Manual may be accessed free of charge~~
10 ~~online at~~

11 https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltef.pdf.

12 ~~Nursing homes shall comply with 42 CFR 483.25(i), which is incorporated by reference, including subsequent~~
13 ~~amendments. The Code of Federal Regulations may be accessed at <https://ecfr.gov>.~~

14 b) Facilities having patients who receive non-invasive or invasive mechanical ventilation shall:

15 ~~(1) administer respiratory care in accordance with 42 CFR Part 483.25(i), and the federal State~~
16 ~~Operations Manual F695;~~

17 ~~(2)~~(1) administer respiratory care in accordance with the scope of practice for respiratory therapists defined
18 in G.S. 90-648; and

19 ~~(3)~~(2) provide pulmonary services from a physician who has training in pulmonary medicine. The
20 physician shall be responsible for respiratory services and shall:

21 (A) establish with the respiratory therapist and nursing staff, ventilator policies and procedures,
22 including emergency procedures;

23 (B) assess each ventilator assisted patient's status at least monthly with corresponding progress
24 notes;

25 (C) respond to emergency communications 24 hours a day; and

26 (D) participate in individual care planning.

27 (c) ~~A facility may provide non-invasive mechanical ventilation via a portable respiratory support device designed to~~
28 ~~assist patients with breathing difficulties according to manufacturer's instructions and with constant monitoring by~~
29 ~~qualified staff.~~

30 (d) ~~A facility must not provide patients with mechanical ventilation via an invasive artificial airway using an~~
31 ~~endotracheal tube or tracheostomy tube unless:~~

32 ~~(1) the Division of Health Service Regulation Construction Section has approved plans, drawings and~~
33 ~~life safety code for safe operation of the specialized bed type;~~

34 ~~(2) the Nursing Home Licensure and Certification Section has reviewed signed contracts for~~
35 ~~professionals providing pulmonary medicine, respiratory therapy and durable medical equipment~~
36 ~~suppliers;~~

37 ~~(4) the Nursing Home Licensure and Certification Section has reviewed staffing schedules;~~

1 (5) the Nursing Home Licensure and Certification Section has reviewed job specific orientation, unit
2 polices and procedures and emergency preparedness; and

3 (6) beds for patients receiving invasive mechanical ventilation are grouped into one specialized care
4 unit and disclosure of the beds is on the nursing home initial, renewal, bed change or change of
5 ownership application.

6 ~~(e)~~(e) Direct care nursing personnel staffing ratios established in Rule .2303 of this Subchapter shall not be applied
7 to nursing services for patients who ~~are ventilator assisted at life support settings~~ reside in a special care unit for
8 residents who receive invasive mechanical ventilation. The minimum direct care nursing staff shall be 5.5 hours per
9 patient day, allocated on a per shift basis as the facility chooses; however, in no event shall the direct care nursing
10 staff fall below a registered nurse and a nurse aide I at any time during a 24-hour period.

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12 *History Note: Authority G.S. 131E-104;*

13 *RRC objection due to lack of statutory authority Eff. July 13, 1995;*

14 *Eff. January 1, 1996;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22,*
16 *2015;*

17 *Amended Eff. January 1, ~~2021~~2021;*

18 *Amended Eff. August 1, 2026.*