STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MEDICAL CARE COMMISSION QUARTERLY MEETING
DIVISION OF HEALTH SERVICE REGULATION
801 BIGGS DRIVE
RALEIGH, NC 27603
CONFERENCE ROOM #104 - BROWN BUILDING
FRIDAY, NOVEMBER 8, 2019
9:00 A.M.
AGENDA

I. Meeting Opens

II. Chairman's Comments……..……..Dr. John Meier

- Introduction of new Chairman
- Resolution of Appreciation for Former Chairman John A. Fagg, MD (See Exhibit A/5)
- Comments from Dr. John A. Fagg
- Introduction of new members (Sally B. Cone & Bryant C. Foriest)

III. Resolutions of Appreciation for Former Members……...……..…….Dr. John Meier

- Dr. Robert S. Alphin (See Exhibit A/3)
- Dr. Devdutta G. Sangvai (See Exhibit A/4)

IV. 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. Any conflicts of interest and recusals in connection with each proposed financing arrangement on the agenda were raised prior to any vote on the arrangement. Under the Health Care Financing Act, any ownership interest in the bank or financial institution that services the bond is a conflict of interest requiring a recusal.

V. North Carolina Board of Ethics Letters……Dr. John Meier

North Carolina Board of Ethics letters were received for the following members and are noted for a potential conflict of interest:

- Sally B. Cone (See Exhibit A/1)
- Bryant C. Foriest (See Exhibit A/2)

VI. New Business (Action Item)

A. Rules for Initiating Rulemaking Approval (Discuss rules & fiscal note)…….....N. Pfeiffer

1. Licensing of Hospital Bylaws Rules (11 rules)…….……Dr. Fagg & N. Pfeiffer

Readoption of eight rules following Periodic Review and amendment of three rules

- Rules: 10A NCAC 13B .3501-.3503 and .3701-.3708 (Exhibit D thru D/2)

VII. Old Business (Action Items)…….……..Nadine Pfeiffer

A. Rules for Adoption/Readoption (Discuss rules and fiscal note)

1. Adult Care Home/Family Care Home Rules……...……N. Pfeiffer & M. Lamphere

Readoption of seven rules following Periodic Review (Phase 1)

- Rules: 10A NCAC 13F .0203, .0207, .0214, and .1206; 10A NCAC 13G .0207, .0214 and .1207 (See Exhibits C thru C/3)

2. Ambulatory Surgical Center Construction Rules……..N. Pfeiffer & S. Lewis

Readoption of five rules following Periodic Review - Amendment of three rules and repeal of two rules

- Rules: 10A NCAC 13B .1401 - .1410 (See Exhibits C/4 thru C/5)

VIII. Approval of Minutes (Action Items)……..Dr. John Meier

- **August 21, 2019 – Medical Care Commission Quarterly Meeting** (See Exhibit A)

- **September 26, 2019 (Executive Committee)** – To authorize the sale of bonds, the proceeds of which are to be loaned to Lutheran Retirement Ministries of Alamance County (Twin Lakes Community), North Carolina (See Exhibit B/1).

- **October 2, 2019 (Executive Committee)** – To consider a resolution (A) authorizing the sale and issuance of bonds, the proceeds of which will be loaned to University Health Systems of Eastern Carolina, Inc. d/b/a Vidant Health and Pitt County Memorial Hospital, Incorporated d/b/a Vidant Medical Center and to consider a resolution (B) granting Rex Hospital Inc. an exception to the Commission's compliance policy (See Exhibit B/2).

- **October 11, 2019 (Executive Committee) –** To authorize the sale of bonds, the proceeds of which are to be loaned to Galloway Ridge (See Exhibit B/3).

IX. Bond Program Activities ……..……..….Geary W. Knapp

A. Quarterly Report on Bond Program (See Exhibit B)
B. The following notices and non-action items were received by the Executive Committee:

October 16, 2019 – Friends Homes, Inc. Series 2011 (Redemption)

- Outstanding Balance: $14,533,690.69
- Funds provided by Public Finance Authority (Wisconsin) bonds

November 6, 2019 – Penick Village Series 2010B (Redemption)

- Outstanding Balance: $27,875,000
- Funds provided by Public Finance Authority (Wisconsin) bonds

November 7, 2019 – Duke Health 2017 Master Lease Agreement (Additions to Master Lease)

- Schedule 16 – MRI ($1,608,437) – Duke University Hosptial
- Schedule 17 – CT Scanner ($1,869,000) – Duke Regional Hospital
- Funds provided by TD Equipment Finance, Inc.

November 19, 2019 – CaroMont Health Series 2019 (Conversion of Series 2018 (Taxable) to Series 2019 (Tax-Exempt))

- Outstanding Balance: $41,460,000
- Bank Holder: TD Bank, N.A.

C. Technical Change Rules Amended by Codifier per Staff approval (in accordance with 8/21/19 MCC Resolution):

- Licensing of Ambulatory Surgical Facility rules: 1 rule updated repealed statute
- Licensing of Overnight Respite Services rules: 2 rules updated website addresses
- Emergency Medical Services and Trauma rules: 5 rules updated website addresses
- Licensing of Hospital rules: 7 rules updated agency names, addresses and phone numbers, a typographical error, and a rule citation reference.

X. MCC Breakout Session...……Dr. John Meier

XI. Appointment of Two Executive Committee Members (Action Item)...……..Dr. John Meier

In accordance with 10A NCAC 13A.0101, the NCMCC's Chairman shall appoint two members to the Executive Committee to serve for a term of two years or until expiration of his/her regularly appointed term. No member of the Executive Committee, except the Chairman and Vice-Chairman, shall serve more than two two-year terms in succession. The Chairman's appointees are for vacated seats and the terms will expire 12/31/2020.

XII. Election of Three Executive Committee Members (Action Item)..…….Dr. John Meier

In accordance with 10A NCAC 13A.0101, three members of the Executive Committee shall be appointed by a vote of the Commission at the November meeting of each odd year. No member of the Executive Committee, except the Chairman and Vice-Chairman, shall serve more than two-year terms in succession.

XIII. Adoption of 2020 Medical Care Commission Meeting Dates (Action Item)…….…….Dr. John Meier

February 14-15, 2020
May 14-15, 2020
August 13-14, 2020
November 12-13, 2020

XIV. Refunding of Commission Bond Issues (Action Item)..……...……..Geary W. Knapp

Recommended:

WHEREAS, the bond market is in a period of generally fluctuating interest rates, and

WHEREAS, in the event of decline of rates during the next quarter, refunding of certain projects could result in significant savings in interest expense thereby reducing the cost of health care to patients, and

WHEREAS, the Commission will not meet again until February 14, 2020 in Raleigh, North Carolina;

THEREFORE, BE IT RESOLVED; that the Commission authorize its Executive Committee to approve projects involving the refunding of existing Commission debt between this date and February 14, 2020.

XV. Adjournment – A motion to adjourn is requested.

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CONFERENCE ROOM #104 - BROWN BUILDING

WEDNESDAY, AUGUST 21, 2019
9:00 A.M.

MINUTES

I. Meeting Attendance

John A. Fagg, M.D., Chairman Joseph D. Crocker, Vice-Chairman Robert S. Alphin, M.D. Paul R.G. Cunningham, M.D. Linwood B. Hollowell, III Eileen C. Kugler, RN, MSN, MPH, FNP - (Via Conference Call) Albert F. Lockamy, Jr., RPh John J. Meier, IV, M.D. Stephen T. Morton J. William Paugh Devdutta G. Sangvai, M.D. Robert E. Schaaf, M.D. Patrick D. Sebastian - (Via Conference Call) Jeffrey S. Wilson	Charles H. Hauser Dr. Ashley Lloyd Karen E. Moriarty
DIVISION OF HEALTH SERVICE REGULATION STAFF S. Mark Payne, DHSR Director, MCC Secretary Emery E. Milliken, Deputy Director, DHSR Geary W. Knapp, JD, CPA, Assistant Secretary, MCC Steven Lewis, Chief, Construction Section, DHSR Jeff Harms, Engineering Supervisor, DHSR Construction Nadine Pfeiffer, Rules Review Manager, DHSR Azzie Conley, Chief, Acute & Home Care Licensure Branch Clarence Ervin, Assistant Chief, Acute & Home Care Licensure Branch Megan Lamphere, Chief, Adult Care Licensure Section Tichina Hamer, Assistant Chief, Adult Care Licensure Section Crystal Abbott, Auditor, MCC Kathy Larrison, Auditor, MCC Alice Creech, Executive Assistant, MCC	

Other Attendance (See Exhibit J)

II. **Chairman's Comments** – Dr. John Fagg thanked everyone for their attendance, and reemphasized the Commission's policy on conflict of interest, which states if a Commission Member owns stock in a financial institution, he may discuss the issue but should refrain from voting on the bond proposal.

III. **Approval of Minutes** (**Action Item**) from the May 10, 2019 Medical Care Commission Quarterly Meeting is requested **(See Exhibit A)**.

<u>COMMISSION ACTION</u>: Motion was made to approve the minutes by Dr. John Meier, seconded by Mr. Al Lockamy, and unanimously approved.

IV. **Bond Program Activities** ……..……..….Geary W. Knapp

A. Quarterly Report on Bond Program (**See Exhibit B**)
B. The following notices and non-action items were received by the Executive Committee:

July 25, 2019 – Duke Lease Schedules 13, 14, & 15 (Master Lease Additions)
- Schedule 13 – MRI ($1,490,456)
- Schedule 14 – CT Scanner ($1,805,269)
- Schedule 15 – Linear Accelerator ($2,999,998.99)
- Financing thru TD Equipment Finance, Inc.

August 1, 2019 – Arbor Acres Series 2010 (Conversion)
- New Bank Bought Interest Rate and Holding Period

August 1, 2019 – Arbor Acres Series 2016 (Conversion)
- New Bank Bought Interest Rate

August 2, 2019 – Blue Ridge Healthcare System (Conversion)
- Locked Medium Term Interest Rate and New Holding Period

C. The Executive Committee held a telephone conference call meeting on the following date (**Action Item**):

- **June 27, 2019** – The Executive Committee authorized (1) the sale of bonds, the proceeds of which were loaned to Novant Health, Inc., (2) an amendment to a deed of trust pertaining to Friends Homes, Inc. Series 2011 Bonds; (3) an appointment of U.S. Bank National Association as successor Bond Trustee for the Series 2016 Bonds issued for the benefit of Southminster, Inc., and (4) approved amendments to Southminster, Inc.'s Trust Indenture. (**See Exhibit B/1**).

<u>COMMISSION ACTION</u>: Motion to approve the June 27, 2019 minutes was made by Dr. Devdutta Sangvai, seconded by Dr. Robert Schaaf, and unanimously approved.

V. Bond Projects (**Action Items**).....Geary W. Knapp

A. Twin Lakes Retirement Community (Burlington)……...……..G. Knapp, J. Harms, & S. Lewis

Resolution: The Commission grants preliminary approval for a Lutheran Retirement Ministries of Alamance County, North Carolina (d/b/a Twin Lakes Retirement Community) project to provide funds to be used, together with other available funds, to (1) ***refund*** the North Carolina Medical Care Commission $29,630,000 Health Care Facilities Revenue Refunding Bonds (Lutheran Retirement Ministries), Series 2009, currently outstanding in the amount of $16,700,000, and to (2) ***construct*** the following:

One-story replacement nursing facility

- Approximately 131,000 square foot
- 104 beds (nursing and adult care) / Gathering Hall / Site Improvements
- All private rooms w/private baths at approximately 341 square feet per room
- Upon completion, existing residents of the Coble Creek beds will be transferred to the new beds

Capital expenditures for new construction and the refunding shall be included as listed below, all in accordance with a preliminary application, plans and specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	$77,035,000
Total Sources	**$77,035,000**

ESTIMATED USES OF FUNDS

Amount to refund NCMCC Series 2009 Bonds	$16,700,000
Construction Contracts	48,950,000
Construction Contingency (3% of Construction Contracts)	1,570,000
Architect Fees	1,900,000
Moveable Equipment	2,025,000
Debt Service Reserve Fund	4,570,000
Underwriter Discount/Placement Fee	630,000
Feasibility Study Fee	90,000
Accountant Fee	25,000
Corporation Counsel	35,000
Bond Counsel	95,000
Trustee Fee	10,000
Trustee Counsel	5,000
SWAP Advisor	50,000
Bank Origination Fee	15,000
Bank Counsel	35,000
Rating Agencies	85,000
Printing Cost	7,500
DHSR Reimbursables (G.S. § 131-E-267)	40,000
Local Government Commission	8,750
Underwriter Counsel & Blue Sky Fee	68,750
Appraisal/Survey/Title/ Real Estate Related Fees	120,000
Total Uses	**$77,035,000**

Tentative approval is given with the understanding that the governing board of Twin Lakes accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.

2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.

3. Financial feasibility must be determined prior to the issuance of bonds.

4. The project must, in all respects, meet requirements of G.S. § 131A (Health Care Facilities Finance Act).

5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).

6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its residents.

7. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended ("Section 147(f)"), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the "Governor") approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

8. The borrower will comply with the Commission's Resolution: Community Benefits/Charity Care Agreement and Program Description for CCRCs as adopted.

9. The borrower will furnish, prior to the sale of or issuance of the bonds or notes or execution of the leases, evidence that it is in compliance with the covenants of all of its outstanding Medical Care Commission debt.

Based on information furnished by applicant, the project is:

1.	Financially feasible	✓ Yes	____ No	____ N/A
2.	Construction and related costs are reasonable	✓ Yes	____ No	____ N/A

See **Exhibit D** for compliance and selected application information. See **Exhibit K** for Twin Lakes' presentation.

Mr. Joe Crocker conducted the discussion and voting on the Bond Project for Twin Lakes. A presentation was given by Ms. Pam Fox, CEO of Twin Lakes. Statements were made by Mr. Joe Crocker, Mr. Tad Melton, Dr. John Fagg, Dr. John Meier, Dr. Robert Alphin, Mr. Steve Morton, and Mr. Geary Knapp.

COMMISSION ACTION: **A motion for preliminary approval of the project was made by Dr. John Meier, seconded by Dr. Robert Schaaf, and unanimously approved with the recusal of Dr. John Fagg.**

B. Lutheran Services for the Aging, Inc. (multiple locations)……G. Knapp, J. Harms, & S. Lewis

COMMISSION ACTION: Lutheran Services requested an exception to the Commission's compliance policy. Motion was made to accept an exception to the policy by Dr. Devdutta Sangvai, seconded by Dr. Robert Schaaf, and unanimously approved allowing Lutheran Services to proceed with discussion of the project.

Resolution: The Commission grants preliminary approval for a Lutheran Services for the Aging, Inc. project to provide funds to be used, together with other available funds, to (1) ***refund*** the North Carolina Medical Care Commission Health Care Facilities First Mortgage Revenue Refunding Bonds (Lutheran Services for the Aging), Series 2017, currently outstanding in the amount of $30,125,411 and to (2) ***construct, renovate,*** and ***acquire*** the following:

(A) Trinity Landing (Wilmington) independent living units - $74,535,000
- 60 Villa Apartments constructed as 9 buildings
  - 6 Villas to have 6 apartments each
  - 3 Villas to have 8 apartments each
  - Garages and surface parking for units
- 124 Apartments constructed as 3-story building
- Additional amenities:
  - Kitchen / Dining/ Activities in Common Area
  - Wellness Center (w/pool) / Fitness
  - Covered Outdoor 4421 sq. ft. Pavilion with boat dock, kayak storage, gardens, and activity areas

(B) Trinity Elms (Clemmons) acquisition - $11,000,000
- 54 independent living units approximately 2 years old
- 38 one-bedroom and 16 two-bedroom units constructed in 2 2-story buildings
- Club house area

(C) Trinity Oaks (Salisbury) nursing facility renovations - $1,696,494
- Updates to bathrooms/rooms/hallways

(D) Trinity Place (Albemarle) nursing facility addition - $3,359,541
- 27 adult care home beds (13,073 sq. ft.)
- Common areas / Dining & Activity area / Servery Kitchen / Support Spaces
- Conversion of 8 semi-private rooms to private

Capital expenditures for new construction and the refunding shall be included as listed below, all in accordance with a preliminary application, plans and specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	$157,765,000
Total Sources	**$157,765,000**

ESTIMATED USES OF FUNDS

Amount to refund NCMCC Series 2017 bonds	$ 29,617,589
Amount to acquire Trinity Elms (bank loan)	11,100,000
Construction Contracts	74,535,000
Construction Contingency (5% of Construction Contracts)	3,726,750
Site Costs	4,023,000
Moveable Equipment	2,247,000
Capital Expenditures (Reimbursement)	7,100,000
Marketing Costs	6,440,000
Bond Interest During Construction	8,186,746
Debt Service Reserve Fund	7,827,006
Underwriter Discount/Placement Fee	2,019,600
Feasibility Study Fee	158,059
Accountant Fee	35,000
Corporation Counsel	80,000
Bond Counsel	175,000
Trustee Fee	10,000
Trustee Counsel	25,000
Bank Counsel	65,000
Printing Cost	15,000
DHSR Reimbursables (G.S. § 131-E-267)	70,000
Local Government Commission	8,750
Underwriter's Counsel	78,000
Title Insurance	150,000
Appraisal	20,000
Phase I Environmental Fee	7,500
Survey/Title/ Real Estate Related Fees	45,000
Total Uses	**$157,765,000**

Tentative approval is given with the understanding that the governing board of Lutheran Services for the Aging accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.

2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.

3. Financial feasibility must be determined prior to the issuance of bonds.

4. The project must, in all respects, meet requirements of G.S. § 131A (Health Care Facilities Finance Act).

5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).

6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its residents.

7. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended ("Section 147(f)"), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the "Governor") approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

8. The borrower will comply with the Commission's Resolution: Community Benefits/Charity Care Agreement and Program Description for CCRCs as adopted.

9. The borrower will furnish, prior to the sale of or issuance of the bonds or notes or execution of the leases, evidence that it is in compliance with the covenants of all of its outstanding Medical Care Commission debt.

Based on information furnished by applicant, the project is:

1.	Financially feasible	✓	Yes		No		N/A
2.	Construction and related costs are reasonable	✓	Yes		No		N/A

See **Exhibit E** for compliance and selected application information. See **Exhibit L** for Lutheran Services' presentation.

Mr. Joe Crocker conducted the discussion and voting on the Bond Project for Lutheran Services. A presentation was given by Mr. Chip Westbrook of BB&T. Statements were made by Mr. Joe Crocker, Mr. Kirby Nickerson, Mr. Ted Goins, Dr. John Meier, Dr. John Fagg, and Dr. Paul Cunningham.

COMMISSION ACTION: A motion for preliminary approval of the project was made by Dr. Paul Cunningham, seconded by Dr. Devdutta Sangvai, and unanimously approved with the recusal of Dr. John Fagg.

C. Sharon Towers (Charlotte)…….……G. Knapp, J. Harms, & S. Lewis

Resolution: The Commission grants preliminary approval for a Presbyterian Home at Charlotte, Inc. (d/b/a Sharon Towers) project to provide funds to be used, together with other available funds, to (1) ***refund*** the North Carolina Medical Care Commission $23,500,000 Variable Rate Demand Health Care Facilities Revenue Bonds (The Presbyterian Home at Charlotte, Inc. Project), Series 2001, currently outstanding in the amount of $5,190,000, and to (2) ***construct*** and ***renovate*** the following:

(A) Independent Living/Apartment Building (The Deerwood) - $24,485,000
- 5 story – 46 Units (142,500 sq. ft.)
- Underground parking
- 1,000 – 2,050 square feet
- 1 BR, 1.5 bath up to 3 BR, 3 bath with den options

(B) Healthcare Center - $38,475,000

- 96 bed skilled nursing facility (102,000 sq. ft.)
- Renovate/replace all 4 floors
- Central Energy Plant upgrades (boilers/chiller/cooling towers/piping to Healthcare Center)

(C) Various Site Improvements - $6,995,000

- Road intersection improvement at entrance
- Park
- Entrance Relocation

Capital expenditures for new construction and the refunding shall be included as listed below, all in accordance with a preliminary application, plans and specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Cash and negotiable securities from reserves	$ 3,000,000
Principal amount of bonds to be issued	103,685,000
Total Sources	**$106,685,000**

ESTIMATED USES OF FUNDS

Amount to refund NCMCC Series 2001Bonds	$ 5,040,000
Construction Contracts	69,955,000
Construction Contingency (5% of Construction Contracts)	3,500,000
Architect Fees	4,050,000
Moveable Equipment	2,168,822
Construction Consultants	2,400,000
Marketing Costs	1,610,000
Legal Fees	265,000
Lender Inspections	75,000
Bond Interest during Construction	9,835,000
Debt Service Reserve Fund	5,890,000
Underwriter Discount/Placement Fee	1,145,000
Financial Advisor	105,000
Feasibility Study Fee	125,000
Accountant Fee	20,000
Corporation Counsel	80,000
Bond Counsel	85,000
Trustee Fee & Counsel	10,000
Bank Counsel	50,000
Printing Cost	7,500
DHSR Reimbursables (G.S. § 131-E-267)	49,928
Local Government Commission	8,750
Underwriter Counsel & Blue Sky Fee	65,000
Appraisal/Survey/Title/ Real Estate Related Fees	145,000
Total Uses	**$106,685,000**

Tentative approval is given with the understanding that the governing board of Sharon Towers accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.

2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.

3. Financial feasibility must be determined prior to the issuance of bonds.

4. The project must, in all respects, meet requirements of G.S. § 131A (Health Care Facilities Finance Act).

5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).

6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its residents.

7. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended ("Section 147(f)"), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the "Governor") approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

8. The borrower will comply with the Commission's Resolution: Community Benefits/Charity Care Agreement and Program Description for CCRCs as adopted.

9. The borrower will furnish, prior to the sale of or issuance of the bonds or notes or execution of the leases, evidence that it is in compliance with the covenants of all of its outstanding Medical Care Commission debt.

Based on information furnished by applicant, the project is:

1.	Financially feasible	✓ Yes	____ No	____ N/A
2.	Construction and related costs are reasonable	✓ Yes	____ No	____ N/A

See **Exhibit F** for compliance and selected application information. See **Exhibit M** for Sharon Towers' presentation.

Mr. Joe Crocker conducted the discussion and voting on the Bond Project for Sharon Towers. A presentation was given by Ms. Anne Moffat, CEO of Sharon Towers. Statements were made by Mr. Joe Crocker, Mr. Tad Melton, Dr. John Fagg, Dr. John Meier, and Mr. Geary Knapp.

COMMISSION ACTION: A motion for preliminary approval of the project was made by Dr. Robert Alphin, seconded by Mr. Bill Paugh, and unanimously approved with the recusal of Dr. John Fagg.

D. Rex Hospital, Inc. (Raleigh & Holly Springs)……..……G. Knapp, J. Harms, & S. Lewis

COMMISSION ACTION: Rex Hospital requested an exception to the Commission's compliance policy. A motion to allow Rex Hospital to proceed with the presentation and requiring a future Executive Committee meeting to grant an exception to the policy was made by Dr. John Meier, seconded by Dr. Paul Cunningham, and unanimously approved with the recusals of Dr. John Fagg, Dr. Robert Schaaf, Dr. Robert Alphin, and Dr. Devdutta Sangvai.

Resolution: The Commission grants preliminary approval for a Rex Hospital, Inc. project to provide funds to be used, together with other available funds, to ***construct*** the following:

(A) UNC Rex Holly Springs Hospital (Holly Springs) - $129,482,535
- 8 story with mechanical penthouse
- 230,000 sq. ft. hospital / 11,500 sq. ft. central energy plant
- 44 single occupant general medical/surgical beds & 6 ICU beds & 7 LDR beds & 10 observation beds
- 24 bay Emergency Department & 1 C-Section room & 3 ORs & 1 General Procedure room & 18 pre/post recovery rooms & 1 isolation room
- Sterile Processing Department & Lab & Pharmacy & Radiology & full-service kitchen

(B) UNC Rex Outpatient Cancer Center (Raleigh) - $47,919,316
- 4-story, 142,835 sq. ft. building and associated surface parking
- Level 1: Radiation Oncology – 3 Linear Accelerators & 1 HDR Brachytherapy & 1 CT Simulator & Offices and Exam rooms
- Level 2: Medical Oncology – 35 Exam rooms & 2 Treatment rooms & 1 X-ray room
- Level 3: Infusion Space – 55 Infusion Bays & 4 Exam rooms
- Level 4: Shell and Building Support Space

Capital expenditures for new construction shall be included as listed below, all in accordance with a preliminary application, plans and specifications and participation as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	$250,000,000
Total Sources	**$250,000,000**

ESTIMATED USES OF FUNDS

Construction Costs	$177,401,851
Architect Fees	10,369,583
Architect Reimbursables	380,513
Construction Contingency (1% of Construction Contracts)	1,774,018
Moveable Equipment	15,172,159
Surveys/Tests/Insurance	21,173,921
Consultant Fees	1,687,179
Bond Interest during Construction	20,000,000
Underwriter Discount/Placement Fee	875,000
Accountant Fee	130,000

Corporation Counsel	75,000
Bond Counsel	145,000
Rating Agencies	349,000
Trustee Fee	11,000
Printing Costs	5,000
DHSR Reimbursables (G.S. § 131-E-267)	182,026
Local Government Commission	8,750
Underwriter Counsel	110,000
Financial Advisor	150,000
Total Uses	**$250,000,000**

Tentative approval is given with the understanding that the governing board of Rex Hospital accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.

2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.

3. Financial feasibility must be determined prior to the issuance of bonds.

4. The project must, in all respects, meet requirements of G.S. § 131A (Health Care Facilities Finance Act).

5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).

6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.

7. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended ("Section 147(f)"), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the "Governor") approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

8. The borrower will provide the Commission annually a copy of the Advocacy Needs Data Initiative (ANDI) form it files with the North Carolina Healthcare Association (NCHA) in accordance with a resolution passed by the Commission on February 9, 2007 adopting the NCHA Community Benefits reporting format and methodology for hospitals reporting to the Commission.

9. The borrower will furnish, prior to the sale of or issuance of the bonds or notes or execution of the leases, evidence that it is in compliance with the covenants of all of its outstanding Medical Care Commission debt.

10. All health care facilities and services directly or indirectly owned or controlled by the health care organization, including physician practices, shall be available to Medicare and Medicaid patients with no limitations imposed as a result of the source of reimbursement.

Based on information furnished by applicant, the project is:

1.	Financially feasible	✓	Yes		No		N/A
2.	Construction and related costs are reasonable	✓	Yes		No		N/A

See **Exhibit G** for compliance and selected application information. See **Exhibit N** for Rex's presentation.

Mr. Joe Crocker conducted the discussion and voting on the Bond Project for Rex Hospital. A presentation was given by Mr. Steve Burris, CEO and Mr. Andy Zukowski, CFO of Rex Hospital. Statements were made by Dr. John Fagg, Mr. Joe Crocker, Dr. John Meier, Mr. Geary Knapp, Dr. Paul Cunningham, Mrs. Kathy Larrison, Mrs. Crystal Abbott, Mr. Linwood Hollowell, Mr. Bill Paugh, Mr. Jeff Wilson, Dr. Robert Schaaf, and Mr. Jeff Harms.

COMMISSION ACTION: A motion was made to approve the project contingent upon a future Executive Committee meeting approving an exception to the compliance policy by Mr. Bill Paugh, seconded by Mr. Steve Morton, and unanimously approved with the recusals of Dr. John Fagg, Dr. Robert Schaaf, Dr. Robert Alphin, and Dr. Devdutta Sangvai.

E. Vidant Health (multiple locations)…….G. Knapp

Resolution: The Commission grants preliminary approval for a University Health Systems of Eastern Carolina (d/b/a Vidant Health) project to provide funds to be used, together with other available funds, to (1) ***purchase*** a helicopter and to (2) ***refund*** the following:

(A) Vidant Health – NCMCC Series 2012A ($150,500,000)
- ***Advance Refund*** (*Taxable*) Amount - $87,955,000 (**Series 2019A - Taxable**)
- ***Current Refund*** Amount - $33,185,000 (Series 2019B)

(B) Halifax Regional Medical Ctr. (Acquired June 2019) – NCMCC Series 2011 ($6,500,000)
- ***Refund*** Amount - $5,130,000 (Series 2019B)

(C) Halifax Regional Medical Ctr. (Acquired June 2019) – NCMCC Series 2016 ($8,845,000)
- ***Refund*** Amount - $5,523,338 (Series 2019B)

(D) Halifax Regional Medical Ctr. (Acquired June 2019) – Taxable Bank Loan
- ***Refund*** Amount – $5,493,334
- Taxable bank loan was used to finance a replacement boiler and generator for Halifax Regional Medical Center

The Commission also grants preliminary approval to (3) ***exchange*** the *Series 2019A – Taxable* refunding bond for a *tax-exempt* bond within 90 days of the 6/1/2022 first optional call date of the NCMCC Series 2012A Bonds.

The intent of the proposed refundings is to take advantage of the low interest rate environment and to enter into a forward agreement with established terms for the exchange of the taxable bond for a tax-exempt bond. The proposed transaction in its entirety will result in an estimated NPV savings of $19,441,488.

The proposed transaction is in accordance with a preliminary application received as follows:

ESTIMATED SOURCES OF FUNDS

Principal amount of bonds to be issued	$148,660,000
Total Sources	**$148,660,000**

ESTIMATED USES OF FUNDS

Escrow amount to refund **taxable** Vidant Health Series 2019A Bonds	$ 95,004,695
Amount to refund Vidant Health Series 2012A Bonds	33,185,000
Amount to refund HRMC debt (NCMCC Bonds & private loan)	16,146,672
Purchase of Helicopter	3,860,000
Corporation Counsel	35,000
Bond Counsel	160,000
Trustee Fee	8,000
Local Government Commission	8,750
Financial Advisor	195,000
Bank Counsel	45,000
Escrow Agent	2,000
Trustee Counsel	6,000
Verification Agent	3,883
Total Uses	**$148,660,000**

Tentative approval is given with the understanding that the governing board of Vidant Health accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.

2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.

3. Financial feasibility must be determined prior to the issuance of bonds.

4. The project must, in all respects, meet requirements of G.S. § 131A (Health Care Facilities Finance Act).

5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).

6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its patients.

7. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended ("Section 147(f)"), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the "Governor") approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

8. The borrower will provide the Commission annually a copy of the Advocacy Needs Data Initiative (ANDI) form it files with the North Carolina Healthcare Association (NCHA) in accordance with a resolution passed by the Commission on February 9, 2007 adopting the NCHA Community Benefits reporting format and methodology for hospitals reporting to the Commission.

9. The borrower will furnish, prior to the sale of or issuance of the bonds or notes or execution of the leases, evidence that it is in compliance with the covenants of all of its outstanding Medical Care Commission debt.

10. All health care facilities and services directly or indirectly owned or controlled by the health care organization, including physician practices, shall be available to Medicare and Medicaid patients with no limitations imposed as a result of the source of reimbursement.

Based on information furnished by applicant, the project is:

1.	Financially feasible	✓ Yes	____ No	____ N/A
2.	Construction and related costs are reasonable	✓ Yes	____ No	____ N/A

See **Exhibit H** for compliance and selected application information. See **Exhibit O** for Vidant's presentation.

Mr. Joe Crocker conducted the discussion and voting on the Bond Project for Vidant. A presentation was given by David Hughes, CFO of Vidant Health. Statements were made by Dr. John Fagg, Mr. Joe Crocker, Dr. John Meier, and Mr. Geary Knapp.

COMMISSION ACTION: A motion for preliminary approval of the project was made by Dr. Devdutta Sangvai, seconded by Dr. John Meier, and unanimously approved with the recusal of Dr. Paul Cunningham.

F. Galloway Ridge, Inc. (Pittsboro)……G. Knapp

COMMISSION ACTION: Galloway Ridge requested an exception to the Commission's compliance policy. A motion to accept an exception to the policy was made by Dr. Devdutta Sangvai, seconded by Dr. John Meier, and unanimously approved allowing Galloway Ridge to proceed with the presentation.

Resolution: The Commission grants preliminary approval for a Galloway Ridge, Inc. project to provide funds to be used, together with other available funds, to ***refund*** the North Carolina Medical Care Commission $61,180,000 Retirement Facilities First Mortgage Revenue Bonds (Galloway Ridge Project), Series 2010A, currently outstanding in the amount of $51,855,000. The purpose of the refunding is to achieve debt service savings resulting from the current low interest rate environment. The approximate net present value of the savings is $8,581,879.

The proposed transaction is in accordance with a preliminary application received as follows:

ESTIMATED SOURCES OF FUNDS

Cash and negotiable securities from reserves	$ 6,000
Original Issue Premium	2,982,543
Trustee Held Funds (Accrued Principal & Interest)	2,352,141
Corporation Contribution	281,616
Principal amount of bonds to be issued	48,430,000
Total Sources	**$ 54,052,300**

ESTIMATED USES OF FUNDS

Escrow amount to refund NCMCC Series 2010A Bonds	$ 53,168,610
Rounding Contingency	3,315
Underwriter Discount/Placement Fee (including counsel)	605,375
Accountant Fee	35,000
Corporation Counsel	60,000
Bond Counsel	85,000
Trustee Fee (including counsel)	10,500
Printing Cost	3,500
Local Government Commission	8,750
Financial Advisor	68,750
Verification Agent	3,500
Total Uses	**$ 54,052,300**

Tentative approval is given with the understanding that the governing board of Galloway Ridge accepts the following conditions:

1. The project will continue to be developed pursuant to the applicable Medical Care Commission guidelines.

2. Any required certificate of need must be in effect at the time of the issuance of the bonds or notes.

3. Financial feasibility must be determined prior to the issuance of bonds.

4. The project must, in all respects, meet requirements of G.S. § 131A (Health Care Facilities Finance Act).

5. The Executive Committee of the Commission is delegated the authority to approve the issuance of bonds for this project and may approve the issuance of such greater principal amount of the loan as shall be necessary to finance the project; provided, however, that the amount set forth above shall not be increased by more than ten percent (10%).

6. The bonds or notes shall be sold in such a manner and upon such terms and conditions as will, in the sole judgment of the Executive Committee of the Commission, result in the lowest cost to the facility and its residents.

7. If public approval of the bonds is required for the purpose of Section 147(f) of the Internal Revenue Code of 1986, as amended ("Section 147(f)"), this tentative approval shall constitute the recommendation of the Commission that the Governor of the State of North Carolina (the "Governor") approve the issuance of such bonds, subject to the satisfaction of the requirements of Section 147(f) concerning the holding of a public hearing prior to the submission of such recommendation to the Governor.

8. The borrower will comply with the Commission's Resolution: Community Benefits/Charity Care Agreement and Program Description for CCRCs as adopted.

9. The borrower will furnish, prior to the sale of or issuance of the bonds or notes or execution of the leases, evidence that it is in compliance with the covenants of all of its outstanding Medical Care Commission debt.

Based on information furnished by applicant, the project is:

1.	Financially feasible	✓	Yes	_____	No	_____ N/A
2.	Construction and related costs are reasonable	✓	Yes	_____	No	_____ N/A

See **Exhibit I** for compliance and selected application information. See **Exhibit P** for Galloway Ridge's presentation.

Mr. Joe Crocker conducted the discussion and voting for the Bond Project on Galloway Ridge. A presentation was given by Mr. Rob Nelson, of Galloway Ridge and Mr. David Cheatwood of First Tryon Advisors. Statements were made by Mr. Joe Crocker, Dr. John Fagg, and Mr. Geary Knapp.

COMMISSION ACTION: A motion for preliminary approval of the project was made by Dr. Devdutta Sangvai, seconded by Dr. John Meier, and unanimously approved with the recusal of Dr. John Fagg.

VI. New Business (**Action Items**)……..Nadine Pfeiffer

A. Rules for Initiating Rulemaking Approval (Discuss rules & fiscal note)

1. Adult Care/Family Care Home Rules…….……...……N. Pfeiffer & M. Lamphere

Readoption of six rules following Periodic Review (Phase 1.5), Amendment of four rules, and Repeal of one rule (Total 11 rules)

- Rules: 10A NCAC 13F .0202, .0204, .0208, .0209, and .0212; 10A NCAC 13G .0202, .0204, .0208, .0209, .0212 and .0213 (**See Exhibits C thru C/4**)

2. Licensing of Hospital Rules - Phase III Readoption Rules……...…..N. Pfeiffer & A. Conley

Readoption of 13 rules following Periodic Review

- Rules: 10A NCAC 13B .1902, .1915, .1918, .1925, .3001, .3101, .3110, .3204, .3205, .3302, .3303, .5412, and .5413. (**See Exhibits C/5 thru C/8**)

Dr. John Fagg conducted the discussion on the Adult Care/Family Care Home Rules and Licensing of Hospital Rules. Remarks were made by Dr. John Fagg, Nadine Pfeiffer, and Ms. Azzie Conley.

<u>COMMISSION ACTION</u>: Motion was made to approve the Adult Care Home/Family Care Home rules and the Licensing of Hospital Rules/Phase III readoptions by Dr. Paul Cunningham, seconded by Mr. Joe Crocker, and unanimously approved.

VII. Hospital Bylaws Rules (**No Action – Update Only**).....…….……Nadine Pfeiffer

Dr. Fagg stated the Bylaws rules have been revised several times since meetings started three years ago. The Bylaws Subcommittee will review the current version of the rules and make a recommendation to the Commission to accept or not accept the current rules in November. (**See Exhibits C/9 thru C/11**)

VIII. Technical Corrections (**Action Item**)……...……..Nadine Pfeiffer

WHEREAS, SL2019-140 granted authority to the Codifier to revise rules with technical changes and bypass the Rules Review Commission, and

WHEREAS, technical changes are change information readily available to the public such as an address, email address, agency rename, telephone number, website, repealed statute or rule correction, typographical error, and

WHEREAS, the staff of the Medical Care Commission can submit rules with technical changes, as identified by staff, but with no content addition or deletion, to the Codifier and provide notice to the Medical Care Commission at regularly scheduled quarterly meetings;

THEREFORE, BE IT RESOLVED; that the Medical Care Commission authorizes staff to submit revised rules with technical changes to the Codifier without prior Medical Care Commission approval.

<u>COMMISSION ACTION</u>: Motion to approve the technical corrections was made by Mr. Al Lockamy, seconded by Dr. John Meier, and unanimously approved.

IX. Refunding of Commission Bond Issues (**Action Item**)..……...……..Geary W. Knapp

<u>Recommended</u>:

WHEREAS, the bond market is in a period of generally fluctuating interest rates, and

WHEREAS, in the event of decline of rates during the next quarter, refunding of certain projects could result in significant savings in interest expense thereby reducing the cost of health care to patients, and

WHEREAS, the Commission will not meet again until November 8, 2019 in Raleigh, North Carolina;

THEREFORE, BE IT RESOLVED; that the Commission authorize its Executive Committee to approve projects involving the refunding of existing Commission debt between this date and November 8, 2019.

<u>COMMISSION ACTION</u>: Motion was made to authorize the Executive Committee to approve projects involving the refunding of existing Commission debt between this date and November 8, 2019 by Mr. Joe Crocker, seconded by Dr. John Meier, and unanimously approved.

X. Adjournment – A motion to adjourn is requested.

Respectfully Submitted,

Geary W. Knapp, JD, CPA
Assistant Secretary

EXHIBIT A/1

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

ROY COOPER
GOVERNOR

August 22, 2019

Ms. Sally Boyette Cone
112 Fisher Park Circle
Greensboro, North Carolina 27401

Dear Sally:

I am pleased to appoint you to serve as a member of the North Carolina Medical Care Commission. Pursuant to N.C. Gen. Stat. § 143B-166, your appointment is effective immediately. Your term will expire on June 30, 2023.

Your board or commission is covered by the State Ethics Act. As a result, you must participate in ethics training within six months of your appointment and every two years thereafter, and you will be required to file a Statement of Economic Interest by April 15 of each year.

I am grateful for your willingness to serve the people of North Carolina. Your leadership and commitment to this Commission are key to our efforts to strengthen our communities and improve the quality of life for our people.

Please read the enclosed instructions carefully so that we may complete the appointment process. If you have any questions or need additional information, please contact the Office of Boards and Commissions at (919) 814-2077.

With kind regards, I am

Very truly yours,

Roy Cooper

cc: Dr. Mandy K. Cohen

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

ROY COOPER
GOVERNOR

August 22, 2019

Mr. Bryant Clifford Foriest
8575 Sheppards Run Drive
Kernersville, North Carolina 27284

Dear Bryant:

I am pleased to appoint you to serve as a member of the North Carolina Medical Care Commission. Pursuant to N.C. Gen. Stat. § 143B-166, your appointment is effective immediately. Your term will expire on June 30, 2023.

Your board or commission is covered by the State Ethics Act. As a result, you must participate in ethics training within six months of your appointment and every two years thereafter, and you will be required to file a Statement of Economic Interest by April 15 of each year.

I am grateful for your willingness to serve the people of North Carolina. Your leadership and commitment to this Commission are key to our efforts to strengthen our communities and improve the quality of life for our people.

Please read the enclosed instructions carefully so that we may complete the appointment process. If you have any questions or need additional information, please contact the Office of Boards and Commissions at (919) 814-2077.

With kind regards, I am

Very truly yours,

Roy Cooper

cc: Dr. Mandy K. Cohen

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Exhibit A/3

THE NORTH CAROLINA MEDICAL CARE COMMISSION RESOLUTION OF APPRECIATION

ROBERT S. ALPHIN, M.D.

WHEREAS, Robert S. Alphin, M.D. was a member of the North Carolina Medical Care Commission from July 20, 2015 until August 22, 2019; and

WHEREAS, Dr. Alphin served with a devotion of interest far beyond the call of duty with the highest integrity, graciousness, and efficiency; and

WHEREAS, during Dr. Alphin's tenure, the Medical Care Commission assisted many hospitals and other health care facilities with tax exempt bond financing; and

WHEREAS, during Dr. Alphin's tenure, significant program rules were revised and/or adopted to ensure the quality of health services to the people of North Carolina; and

NOW, THEREFORE, BE IT RESOLVED that the North Carolina Medical Care Commission does hereby record its great appreciation for the services of Dr. Alpin, and

BE IT RESOLVED, FURTHER, that this resolution be recorded in the permanent minutes of the Commission.

Resolved this the 8th day of November, 2019.

John J. Meier, IV, M.D., Chairman

ATTEST:

S. Mark Payne, Secretary

THE NORTH CAROLINA MEDICAL CARE COMMISSION RESOLUTION OF APPRECIATION

DEVDUTTA G. SANGVAI, M.D.

WHEREAS, Devdutta G. Sangvai, M.D. was a member of the North Carolina Medical Care Commission from July 21, 2015 until August 22, 2019; and

WHEREAS, Dr. Sangvai served with a devotion of interest far beyond the call of duty with the highest integrity, graciousness, and efficiency; and

WHEREAS, during Dr. Sangvai's tenure, the Medical Care Commission assisted many hospitals and other health care facilities with tax exempt bond financing; and

WHEREAS, during Dr. Sangvai's tenure, significant program rules were revised and/or adopted to ensure the quality of health services to the people of North Carolina; and

NOW, THEREFORE, BE IT RESOLVED that the North Carolina Medical Care Commission does hereby record its great appreciation for the services of Dr. Sangvai, and

BE IT RESOLVED, FURTHER, that this resolution be recorded in the permanent minutes of the Commission.

Resolved this the 8th day of November, 2019.

John J. Meier, IV, M.D., Chairman

ATTEST:

S. Mark Payne, Secretary

THE NORTH CAROLINA MEDICAL CARE COMMISSION RESOLUTION OF APPRECIATION

JOHN A. FAGG, M.D.

WHEREAS, John A. Fagg, M.D., served as Chairman of the North Carolina Medical Care Commission from February 19, 2014 until August 22, 2019; and

WHEREAS, Dr. Fagg has served as Chairman to the Commission for over 5 years with a devotion of interest far beyond the call of duty with the highest integrity, graciousness, and efficiency; and

WHEREAS, during Dr. Fagg's tenure, the Medical Care Commission assisted many health care facilities with tax-exempt bond financing; and

WHEREAS, during Dr. Fagg's tenure, significant program rules were revised and/or adopted to ensure the quality of health services to the people of North Carolina; and

WHEREAS, during Dr. Fagg's tenure as Chairman of North Carolina Medical Care Commission he provided inspirational leadership, practical management skills, and effective conflict resolution; and

NOW, THEREFORE, BE IT RESOLVED that the North Carolina Medical Care Commission does hereby record its great appreciation for the services of Dr. Fagg, and

BE IT RESOLVED, FURTHER, that this resolution be recorded in the permanent minutes of the Commission.

Resolved this the 8th day of November, 2019.

John J. Meier, IV, M.D., Chairman

ATTEST:

S. Mark Payne, Secretary

NC Medical Care Commission

Quarterly Report on **Outstanding Debt** (End: 3rd Quarter FYE 2019)

Program Measures	FYE 2019 Ending: 6/30/2019	FYE 2020 Ending: 9/30/2019
Outstanding Debt	**$5,878,126,412**	**$6,171,963,468**
Outstanding Series	**131**	**132**[1]

Detail of Program Measures	Ending: 6/30/2019	Ending: 9/30/2019
Outstanding Debt per Hospitals and Healthcare Systems	$4,672,572,057	$4,968,260,151
Outstanding Debt per CCRCs	$1,147,209,355	$1,145,358,316
Outstanding Debt per Other Healthcare Service Providers	$58,345,000	$58,345,000
Outstanding Debt Total	**$5,878,126,412**	**$6,171,963,468**
Outstanding Series per Hospitals and Healthcare Systems	76	77
Outstanding Series per CCRCs	53	53
Outstanding Series per Other Healthcare Service Providers	2	2
Series Total	**131**	**132**
Number of Hospitals and Healthcare Systems with Outstanding Debt	19	19
Number of CCRCs with Outstanding Debt	20	20
Number of Other Healthcare Service Providers with Outstanding Debt	2	2
Facility Total	41	41

Note 1: For FYE 2020, NC MCC closed 3 **Bond Series** thru the 1st Quarter. Out of the 3 closed Bond Series: 2 were conversions, 1 was a new money projects, and 0 refundings. The gain of 1 for Bond Series outstanding from FYE 2019 to current represents all new money projects, refundings, conversions, and redemptions.

GENERAL NOTES: Facility Totals represent a parent entity total and <u>do not</u> represent each individual facility owned by the parent entity. CCRCs are licensed by the NC Department of Insurance. "Other Healthcare Service Providers" would include nursing homes, rehabilitation facilities, assisted living, blood donation centers, independent living, and hospice facilities. The following parent entities represent the current "other healthcare service providers" with outstanding NC MCC debt: DePaul (Assisted Living); Lutheran Services (Assisted Living)

NC Medical Care Commission

Quarterly Report on **History** of NC MCC Finance Act Program (End: 3rd Quarter FYE 2019)

Program Measures	FYE 2019 Ending: 6/30/2019	FYE 2020 Ending: 9/30/2019
Total PAR Amount of Debt Issued	**$25,538,623,155**	**$25,886,771,074**
Total Project Debt Issued (excludes refunding/conversion proceeds) [1]	**$12,288,054,987**	**$12,600,237,906**
Total Series Issued	**629**	**632**

Detail of Program Measures		Ending: 6/30/2019	Ending: 9/30/2019
PAR Amount of Debt per Hospitals and Healthcare Systems		$20,794,927,185	$21,101,912,185
PAR Amount of Debt per CCRCs		$4,369,400,740	$4,410,563,659
PAR Amount of Debt per Other Healthcare Service Providers		$374,295,230	$374,295,230
	Par Amount Total	**$25,538,623,155**	**$25,886,771,074**
Project Debt per Hospitals and Healthcare Systems		$9,643,788,740	$9,950,773,740
Project Debt per CCRCs		$2,397,252,332	$2,402,450,251
Project Debt per Other Healthcare Service Providers		$247,013,915	$247,013,915
	Project Debt Total	**$12,288,054,987**	**$12,600,237,906**
Series per Hospitals and Healthcare Systems		397	398
Series per CCRCs		193	195
Series per Other Healthcare Service Providers		39	39
	Series Total	**629**	**632**
Number of Hospitals and Healthcare Systems issuing debt		99	99
Number of CCRCs issuing debt		40	40
Number of Other Healthcare Service Providers issuing debt		46	46
	Facility Total	185	185

Note 1: Project Debt excludes bond proceeds that directly refunded prior NCMCC outstanding issues and conversion par amounts. Project Debt is an accumulation of all new project money, issuance costs (including issuance costs for refundings/conversions (if any)), and refundings of non-NCMCC debt.

GENERAL NOTES: Facility Totals represent each individual facility and <u>do not</u> represent parent entity totals. CCRCs are licensed by the NC Department of Insurance. "Other Healthcare Service Providers" would include nursing homes, rehabilitation facilities, assisted living, blood donation centers, non-CCRC independent living, and hospice facilities.

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

The North Carolina Medical Care Commission
809 Ruggles Drive
Raleigh, North Carolina

MINUTES

CALLED MEETING OF THE EXECUTIVE COMMITTEE
CONFERENCE TELEPHONE MEETING ORIGINATING
FROM THE COMMISSION'S OFFICE
SEPTEMBER 26, 2019
11:00 A.M.

Members of the Executive Committee Present:

John J. Meier, IV, M.D., Chairman
Joseph D. Crocker, Vice-Chairman
Charles H. Hauser
Eileen C. Kugler, RN, MSN, MPH, FNP
Albert F. Lockamy, RPh

Members of the Executive Committee Absent:

None

Members of Staff Present:

S. Mark Payne, DHSR Director/MCC Secretary
Geary W. Knapp, JD, CPA, Assistant Secretary
Kathy C. Larrison, Auditor
Crystal Watson-Abbott, Auditor
Alice S. Creech, Executive Assistant

Others Present:

Brent Conklin, Twin Lakes Retirement Community
Pam Fox, Twin Lakes Retirement Community
Tad Melton, Ziegler
Jeff Poley, Parker Poe Adams & Bernstein, LLP

1. Purpose of Meeting

To authorize the sale of bonds, the proceeds of which are to be loaned to Lutheran Retirement Ministries of Alamance County (Twin Lakes Community), North Carolina.

A. Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of $42,860,000 North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Bonds (Twin Lakes Community) Series 2019A.

Statements were given by Geary Knapp, Jeff Poley, Joe Crocker, Tad Melton and John Meier.

Executive Committee Action: Motion was made to approve the resolution by Mr. Joe Crocker, seconded by Mr. Al Lockamy, and unanimously approved.

WHEREAS, the North Carolina Medical Care Commission (the "Commission") is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the "Act"), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities (including retirement facilities) and to refund bond previously issued by the Commission; and

WHEREAS, Lutheran Retirement Ministries of Alamance County, North Carolina (the "Corporation"), is a North Carolina nonprofit corporation and a "non-profit agency" within the meaning and intent of the Act, which owns and operates a continuing care facilities for the elderly in the town of Elon and bordering the city of Burlington, North Carolina; and

WHEREAS, the Corporation has made application to the Commission for a loan for the purpose of providing funds, together with other available funds, to (a) pay costs of the Project (as defined in the hereinafter defined Loan Agreement) and (b) pay certain fees and expenses incurred in connection with the issuance and sale of the Bonds (hereinafter defined) by the Commission; and

WHEREAS, the Commission has determined that the public will best be served by the proposed financing and, by a resolution adopted on August 21, 2019, has approved the issuance of the Bonds, subject to compliance by the Corporation with the conditions set forth in such resolution, and the Corporations have complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there have been presented to officers and staff of the Commission draft copies of the following documents relating to the issuance of the Bonds:

(a) a Contract of Purchase, to be dated the date thereof (the "Purchase Agreement"), between the Local Government Commission of North Carolina (the "LGC") and B.C. Ziegler and Company, as representative of the underwriters of Bonds, and approved by the Corporation and the Commission, pursuant to which the underwriters will offer to purchase the Bonds on the terms and conditions set forth therein;

(b) a Trust Agreement, to be dated as of October 1, 2019 (the "Trust Agreement"), by and between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee;

(c) a Loan Agreement, to be dated as of October 1, 2019 (the "Loan Agreement"), between the Commission and the Corporation, pursuant to which the Commission will lend the proceeds of the Bonds to the Corporation;

(d) an Amended and Restated Master Trust Indenture to be dated as of October 1, 2019 (the "Master Indenture"), by and between the Corporation and The Bank of New York Mellon Trust Company, N.A., as master trustee (the "Master Trustee");

(e) an Amended and Restated Deed of Trust, to be dated as of October 1, 2019 (the "Corporation Deed of Trust"), from the Corporation for the benefit of the Master Trustee and securing the Corporation's facilities

(f) a Supplemental Indenture for Obligation No. 9, to be dated as of October 1, 2019 ("Supplement No. 9"), between the Corporation and the Master Trustee;

(g) Obligation No. 9, dated October 9, 2019 ("Obligation No. 9"), from the Corporation to the Commission in connection with the Bonds; and

(h) a Preliminary Official Statement dated September 11, 2019 relating to the Bonds (the "Preliminary Official Statement"); and

WHEREAS, the Commission has determined that the Corporations are financially responsible and capable of fulfilling its obligations under the Loan Agreement, the Master Indenture, Supplement No. 9 and Obligation No. 9; and

WHEREAS, the Commission has determined that adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Capitalized words and terms used in this Series Resolution and not defined herein shall have the same meanings in this Series Resolution as such words and terms are given in the Master Indenture, the Trust Agreement and the Loan Agreement.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Bonds (Twin Lakes Community) Series 2019A (the "Bonds"), in the aggregate principal amount of $42,860,000. The Bonds shall mature in such amounts and at such times and shall bear interest at such rates as are set forth in Schedule 1 attached hereto. The Bonds designated as Term Bonds shall be subject to the Sinking Fund Requirements set forth in Schedule 1 hereto.

The Bonds shall be issued as fully registered bonds in the denominations of $5,000 or any whole multiple thereof. The Bonds shall be issued in book-entry form as provided in the Trust Agreement. Interest on the Bonds shall be paid on each January 1 and July 1, beginning January 1, 2020. Payments of principal of and interest on the Bonds shall be made to the registered owners of the Bonds in such manner as is set forth in the Trust Agreement.

Section 3. The Bonds shall be subject to optional, extraordinary and mandatory sinking fund redemption, all at the times, upon the terms and conditions, and at the prices set forth in the Trust Agreement.

Section 4. The proceeds of the Bonds shall be applied as provided in Section 2.08 of the Trust Agreement. The Commission hereby finds that the use of the proceeds of the Bonds for a loan for the purposes set forth above will accomplish the public purposes set forth in the Act.

Section 5. The forms, terms and provisions of the Trust Agreement and the Loan Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Trust Agreement and the Loan Agreement in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 6. The form, terms and provisions of the Purchase Agreement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) is hereby authorized and directed to execute and deliver the Purchase Agreement in substantially the form presented at this meeting, together with such changes, modifications, insertions and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. The forms of the Bonds set forth in the Trust Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such forms of the Bonds, and to deliver to the Bond Trustee for authentication on behalf of the Commission, the Bonds in definitive form, which shall be in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary, appropriate and consistent with the Trust Agreement, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. The forms, terms and provisions of Supplement No. 9, Obligation No. 9, the Master Indenture and the Corporation Deed of Trust are hereby approved in substantially the forms presented to this meeting, together with such changes, modifications and deletions as the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission, with the advice of counsel may deem necessary and appropriate; and the execution and delivery of the Trust Agreement as provided in Section 5 of this Series Resolution shall be conclusive evidence of the approval of the documents listed in this Section by the Commission.

Section 9. The Commission hereby approves the action of the Local Government Commission in awarding the Bonds to the Underwriters at the purchase price of $48,813,986.70 (representing the principal amount of the Bonds plus original issue premium of $6,361,156.70 and less underwriters' discount of $407,170.00).

Section 10. Upon their execution in the form and manner set forth in the Trust Agreement, the Bonds shall be deposited with the Bond Trustee for authentication, and the Bond Trustee is hereby authorized and directed to authenticate the Bonds and, upon the satisfaction of the conditions set forth in Section 2.08 of the Trust Agreement, the Bond Trustee shall deliver the Bonds to the Underwriters against payment therefor.

Section 11. The Commission hereby approves and ratifies the use and distribution of the Preliminary Official Statement and approves the use and distribution of a final Official Statement (the "Official Statement"), both in connection with the sale of the Bonds. The Chairman, Vice Chairman, Secretary or any Assistant Secretary (or any member of the Commission designated by the Chairman) is hereby authorized to execute, on behalf of the Commission, the Official Statement in substantially the form of the Preliminary Official Statement, together with such changes, modifications and deletions as they, with the advice of counsel, may deem appropriate. Such execution shall be conclusive evidence of the approval thereof by the Commission. The Commission hereby approves and authorizes the distribution and use of copies of the Official Statement, the Trust Agreement, the Loan Agreement, the Master Indenture, Supplement No. 9, Obligation No. 9 and the Corporation Deed of Trust by the Underwriters in connection with such sale.

Section 12. The Bank of New York Mellon Trust Company, N.A. is hereby appointed as the initial Bond Trustee for the Bonds.

Section 13. The Depository Trust Company, New York, New York is hereby appointed as the initial Securities Depository for the Bonds, with Cede & Co., a nominee thereof, being the initial Securities Depository Nominee and initial registered owner of the Bonds.

Section 14. S. Mark Payne, Secretary of the Commission, Geary W. Knapp, Assistant Secretary of the Commission and Kathy C. Larrison and Crystal Watson-Abbott, Auditors for the Commission, are each hereby appointed a Commission Representative as that term is defined in the Loan Agreement, with full power to carry out the duties set forth therein.

Section 15. The Chairman, Vice Chairman, Secretary, and any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are each hereby authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments (including tax certificates and IRS Form 8038) as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Trust Agreement, the Loan Agreement, the Purchase Agreement and the Official Statement.

Section 16. This Series Resolution shall take effect immediately upon its passage.

B. Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of $23,025,000 North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue and Revenue Refunding Bonds (Twin Lakes Community) Series 2019B.

Statements were given by Geary Knapp, Jeff Poley, John Meier, Tad Melton, Pam Fox, and Brent Conklin.

<u>Executive Committee Action</u>: Motion was made to approve the resolution by Mrs. Eileen Kugler, seconded by Mr. Joe Crocker, and unanimously approved.

WHEREAS, the North Carolina Medical Care Commission (the "Commission") is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the "Act"), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the

cost of financing or refinancing health care facilities (including retirement facilities) and to refund bond previously issued by the Commission; and

WHEREAS, Lutheran Retirement Ministries of Alamance County, North Carolina (the "Corporation"), is a North Carolina nonprofit corporation and a "non-profit agency" within the meaning and intent of the Act, which owns and operates a continuing care facilities for the elderly in the town of Elon and bordering the city of Burlington, North Carolina; and

WHEREAS, the Corporation has made application to the Commission for a loan for the purpose of providing funds, together with other available funds, to (a) pay costs of the Project (as defined in the hereinafter defined Loan Agreement), (b) refund certain outstanding bonds of the Commission and (c) pay certain fees and expenses incurred in connection with the issuance and sale of the Bonds (hereinafter defined) by the Commission; and

WHEREAS, the Commission has determined that the public will best be served by the proposed financing and, by a resolution adopted on August 21, 2019, has approved the issuance of the Bonds, subject to compliance by the Corporation with the conditions set forth in such resolution, and the Corporations have complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there have been presented to officers and staff of the Commission draft copies of the following documents relating to the issuance of the Bonds:

(i) a Contract of Purchase, to be dated the date thereof (the "Purchase Agreement"), between the Local Government Commission of North Carolina (the "LGC") and BB&T Community Holdings Co. (the "Purchaser") and approved by the Corporation and the Commission, pursuant to which the Purchaser will offer to purchase the Bonds on the terms and conditions set forth therein;

(j) a Trust Agreement, to be dated as of October 1, 2019 (the "Trust Agreement"), by and between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee;

(k) a Loan Agreement, to be dated as of October 1, 2019 (the "Loan Agreement"), between the Commission and the Corporation, pursuant to which the Commission will lend the proceeds of the Bonds to the Corporation;

(l) an Amended and Restated Master Trust Indenture to be dated as of October 1, 2019 (the "Master Indenture"), by and between the Corporation and The Bank of New York Mellon Trust Company, N.A., as master trustee (the "Master Trustee");

(m) an Amended and Restated Deed of Trust, to be dated as of October 1, 2019 (the "Corporation Deed of Trust"), from the Corporation for the benefit of the Master Trustee and securing the Corporation's facilities

(n) a Supplemental Indenture for Obligation No. 10, to be dated as of October 1, 2019 ("Supplement No. 10"), between the Corporation and the Master Trustee;

(o) Obligation No. 10, dated October 9, 2019 ("Obligation No. 10"), from the Corporation to the Commission in connection with the Bonds;

(p) a Supplemental Indenture for Obligation No. 11, to be dated as of October 1, 2019 ("Supplement No. 11"), between the Corporation and the Master Trustee;

(q) Obligation No. 11, dated the date of delivery of the Bonds ("Obligation No. 11"), to be issued by the Corporation to the Purchaser; and

(r) a Continuing Covenants Agreement, dated as of October 1, 2019, between the Corporation and the Purchaser; and

WHEREAS, the Commission has determined that the Corporation is financially responsible and capable of fulfilling its obligations under the Loan Agreement, the Master Indenture, Supplement No. 10, Supplement No. 11, Obligation No. 10, Obligation No. 11 and the Corporation Deed of Trust; and

WHEREAS, the Purchaser has offered to purchase the Bonds at a variable interest rate equal to (79% of One-Month LIBOR) plus 0.77% (which was 2.37% as of September 25, 2019) and hold the Bonds until maturity; and

WHEREAS, the Commission has determined that adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Capitalized words and terms used in this Series Resolution and not defined herein shall have the same meanings in this Series Resolution as such words and terms are given in the Master Indenture, the Trust Agreement and the Loan Agreement.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue and Revenue Refunding Bonds (Twin Lakes Community) Series 2019B (the "Bonds"), in an aggregate principal amount not to exceed $23,025,000. The Bonds shall mature in such amounts and at such times and shall bear interest at such rates as are set forth in the Trust Agreement. The Bonds shall be subject to the sinking fund redemptions set forth in Schedule 2 hereto.

The Bonds shall be issued as fully registered bonds in denominations of $1. Interest on the Bonds shall be paid at the times and at the rates determined as specified in the Trust Agreement. Payments of principal of and interest on the Bonds shall be made to the registered owners of the Bonds in such manner as is set forth in the Trust Agreement.

Section 3. The Bonds shall be subject to optional and extraordinary and all at the times, upon the terms and conditions, and at the prices set forth in the Trust Agreement. The Purchaser will require certain optional redemptions.

Section 4. The proceeds of the Bonds shall be applied as provided in Section 2.10 of the Trust Agreement. The Commission hereby finds that the use of the proceeds of the Bonds for a loan for the purposes set forth above will accomplish the public purposes set forth in the Act.

Section 5. The forms, terms and provisions of the Trust Agreement and the Loan Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Trust Agreement and the Loan

Agreement in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 6. The form, terms and provisions of the Purchase Agreement are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) is hereby authorized and directed to execute and deliver the Purchase Agreement in substantially the form presented at this meeting, together with such changes, modifications, insertions and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. The forms of the Bonds set forth in the Trust Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such forms of the Bonds, and to deliver to the Bond Trustee for authentication on behalf of the Commission, the Bonds in definitive form, which shall be in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary, appropriate and consistent with the Trust Agreement, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. The forms, terms and provisions of Supplement No. 10, Supplement 11, Obligation 10, Obligation No. 11, the Master Indenture and the Corporation Deed of Trust are hereby approved in substantially the forms presented to this meeting, together with such changes, modifications and deletions as the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission, with the advice of counsel may deem necessary and appropriate; and the execution and delivery of the Trust Agreement as provided in Section 5 of this Series Resolution shall be conclusive evidence of the approval of the documents listed in this Section by the Commission.

Section 9. The Commission hereby approves the action of the LGC authorizing the private sale of the Bonds to the Purchaser in accordance with the Purchase Agreement at the purchase price of 100% of the principal amount thereof.

Section 10. Upon their execution in the form and manner set forth in the Trust Agreement, the Bonds shall be deposited with the Bond Trustee for authentication, and the Bond Trustee is hereby authorized and directed to authenticate the Bonds and, upon the satisfaction of the conditions set forth in Section 2.10 of the Trust Agreement, the Bond Trustee shall deliver the Bonds to the Purchaser against payment therefor.

Section 11. The Bank of New York Mellon Trust Company, N.A. is hereby appointed as the initial Bond Trustee for the Bonds.

Section 12. S. Mark Payne, Secretary of the Commission, Geary W. Knapp, Assistant Secretary of the Commission and Kathy C. Larrison and Crystal Watson-Abbott, Auditors for the Commission, are each hereby appointed a Commission Representative as that term is defined in the Loan Agreement, with full power to carry out the duties set forth therein.

Section 13. The Chairman, Vice Chairman, Secretary, and any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are each hereby authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments (including tax certificates and IRS Form 8038) as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Trust Agreement, the Loan Agreement, the Purchase Agreement and the Official Statement.

Section 14. This Series Resolution shall take effect immediately upon its passage.

2. Adjournment

There being no further business, the meeting was adjourned at 11:25 a.m.

Respectfully submitted,

Geary W. Knapp, JD, CPA
Assistant Secretary

SCHEDULE 1

Series 2019A Bonds

$8,495,000 5.00% Term Bonds due January 1, 2038

Due January 1	Sinking Fund Requirement
2035	$1,965,000
2036	2,070,000
2037	2,175,000
2038*	2,285,000

* Maturity

$16,395,000 5.00% Term Bonds due January 1, 2044

Due January 1	Sinking Fund Requirement
2039	$2,405,000
2040	2,525,000
2041	2,655,000
2042	2,790,000
2043	2,935,000
2044*	3,085,000

* Maturity

$17,970,000 5.00% Term Bonds due January 1, 2049

Due January 1	Sinking Fund Requirement
2045	$3,245,000
2046	3,410,000
2047	3,585,000
2048	3,770,000
2049*	3,960,000

* Maturity

SCHEDULE 2

Series 2019B Bonds

Sinking Fund Redemption Schedule

01/01/2020	855,000
01/01/2021	875,000
01/01/2022	1,335,000
01/01/2023	1,385,000
01/01/2024	1,435,000
01/01/2025	1,490,000
01/01/2026	1,545,000
01/01/2027	1,605,000
01/01/2028	1,665,000
01/01/2029	1,710,000
01/01/2030	1,745,000
01/01/2031	1,785,000
01/01/2032	1,825,000
01/01/2033	1,865,000
01/01/2034	1,905,000
	23,025,000

PROFESSIONAL FEES COMPARISON FOR
LUTHERAN RETIREMENT MINISTRIES OF ALAMANCE COUNTY, NORTH CAROLINA
(Both Series of Bonds Combined)

Professional	Fees Estimated In Preliminary Approval Resolution	Actual Fees
Underwriters' discount/Placement Fee	$630,000	$487,757.50
Feasibility Study Fee	90,000	108,700
Accountant's fees	25,000	30,000
Corporation counsel	35,000	50,000
Bond counsel	95,000	95,000
Underwriter's counsel & Blue Sky	68,750	69,500
Trustee fees and counsel	15,000	15,300
Local Government Commission fee	8,750	8,750
Bank Counsel	35,000	40,000
Real Estate Fees	120,000	33,000
Rating Agency	80,000	55,000
Bank Fee	15,000	11,512.50
Swap Advisor	50,000	50,000

NC MCC Bond Sale Approval Form												
Facility Name: Twin Lakes Community (Burlington, NC)												
	Time of Preliminary Approval		**Time of Mailing POS (if applicable)**		**Time of Final Approval**		**Total Variance**		**Explanantion of Variance**			
SERIES: 2019A (Public Bonds)												
PAR Amount	$50,490,000.00		$44,055,000.00		$42,860,000.00		($7,630,000.00)		Eliminated debt service reserve fund and premium structure.			
Estimated Interest Rate	5.00%		4.17%		4.06%		-0.94%					
All-in True Interest Cost	5.25%		4.34%		4.15%		-1.10%					
Maturity Schedule (Interest) - Date	3/30/2020 - 9/30/2049		3/30/2020 - 9/30/2049		3/30/2020 - 9/30/2049							
Maturity Schedule (Principal) - Date	9/30/2025 - 9/30/2049		9/30/2025 - 9/30/2049		9/30/2025 - 9/30/2049							
Bank Holding Period (if applicable) - Date	N/A		N/A		N/A							
Estimated NPV Savings ($) (if refunded bonds)	N/A		N/A		N/A							
Estimated NPV Savings (%) (if refunded bonds)	N/A		N/A		N/A							
NOTES:												
	Time of Preliminary Approval		**Time of Mailing POS (if applicable)**		**Time of Final Approval**		**Total Variance**		**Explanantion of Variance**			
SERIES: Series 2019B (Bank Bonds)												
PAR Amount	$26,545,000.00		$22,995,000.00		$23,025,000.00		($3,520,000.00)					
Estimated Interest Rate	3.75%		2.80%		2.92%		-0.83%					
All-in True Interest Cost	4.00%		2.86%		2.98%		-1.02%					
Maturity Schedule (Interest) - Date	11/30/2019 - 9/30/2049		11/30/2019 - 9/30/2049		11/30/2019 - 9/30/2049							
Maturity Schedule (Principal) - Date	9/30/2020 - 9/30/2034		9/30/2020 - 9/30/2034		9/30/2020 - 9/30/2034							
Bank Holding Period (if applicable) - Date	15 Years		15 Years		15 Years							
Estimated NPV Savings ($) (if refunded bonds)	N/A		N/A		N/A							
Estimated NPV Savings (%) (if refunded bonds)	N/A		N/A		N/A							
NOTES:												

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

The North Carolina Medical Care Commission
809 Ruggles Drive
Raleigh, North Carolina

MINUTES

CALLED MEETING OF THE EXECUTIVE COMMITTEE OF THE COMMISSION
CONFERENCE TELEPHONE MEETING ORIGINATING
FROM THE OFFICES OF THE COMMISSION
October 2, 2019
2:00 p.m.

Members of the Commission Present:

John J. Meier, IV, M.D., Chairman
Joseph D. Crocker, Vice-Chairman
Charles H. Hauser
Eileen C. Kugler, RN, MSN, MPH, FNP
Albert F. Lockamy, RPh

Members of the Commission Absent:

None

Members of Staff Present:

S. Mark Payne, DHSR Director, MCC Secretary
Geary W. Knapp, JD, CPA, Assistant Secretary
Kathy C. Larrison, Auditor
Alice S. Creech, Executive Assistant

Others Present:

Ernie Bovio, Rex Healthcare
Steve Burriss, Rex Healthcare
John Cheney, Ponder & Co.
David Hughes, Vidant Health
Jon Mize, Womble Bond Dickinson (US) LLP
Andy Zukowski, Rex Healthcare

1. Purpose of Meeting

To consider a resolution (A) authorizing the sale and issuance of bonds, the proceeds of which will be loaned to University Health Systems of Eastern Carolina, Inc. d/b/a Vidant Health and Pitt County Memorial Hospital, Incorporated d/b/a Vidant Medical Center and to consider a resolution (B) granting Rex Hospital Inc. an exception to the Commission's compliance policy.

A. Series Resolution Authorizing the Sale and Issuance of North Carolina Medical Care Commission Health Care Facilities Revenue Refunding Bonds (Vidant Health), 2019A (the "2019A Bonds"), a subsequent series of tax-exempt bonds to refund the 2019A Bonds (the "Tax-Exempt Bonds") and North Carolina Medical Care Commission Health Care Facilities Revenue Bonds (Vidant Health), Series 2019B (the "2019B Bonds, and together with the 2019A Bonds and the Tax-Exempt Bonds, the "Bonds").

Statements were given by Mr. Geary Knapp, Mr. Jon Mize, Dr. John Meier, Mr. John Cheney, Mr. Joe Crocker, and Mr. Al Lockamy.

Executive Committee Action: Motion was made to approve the resolution by Mrs. Eileen Kugler, seconded by Mr. Joe Crocker, and unanimously approved.

WHEREAS, the North Carolina Medical Care Commission (the "Commission") is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the "Act"), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities; and

WHEREAS, University Health Systems of Eastern Carolina, Inc. d/b/a Vidant Health (the "Parent Corporation") and Pitt County Memorial Hospital, Incorporated d/b/a Vidant Medical Center (the "Corporation") are each a North Carolina nonprofit corporation and a "non-profit agency" within the meaning and intent of the Act, which operate, by themselves and through controlled affiliates, various health care facilities; and

WHEREAS, the Parent Corporation and the Corporation have made application to the Commission for issuance of the 2019A Bonds and the lending of the proceeds thereof to the Parent Corporation and the Corporation for the purpose of providing funds, together with other available funds, to (a) advance refund the North Carolina Medical Care Commission Health Care Facilities Revenue Refunding Bonds (Vidant Health), Series 2012A (the "2012A Bonds") maturing on or after June 1, 2023 (except for the 2012A Bonds maturing on June 1, 2033) and (b) pay the fees and expenses incurred in connection with the sale and issuance of the 2019A Bonds and the Tax-Exempt Bonds (hereinafter defined); and

WHEREAS, pursuant to the plan of finance set forth in such application, the Parent Corporation and the Corporation also desire for the Commission to provide for the future sale and issuance by the Commission of a subsequent issue of tax-exempt bonds (the "Tax-Exempt Bonds") in an aggregate principal amount equal to the outstanding principal amount of the

2019A Bonds at the time of issuance of the Tax-Exempt Bonds for the purpose of refunding and redeeming the 2019A Bonds; and

WHEREAS, the Parent Corporation and the Corporation have also made application to the Commission for issuance of the 2019B Bonds and the lending of the proceeds thereof to the Parent Corporation and the Corporation for the purpose of providing funds, together with other available funds, to (a) currently refund (i) the 2012A Bonds maturing on June 1, 2033 and (ii) all of the outstanding North Carolina Medical Care Commission Hospital Revenue Bonds (Halifax Regional Medical Center), Series 2011 (the "2011 Bonds") and North Carolina Medical Care Commission Hospital Revenue Refunding Bonds (Halifax Regional Medical Center), Series 2016 (the "2016 Bonds"), (b) prepay a taxable term loan note issued by Halifax Regional Medical Center, Inc. (the "Taxable Note"), (c) pay the costs of acquiring helicopter to be used for medical transportation purposes by the Parent Corporation and its affiliates and (d) pay the fees and expenses incurred in connection with the sale and issuance of the 2019B Bonds; and

WHEREAS, the Commission has, by resolution duly adopted on August 21, 2019 (the "Commission Resolution"), approved the issuance of the Bonds, subject to compliance with the conditions set forth in such resolution, and the Parent Corporation and the Corporation have complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there have been presented at this meeting draft forms or executed copies, as applicable, of the following documents relating to the Bonds:

(a) Trust Agreement, to be dated as of October 1, 2019 (the "2019A Trust Agreement"), between the Commission and U.S. Bank National Association, as bond trustee (the "Bond Trustee"), together with the form of the 2019A Bonds and the Tax-Exempt Bonds attached thereto, relating to the 2019A Bonds and the Tax-Exempt Bonds;

(b) Trust Agreement, to be dated as of October 1, 2019 (the "2019B Trust Agreement" and, together with the 2019A Trust Agreement, the "Trust Agreements"), between the Commission and the Bond Trustee, together with the form of the 2019B Bonds attached thereto, relating to the 2019B Bonds;

(c) Loan Agreement, to be dated as of October 1, 2019 (the "2019A Loan Agreement"), between the Parent Corporation, the Corporation and the Commission, relating to the 2019A Bonds and the Tax-Exempt Bonds;

(d) Loan Agreement, to be dated as of October 1, 2019 (the "2019B Loan Agreement" and, together with the 2019A Loan Agreement, the "Loan Agreements"), between the Parent Corporation, the Corporation and the Commission, relating to the 2019B Bonds;

(e) Contract of Purchase, to be dated the date of delivery thereof (the "2019A Contract of Purchase"), between the Local Government Commission of North Carolina (the "LGC") and T.D. Bank, N.A. (the "Purchaser"), and approved by the Commission and the Parent Corporation, relating to the sale of the 2019A Bonds;

(f) Contract of Purchase, to be dated the date of delivery thereof (the "2019B Contract of Purchase" and, together with the 2019A Contract of Purchase, the "Contracts

of Purchase"), between the LGC and the Purchaser, and approved by the Commission and the Parent Corporation, relating to the sale of the 2019B Bonds;

(g) Forward Purchase Agreement, to be dated as of October 1, 2019 (the "Forward Agreement"), among the LGC, the Purchaser, the Commission and the Parent Corporation, relating to the sale of the Tax-Exempt Bonds;

(h) the Master Trust Indenture (Amended and Restated), dated as of February 1, 2006 (as supplemented and amended, the "Master Indenture"), between the Parent Corporation, the Corporation and First-Citizens Bank & Trust Company (succeeded by U.S. Bank National Association), as master trustee (the "Master Trustee");

(i) Supplemental Master Trust Indenture No. 28, to be dated as of October 1, 2019 ("Supplemental Indenture No. 28"), between the Parent Corporation, the Corporation and the Master Trustee, supplementing the Master Indenture, including the form of Master Obligation, Series 2019A, to be dated the date of delivery thereof (the "2019A Master Obligation"), executed and delivered by the Parent Corporation to the Commission;

(j) Supplemental Master Trust Indenture No. 29, to be dated as of October 1, 2019 ("Supplemental Indenture No. 29"), between the Parent Corporation, the Corporation and the Master Trustee, supplementing the Master Indenture, including the form of Master Obligation, Series 2019A-1, to be dated the date of delivery thereof (the "2019A-1 Master Obligation"), executed and delivered by the Parent Corporation to the Purchaser;

(k) Supplemental Master Trust Indenture No. 30, to be dated as of October 1, 2019 ("Supplemental Indenture No. 30"), between the Parent Corporation, the Corporation and the Master Trustee, supplementing the Master Indenture, including the form of Master Obligation, Series 2019B, to be dated the date of delivery thereof (the "2019B Master Obligation"), executed and delivered by the Parent Corporation to the Commission;

(l) Supplemental Master Trust Indenture No. 31, to be dated as of October 1, 2019 ("Supplemental Indenture No. 31" and, together with Supplemental Indenture No. 28, Supplemental Indenture No. 29 and Supplemental Indenture No. 30, the "Supplemental Indentures"), between the Parent Corporation, the Corporation and the Master Trustee, supplementing the Master Indenture, including the form of Master Obligation, Series 2019B-1, to be dated the date of delivery thereof (the "2019B-1 Master Obligation" and, together with the 2019A Master Obligation, the 2019A-1 Master Obligation and the 2019B Master Obligation, the "Obligations"), executed and delivered by the Parent Corporation to the Purchaser;

(m) Continuing Covenant Agreement, to be dated as of October 1, 2019 (the "2019A Covenant Agreement"), among the Parent Corporation, the Corporation and the Purchaser, relating to the 2019A Bonds and, if and when issued, the Tax-Exempt Bonds;

(n) Continuing Covenant Agreement, to be dated as of October 1, 2019 (the "2019B Covenant Agreement" and, together with the 2019A Covenant Agreement, the "Covenant Agreements"), among the Parent Corporation, the Corporation and the Purchaser, relating to the 2019B Bonds;

(o) Escrow Deposit Agreement, to be dated as of October 1, 2019 (the "Escrow Agreement"), among the Commission, the Parent Corporation, the Corporation and U.S. Bank National Association, as escrow agent (the "Escrow Agent"), relating to the advance refunding of the 2012A Bonds to be refunded with the proceeds of the 2019A Bonds;

(p) Interest Rate Lock Agreement, to be dated the date of delivery thereof (the "2019A Rate Lock Agreement"), among the Parent Corporation, the Corporation and the Purchaser, relating to the 2019A Bonds and the Tax-Exempt Bonds;

(q) Interest Rate Lock Agreement, to be dated the date of delivery thereof (the "2019B Rate Lock Agreement" and, together with the 2019A Rate Lock Agreement, the "Rate Lock Agreements"), among the Parent Corporation, the Corporation and the Purchaser, relating to the 2019B Bonds; and

WHEREAS, the Commission has determined that the Parent Corporation and the Corporation are financially responsible and capable of fulfilling their obligations under each of the documents described above to which the Parent Corporation and/or the Corporation are a party; and

WHEREAS, the Commission has determined that the public interest will be served by the proposed financing and refinancing and that adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

NOW THEREFORE, BE IT RESOLVED by the Executive Committee of the North Carolina Medical Care Commission as follows:

Section 1. Capitalized terms used in this Series Resolution and not defined herein shall have the meanings given such terms in the Trust Agreements, the Loan Agreements and the Master Indenture, as applicable.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of (a) the 2019A Bonds and the 2019B Bonds in an aggregate principal amount not-to-exceed $155,000,000 and (b) the Tax-Exempt Bonds in an aggregate principal amount equal to the outstanding principal amount of the 2019A Bonds at the time of issuance of the Tax-Exempt Bonds for the purposes set forth above. Each series of the Bonds shall be dated as of their respective dates of delivery. The 2019A Bonds shall initially bear interest at a rate not-to-exceed 3.49% per annum, and the Tax-Exempt Bonds, if and when issued, shall initially bear interest at a rate not-to-exceed 2.87% per annum, all subject to adjustment in the manner provided in the 2019A Trust Agreement. The 2019B Bonds shall initially bear interest at a rate not-to-exceed 2.90% per annum, subject to adjustment in the manner provided in the 2019B Trust Agreement. The 2019A Bonds and the Tax-Exempt Bonds, if and when issued, will be subject to mandatory tender for purchase fifteen (15) years from the date of issuance of the 2019A Bonds. The final maturity date of the 2019A Bonds and the Tax-Exempt Bonds shall be June 1, 2036, and the final maturity date of the 2019B Bonds shall be June 1, 2033. The preliminary mandatory sinking fund redemption schedules for the 2019A Bonds and the 2019B Bonds are set forth in Exhibit A hereto.

The Bonds shall be initially issued as fully registered bonds in denominations of $100,000 or any integral multiple of $5,000 in excess of $100,000 as described in the Trust Agreement. While the Bonds bear interest at the Fixed Bank Rate (as defined in the Trust Agreements), interest on the Bonds shall be payable on the first Business Day of each calendar month. Payments of principal of and interest on the Bonds shall be forwarded by the Bond Trustee to the registered owners of the Bonds in such manner as is set forth in the Trust Agreements.

Section 3. The Bonds shall be subject to optional, extraordinary optional and mandatory sinking fund redemption and optional and mandatory tender for purchase and shall be subject to conversion to different interest rate modes, at the times, upon the terms and conditions and, with respect to redemptions and tenders, at the prices set forth in the Trust Agreements.

Section 4. The proceeds of the 2019A Bonds shall be applied as provided in Section 2.08 of the 2019A Trust Agreement, and the proceeds of the Tax-Exempt Bonds, if and when issued, shall be applied on the date of issuance thereof to the redemption of the 2019A Bonds. The proceeds of the 2019B Bonds shall be applied as provided in Section 2.08 of the 2019B Trust Agreement.

Section 5. The forms, terms and provisions of the Loan Agreements, the Trust Agreements and the Escrow Agreement are hereby approved in all respects, and the Chairman, the Vice Chairman or any member of the Commission designated in writing by the Chairman for such purpose and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Loan Agreements, the Trust Agreements and the Escrow Agreement in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary or appropriate, including but not limited to changes, modifications and deletions necessary to incorporate the final terms of the Bonds as shall be set forth in the Contracts of Purchase, the Rate Lock Agreements and the Forward Agreement and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 6. The form, terms and provisions of the Contracts of Purchase and the Forward Agreement are hereby approved in all respects and the Chairman, the Vice Chairman or any member of the Commission designated in writing by the Chairman for such purpose is hereby authorized and directed to execute and deliver the Contracts of Purchase and the Forward Agreement in substantially the forms presented at this meeting, together with such changes, modifications, insertions and deletions as such Chairman, the Vice Chairman or such member of the Commission, with the advice of counsel, may deem necessary or appropriate, including but not limited to changes, modifications and deletions necessary to incorporate the final terms of the Bonds; and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. The forms of the Bonds as set forth in the Trust Agreements are hereby approved in all respects and the Chairman, the Vice Chairman or any member of the Commission designated in writing by the Chairman for such purpose and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such forms of the respective Bonds, and to deliver to the Bond Trustee for authentication on behalf of the Commission, the Bonds in definitive form, which shall be in substantially the form presented at this meeting, together with such changes,

modifications and deletions as they, with the advice of counsel, may deem necessary or appropriate and consistent with the Trust Agreements; and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. The forms, terms and provisions of the Supplemental Indentures, the Obligations, the Covenant Agreements and the Rate Lock Agreements are hereby approved in substantially the forms presented at this meeting, together with such changes, modifications and deletions as the Chairman or Vice Chairman, with the advice of counsel, may deem necessary and appropriate; and the execution and delivery of the Trust Agreements by the Commission shall be conclusive evidence of the approval of such documents by the Commission.

Section 9. The Commission hereby approves the action of the LGC in authorizing the private sale of the 2019A Bonds to the Purchaser in accordance with the 2019A Contract of Purchase, the private sale of the Tax-Exempt Bonds (if and when issued) to the Purchaser pursuant to the Forward Agreement, and the private sale of the 2019B Bonds to the Purchaser in accordance with the 2019B Contract of Purchase, in each case at a purchase price equal to 100% of the principal amount thereof.

Section 10. Upon execution of the Bonds in the form and manner set forth in the Trust Agreements, the Bonds shall be deposited with the Bond Trustee for authentication, and the Bond Trustee is hereby authorized and directed to authenticate the Bonds and, upon compliance with the provisions of Section 2.08 of the 2019A Trust Agreement, with respect to the 2019A Bonds, Section 2.16 of the 2019A Trust Agreement, with respect to the Tax-Exempt Bonds, and Section 2.08 of the 2019B Trust Agreement, with respect to the 2019B Bonds, the Bond Trustee shall deliver the Bonds to the Purchaser against payment therefor.

Section 11. U.S. Bank National Association is hereby appointed as the Bond Trustee for the Bonds and as the Escrow Agent for the 2012A Bonds to be advance refunded with the proceeds of the 2019A Bonds.

Section 12. S. Mark Payne, Secretary of the Commission, Geary W. Knapp, Assistant Secretary, Kathy C. Larrison, Auditor, and Crystal Watson-Abbott, Auditor, for the Commission, are each hereby appointed a Commission Representative (as that term is defined in the Loan Agreements) of the Commission with full power to carry out the duties set forth therein.

Section 13. The Chairman, the Vice Chairman, any member of the Commission designated in writing by the Chairman, the Secretary or Secretary and the Assistant Secretary of the Commission are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Loan Agreements, the Trust Agreements, the Contracts of Purchase, the Escrow Agreement and the Forward Agreement.

Section 14. The redemption of the 2012A Bonds maturing on or after June 1, 2023 (except for the 2012A Bonds maturing on June 1, 2033) on June 1, 2022 in accordance with the provisions of the 2012A Bonds, the trust agreement relating thereto and the Escrow Agreement, is hereby authorized, ratified and approved, and all prior actions taken by the Commission and its officers in connection with such redemption are hereby ratified and approved. The redemption

2012A Bonds maturing on June 1, 2033, the 2011 Bonds and the 2016 Bonds and the prepayment of the Taxable Note on or about the date of issuance of the 2019B Bonds in accordance with the provisions of the 2011 Bonds, the 2012A Bonds, the 2016 Bonds, the Taxable Note and the trust agreement or other financing documents relating thereto, is hereby authorized, ratified and approved, and all prior actions taken by the Commission and its officers in connection with such redemption and prepayment and are hereby ratified and approved.

Section 15. The Commission hereby recommends that the Governor of the State of North Carolina approve the issuance of the 2019B Bonds pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, and hereby requests such approval.

Section 16. A comparison of the professional fees as set forth in the Commission Resolution granting preliminary approval of this financing with the actual professional fees incurred in connection with the financing is set forth as Exhibit B hereto.

Section 17. This Series Resolution shall take effect immediately upon its adoption.

EXHIBIT A

MANDATORY SINKING FUND REDEMPTION SCHEDULES*

2019A Bonds

June 1,	Amount	June 1,	Amount
2020	$ 275,000	2029	$ 395,000
2021	465,000	2030	405,000
2022	590,000	2031	410,000
2023	5,580,000	2032	420,000
2024	5,725,000	2033	430,000
2025	6,265,000	2034	7,005,000
2026	7,030,000	2035	27,875,000
2027	3,815,000	2036	28,505,000
2028	385,000		

2019B Bonds

June 1,	Amount	June 1,	Amount
2020	$1,315,000	2027	$5,115,000
2021	1,495,000	2028	4,560,000
2022	1,525,000	2029	4,640,000
2023	1,560,000	2030	6,850,000
2024	1,590,000	2031	6,995,000
2025	1,620,000	2032	7,140,000
2026	1,660,000	2033	7,300,000

* Preliminary; subject to change upon final pricing.

EXHIBIT B

PROFESSIONAL FEES

Professional	Preliminary Approval	Actual*
Financial Advisor	$195,000	$195,000
Bond Counsel	160,000	160,000
Purchaser's Counsel	45,000	45,000
Combined Group Counsel	35,000	35,000
Trustee (including counsel)	14,000	14,000

* Not-to-exceed fees. Includes fees relating to issuance of the 2019A Bonds, the Tax-Exempt Bonds and the 2019B Bonds.

NC MCC Bond Sale Approval Form
Facility Name: Vidant Health

	Time of Preliminary Approval	Time of Final Approval	Total Variance	Explanantion of Variance
SERIES: 2019A				
PAR Amount	$95,315,000.00	$95,785,000.00	$470,000.00	Escrow yield decreased, increasing cost of escrow
Estimated Interest Rate	3.03%	2.57%	-0.46%	Interest rates decreased between 6/14/19 and 9/25/19
All-in True Interest Cost	2.63%	2.24%	-0.39%	Interest rates decreased between 6/14/19 and 9/25/19
Maturity Schedule (Interest) - Date	Monthly, beginning 12/1/19	Monthly, beginning 12/1/19		No change
Maturity Schedule (Principal) - Date	Annually, beginning 6/1/21	Annually, beginning 6/1/20		Principal could begin earlier for level savings due to lower interest rates
Bank Holding Period (if applicable) - Date	180 months, until 10/16/2034	Approx 180 months, through 10/23/34		Closing date moved to 10/23/2019, so new hold period through 10/23/2034
Estimated NPV Savings ($) (if refunded bonds)	$13,553,821	$18,056,449	$4,502,628.00	Savings increased due to lower interest rates
Estimated NPV Savings (%) (if refunded bonds)	15.41%	20.53%	5.12%	Savings increased due to lower interest rates

NOTES:

	Time of Preliminary Approval	Time of Final Approval	Total Variance	Explanantion of Variance
SERIES: 2019B				
PAR Amount	$53,345,000.00	$53,360,000.00	$15,000.00	Slight increase in cost of issuance
Estimated Interest Rate	2.37%	2.04%	-0.33%	Interest rates decreased between 6/14/19 and 9/25/19
All-in True Interest Cost	2.41%	2.08%	-0.33%	Interest rates decreased between 6/14/19 and 9/25/19
Maturity Schedule (Interest) - Date	Monthly, beginning 12/1/19	Monthly, beginning 12/1/19		No change
Maturity Schedule (Principal) - Date	Annually, beginning 6/1/20	Annually, beginning 6/1/20		No change
Bank Holding Period (if applicable) - Date	Held to maturity; 6/1/33	Held to maturity; 6/1/33		No change
Estimated NPV Savings ($) (if refunded bonds)	$5,918,999	$7,173,701	$1,254,702.00	Savings increased due to lower interest rates
Estimated NPV Savings (%) (if refunded bonds)	12.00%	14.54%	2.54%	Savings increased due to lower interest rates

NOTES:
Total par of 2019B Bonds is $53,345,000
Par of refunding portion is $49,475,000

Total par of 2019B Bonds is $53,360,000
Par of refunding portion is $49,490,000

	Time of Preliminary Approval	Time of Final Approval	Total Variance	Explanantion of Variance
SERIES: 2022				
PAR Amount	$95,020,000.00	$93,430,000.00	($1,590,000.00)	More principal is being paid off earlier due to lower interest rates
Estimated Interest Rate	2.47%	2.10%	-0.37%	Interest rates decreased between 6/14/19 and 9/25/19
All-in True Interest Cost	2.63%	2.24%	-0.39%	Interest rates decreased between 6/14/19 and 9/25/19
Maturity Schedule (Interest) - Date	Monthly, beginning 4/1/22	Monthly, beginning 4/1/22		
Maturity Schedule (Principal) - Date	Annually, beginning 6/1/22	Annually, beginning 6/1/22		
Bank Holding Period (if applicable) - Date	Approx 151 months, through 10/16/34	Approx 152 months, through 10/23/34		Closing date moved to 10/23/2019, so new hold period through 10/23/2034 New closing date lengthed the holding period of Series 2022 Bonds
Estimated NPV Savings ($) (if refunded bonds)	$13,553,821	$18,056,449	$4,502,628.00	
Estimated NPV Savings (%) (if refunded bonds)	15.41%	20.53%	5.12%	

NOTES:

The federally taxable Series 2019A Bonds had a 3.03% rate as of 6/14/19. If certain conditions are met, the Series 2019A Bonds will be exchanged for $94,980,000 Series 2022 Bonds (tax-exempt) on 3/3/22. Assuming this exchange occurs, the bank holding period for the Series 2019A Bonds will be approximately 29 months, and the bank holding period for the tax-exempt Series 2022 Bonds will be approximately 151 months, for a combined initial bank holding period of 15 years. If the conditions to the exchange are not met, the Series 2019A Bonds will remain outstanding for the entire 15-year initial bank holding period.

The rate on the Series 2022 Bonds was 2.47% as of 6/14/19. The refunding analysis assumes the 2.47% tax-exempt rate will continue from 3/3/22 through the final bond maturity date of 6/1/36, producing an all-in TIC of 2.63% and estimated NPV savings of $13.554 million, or 15.41% of the refunded bonds.

NOTES:

The federally taxable Series 2019A Bonds had a 2.57% rate as of 9/25/19. If certain conditions are met, the Series 2019A Bonds will be exchanged for $93,430,000 Series 2022 Bonds (tax-exempt) on 3/3/22. Assuming this exchange occurs, the bank holding period for the Series 2019A Bonds will be approximately 28 months, and the bank holding period for the tax-exempt Series 2022 Bonds will be approximately 152 months, for a combined initial bank holding period of 15 years. If the conditions to the exchange are not met, the Series 2019A Bonds will remain outstanding for the entire 15-year initial bank holding period.

The rate on the Series 2022 Bonds was 2.10% as of 8/25/19. The refunding analysis assumes the 2.10% tax-exempt rate will continue from 3/3/22 through the final bond maturity date of 6/1/36, producing an all-in TIC of 2.24% and estimated NPV savings of $18.056 million, or 20.53% of the refunded bonds.

B. Resolution Authorizing an Exception to the North Carolina Medical Care Commission Compliance Policy for Rex Hospital, Inc. to Finalize the Preliminary Approval for a Project Granted at the August 21, 2019 NCMCC Quarterly Meeting.

Statements were given by Dr. John Meier, Mr. Andy Zukowski, Mr. Ernie Bovio, Mr. Steve Burriss, Mr. Joe Crocker, Mrs. Eileen Kugler, and Mr. Geary Knapp. Rex provided their compliance policy and situational analysis regarding action items towards improving compliance (Attachment A and B).

Executive Committee Action: ***Motion was made to grant an exception to the compliance policy by Mr.; Joe Crocker, seconded by Mrs. Eileen Kugler, and unanimously approved.***

REX HEALTHCARE, INC. AND REX HOSPITAL, INC.
POST-ISSUANCE COMPLIANCE POLICY FOR BOND INDEBTEDNESS

I. PURPOSE

A. It is the intention of Rex Healthcare, Inc. and Rex Hospital, Inc. (collectively, "Rex") to comply with all federal and state laws and regulations and all applicable contractual obligations of Rex relating to bonds and similar debt obligations issued on behalf of Rex (hereinafter referred to as "Debt"), including particularly compliance with (a) applicable federal tax laws, (b) applicable securities laws, and (c) applicable covenants, conditions, restrictions or other obligations imposed by the various financing documents entered into by Rex in connection with the incurrence of Debt.

B. The purpose of this Policy and procedure is to formally confirm and enhance Rex's existing practices and procedures regarding post-issuance compliance with the various applicable laws, regulations, rules and contractual obligations applicable to the Debt (collectively, the "Requirements").

C. This Policy is organized to set forth generally applicable compliance matters and then to address specific compliance processes and procedures relating to (1) federal tax law requirements, (2) securities law requirements, and (3) bond documentation requirements.

II. GENERALLY APPLICABLE COMPLIANCE MATTERS

A. Designation of the Compliance Group

1. Rex's Vice President and Chief Financial Officer (the "Principal Officer") shall be the person primarily responsible for administering and monitoring compliance with the requirements of this Policy.

2. The Principal Officer shall be responsible for designating such other officers or employees of Rex or the University of North Carolina Health Care System or its affiliates (collectively, "UNCHCS") that the Principal Officer deems to be necessary or appropriate to ensure compliance with the requirements of this Policy. Such persons may include, but not be limited to, the UNCHCS Treasurer and his or her designees. Such persons will be charged, along with the Principal Officer, with exercising the responsibilities of Rex with respect to the Debt and compliance with the Requirements. The Principal Officer shall be responsible for determining and assigning to each designated officer or employee the specific tasks under this Policy for which such person is responsible. The Principal Officer, together with such other designated officers or employees, shall constitute the "Compliance Group" for purposes of this Policy.

B. Training of Personnel

1. The Principal Officer shall be responsible for ensuring that all members of the Compliance Group receive education and training with respect to (a) the applicable laws, regulations and rules relating to the Debt as may be applicable to satisfying the Requirements and this Policy and (b) the specific actions required to be taken in order to comply with the Requirements and this Policy.

2. In the event that there is a change in the Principal Officer, it is the duty of the resigning Principal Officer, if possible, to meet with the new Principal Officer to acquaint such person with the Requirements and this Policy. If not possible, Rex should take whatever steps are necessary to provide the necessary information and training to the new Principal Officer, utilizing outside consultants as necessary.

C. Engagement of Outside Consultants

1. Rex shall engage, retain and consult with legal counsel or other appropriate consultants regarding the processes and procedures described in this Policy to the extent necessary to ensure compliance with the Requirements. Such assistance may include, without limitation: (a) providing guidance on particular issues that may arise with respect to the Requirements; (b) reviewing ongoing compliance by Rex with the Requirements; and (c) providing education and training to the Principal Officer and/or other members of the Compliance Group regarding compliance with the Requirements.

2. The Principal Officer shall have primary responsibility for determining when and whom to engage for these purposes and the scope of responsibilities of such outside consultants.

III. GENERAL PROCESSES AND PROCEDURES FOR COMPLIANCE

A. Identification of Debt Subject to this Policy

1. The Compliance Group shall maintain an ongoing list of all outstanding Debt subject to this Policy. This list should be updated to include any new Debt and exclude any Debt that has been paid, redeemed or legally defeased in its entirety. The list should be reviewed at least annually to confirm that it is current.

2. With respect to each Debt issue subject to this Policy, Rex shall cause to be maintained such information relating to such Debt as specifically addressed below in this Policy as it relates to federal tax laws, securities laws, or bond document requirements. It should be noted that not all Debt issues will necessarily be subject to federal tax law requirements (if issued as taxable Debt) or securities laws (if privately placed with a lending institution).

3. Such information shall be kept at a location reasonably accessible and known to each member of the Compliance Group.

B. Preparation, Review and Submission of Required Filings

1. For each issue of Debt subject to this Policy, the Compliance Group shall establish and maintain a list of all required filings and submissions related to such Debt, which list shall include the following information: (a) the date the filing is due; (b) the type of document or information to be filed or submitted; (c) the parties to which the filing should be submitted; (d) a citation to the Requirement mandating the filing or submission; and (e) the date that that filing was submitted.

2. The Compliance Group shall ensure that the deadlines for the filings and submissions referenced above are calendared on each Compliance Group member's calendar with "reminders" or "ticklers" scheduled sufficiently in advance of the applicable deadline to provide Rex with adequate time to prepare and review such filing prior to submission.

3. Upon completion of each filing or submission, prior to submitting the filing or submission to the appropriate recipient, the Principal Officer or his or her designee(s) shall be responsible for reviewing and confirming the accuracy and completeness of such information and that such information conforms with applicable Requirements. The Principal Officer may also decide in his or her discretion to have the proposed filing or submission reviewed by an outside consultant.

C. Documentation and Recordkeeping

1. All documentation and evidence of compliance with the Requirements and this Policy shall be maintained by the Principal Officer (or his or her designee) in a manner readily accessible to all members of the Compliance Group and in a manner that ensures the Compliance Group is able to promptly provide such documentation and information to the governing body and officers of Rex upon their request or as needed or required.

2. Such documentation shall include at a minimum:

   (a) Information regarding each Debt issue as described in **Section III.A.** above;

   (b) Copies of all filings and submissions submitted as set forth in **Section III.B.** above;

   (c) Copies of all federal tax law compliance documentation required by **Part IV.** below.

   (d) Copies of all annual financial information, event notice or other notice filings post on EMMA as set forth in **Part V.** below;

   (e) Copies of all reports and filings required by the bond financing documents for each issue of Debt as set forth in **Part VI.** below;

   (f) Any confirmations received that filings, submissions, notices and/or disclosures were submitted or received by the receiving party; and

(g) Appropriate records regarding any material failure to comply with any Requirements to the extent discovered or known by any member of the Compliance Group and any actions taken by Rex to remedy the same.

3. The records described in this **Section III.C.** shall be retained for the term of the applicable Debt, (a) plus six (6) years in the case of documents required to show compliance with applicable federal tax laws and (b) plus five (5) years in the case of documents required to show compliance with applicable securities laws. Records may be stored in hard copy or electronically.

D. Notification of Non-Compliance Issues

1. The members of the Compliance Group shall promptly notify the Principal Officer in the event that such member discovers a failure to comply with any of the Requirements or this Policy. The Principal Officer shall work with the appropriate members of the Compliance Group to correct such non-compliance with reasonable diligence.

2. Upon a determination that there has occurred a material failure on the part of Rex to comply with the Requirements or this Policy, the Principal Officer shall notify the senior executive team and the governing body of Rex and shall take such further remedial action as may be requested by the senior executive team or the governing body of Rex to ensure future compliance with the provisions of this Policy.

IV. FEDERAL TAX LAW COMPLIANCE

A. Maintenance of Tax Documentation

1. With respect to each issue of tax-exempt Debt subject to this Policy, the Compliance Group shall maintain the following information relating to such Debt: (a) a list of outstanding maturities, (b) a list or description of the properties and projects financed or refinanced by such Debt; and (c) the closing transcript related to the Debt issue, including, specifically (as may be applicable): (i) primary financing documents, (ii) tax certificate, (iii) IRS Form 8038 and proof of filing, (iv) public approval (TEFRA) documents, (v) certificate as to "issue price", (v) offering document, (vi) any escrow agreements or verification reports, (vi) any official reimbursement declarations, and (vii) opinion of bond counsel as to the tax-exempt status of the Debt.

B. Compliance with Tax Certificates

1. **Part IV** of this Policy is designed to provide general policies and procedures regarding post-issuance federal tax compliance applicable to all tax-exempt Debt issues. In addition to compliance with **Part IV** of this Policy, the Compliance Group shall take such further actions as may be necessary to comply with any specific procedures or requirements set forth in the tax certificate relating to each specific Debt issue. In furtherance of this requirement, the Compliance Group should be familiar with any such additional procedures or requirements that may be set forth in the tax certificate for a particular Debt issue and keep appropriate records to evidence compliance with any such additional procedures or requirements.

C. Monitoring Use and Ownership of Debt-Financed Facilities and Property

1. The Compliance Group shall be responsible for identifying, monitoring and tracking any private or unrelated trade or business use of Debt-financed facilities or property, including leases, management contracts, service agreements, research agreements, physician agreements, naming rights agreements or any other agreement providing special legal entitlements to the private business or user, or which may result in an unrelated trade or business use with respect to Rex. Additionally, the Compliance Group shall be responsible for educating and training other departments that may become aware of private or unrelated trade or business uses of Debt-financed facilities or property (e.g., Legal, Real Estate & Development) to ensure that such uses are appropriately evaluated, identified and monitored.

2. The Compliance Group shall be responsible for identifying, monitoring, and preventing any ownership of Debt-financed facilities or property by entities that are not (i) 501(c)(3) organizations or (ii) state or local governmental bodies using such facilities or property in furtherance of the exempt purposes of Rex.

D. Allocation of Proceeds

1. The proceeds of the Debt shall be invested in permitted investments purchased at fair market value. A separate and unique account in Rex's financial reporting or accounting system shall be established to track the deposit, investment and expenditure activity related to the proceeds of each specific issue of Debt. If necessary, Rex shall establish separate accounts or subaccounts to account for certain proceeds of a particular issue of Debt that are to be used for separate purposes (e.g., a separate construction fund and debt service reserve fund). Such funds may be maintained by Rex or a bond trustee on behalf of Rex.

2. Rex shall retain the following types of documents and records to substantiate how Debt proceeds were allocated:

   (a) design and construction contracts relating to each project financed by the Debt;

   (b) project files, including architects' and engineers' pay applications and appraisals;

   (c) all bank and/or bond trustee statements evidencing the deposit, investment and expenditure of the Debt proceeds;

   (d) invoices and payment information, including (i) the Debt issue to which the invoices relate, (ii) vendor names and identification numbers, (iii) invoices and purchase orders, and (iv) check amounts, dates and numbers; and

   (e) tracking of working capital expenses financed with the Debt proceeds, including salaries, start-up expenses, and other non-capitalized expenditures.

E. Arbitrage Rebate and Yield Restriction

1. Tax-exempt Debt may lose its tax-exempt status if such Debt is determined to be an arbitrage bond under the Internal Revenue Code. In general, arbitrage is earned when the gross proceeds of the Debt issue are used to acquire investments that earn a yield materially higher than the yield on the bonds of the issue. Earning of arbitrage does not necessarily result in the bonds being arbitrage bonds. Two tests must be applied to determine whether the tax-exempt bonds are arbitrage bonds: (a) yield restriction and (b) rebate.

2. If arbitrage rebate or yield reduction payment calculations are required for any issue of Debt, Rex shall either retain a third-party arbitrage rebate services firm to perform such arbitrage rebate or yield reduction payment calculations or otherwise develop the skills and expertise necessary to make such calculations. All necessary calculations shall be made to ensure that Rex has satisfied its arbitrage rebate or yield reduction payment obligations, if any. Rex shall also perform the necessary calculations to determine whether the Debt qualifies for an exception to arbitrage rebate. In the event that Rex owes arbitrage rebate or has a yield reduction payment liability to the Internal Revenue Service (IRS), Rex shall timely submit, or cause the issuer of the Debt to timely submit, to the IRS Form 8038-T, Arbitrage Rebate Yield Reduction or Penalty in Lieu of Arbitrage Rebate, as applicable, together with an amount equal to the Rex's outstanding arbitrage rebate or yield reduction payment liability as so calculated. Rex shall also monitor the investment and expenditure of Debt proceeds to ensure compliance with any applicable yield restriction requirements and take such actions as may be necessary to restrict the yield on such proceeds to the permitted yield or, if applicable, make the required yield reduction payments.

3. Escrow funds related to refunded Debt shall be established so that the escrow agent or bond trustee will have the primary responsibility, in accordance with the instructions provided in the documents creating the escrow, to initiate all actions required to remain in compliance with yield limitations related to refunding escrow accounts, including the reinvestment of proceeds to maintain yield requirements.

4. The Compliance Group shall verify that all payments made for fixed-rate and variable rate debt issues match the required payments under the terms and conditions of the applicable financing documents. The Compliance Group shall also verify that all payments made and/or received under interest rate swaps or similar derivative agreements match the payment requirements of the applicable documents establishing such interest rate hedging or derivative arrangements.

5. With respect to interest rate swap agreements or similar interest rate hedging instruments that may be entered into by Rex relating to Debt, Rex shall either (a) utilize a third-party swap advisor or bidding agent to bid out interest rate swaps or similar derivative instrument and endeavor to receive at least three bids to ensure such agreements reflect fair market value or (b) negotiate interest rate swaps or similar derivative agreements and obtain appropriate certifications from a third-party swap advisor to ensure such agreements reflect fair market value. Additionally, Rex shall

consult with bond counsel with respect to all interest rate swaps or similar derivative agreements related to outstanding or prospective Debt prior to the date on which such agreement is entered into in order to confirm compliance with applicable federal tax laws and regulations relating to such interest rate hedge.

F. Reissuance Monitoring

1. The Principal Officer shall monitor any proposed changes made to the terms of the Debt subsequent to its issuance, including changes to the interest rate, principal payments, maturity or security (collectively, "Modifications") and will review such Modifications with bond counsel or an outside consultant to determine whether or not the Modifications would result in the Debt being treated as a new issue for tax purposes (a "Reissuance"). In the event of a Reissuance, the Principal Officer, in consultation with bond counsel or an outside consultant, shall ensure that Rex takes such actions as are necessary to maintain the tax-exempt status of the Debt.

G. Remedial Action

1. In the event that the Principal Officer or Compliance Group determines that Rex: (i) is at risk for exceeding the permissible level of private or unrelated trade or business use of the Debt-financed facilities and property; (ii) is at risk of violating the private ownership prohibition; (iii) has failed to timely pay any required arbitrage or yield reduction payments or properly restrict the yield on proceeds of Debt as required by applicable federal tax laws; or (iv) has otherwise failed to comply with one or more of the Requirements applicable to federal tax law compliance, the Principal Officer shall promptly notify the President and the governing body of Rex and, in consultation with qualified outside bond counsel, shall recommend any remedial action(s) necessary to avoid or address such noncompliance as described in the United States Treasury Regulations or through the Tax Exempt Bonds Voluntary Closing Agreement Program described under Notice 2008-31 or in the Internal Revenue Manual.

V. SECURITIES LAW (SEC RULE 15C2-12) COMPLIANCE

A. Identification of Debt Subject to SEC Rule 15c2-12 Undertaking

1. The Compliance Group shall maintain an ongoing list of all outstanding Debt subject to a continuing disclosure undertaking (each an "Undertaking" and, collectively, the "Undertakings") entered into pursuant to SEC Rule 15c2-12, as amended and as may be amended from time to time (the "Rule"). This list should be updated to include any new Debt issues subject to an Undertaking and exclude any issues of Debt that have been paid, redeemed or legally defeased in their entirety. The list should be reviewed at least annually to confirm that it is current.

2. With respect to each Debt issue subject to an Undertaking, the Compliance Group shall maintain the following information: (a) list of outstanding maturities, (b) list of CUSIP numbers for each outstanding maturity, (c) the final due date for the posting of annual financial information on the Electronic Municipal Market Access (EMMA) website for such Debt issue (which is typically the same for all Debt issues, but not required to be

the same) and (d) a copy of the particular Undertaking for such issue of Debt (including both the annual financial information and the notice events required to be provided for each such Undertaking). Such information shall be kept at a location reasonably accessible and known to each member of the Compliance Group. In the event that outstanding Debt of any particular maturity is partially refunded, the list of CUSIP numbers applicable to such maturities should be updated as necessary to reflect the issuance of new CUSIP numbers issued to delineate between the refunded Debt and unrefunded Debt of such maturities.

B. Preparation and Review of Annual Financial Information

1. For each issue of Debt subject to an Undertaking, the Compliance Group shall establish a listing of all annual financial information to be posted on the EMMA website with respect to that issue (including audited financial statements and operating data specified in the Undertaking).

2. The Compliance Group shall develop appropriate templates for disclosure of annual financial information. In doing so, it should be noted that the operating data required to be disclosed for one Undertaking may not be the same as for other Undertakings. If templates are used for preparation of annual financial information, such templates should be reviewed periodically for continued compliance, particularly when new Undertakings are entered into by Rex. Consideration should be given as to whether any such template should be reviewed by an outside consultant.

3. The designated members of the Compliance Group shall be responsible for preparation of the annual financial information on an annual basis so long as any current Undertaking is in effect. To the extent that the annual financial information is presented by cross-reference to Rex's annual audited financial statements or some other external document posted on the EMMA website, or is otherwise included in such audited financial statements or other external document, the Compliance Group should take steps necessary to confirm that such audited financial statements or other external document contains all of the information necessary to be disclosed in order to be in material compliance with the applicable Undertaking and that such document has been posted on the EMMA website.

4. In the event that Rex's audited financial statements and other annual financial information (operating data) are not finalized for posting on the EMMA website by the final due date for the posting of such annual financial information as specified in the Undertaking, the Principal Officer shall be responsible for promptly posting on the EMMA website a notice of failure to timely file such annual financial information as required by such Undertaking and the Rule. If audited financial statements are not available for posting on the EMMA website by the final due date for the posting of annual financial information as specified in the Undertaking, unaudited financial statements should be posted on the EMMA website to be replaced subsequently by audited financial statements to be delivered within fifteen (15) days after such audited financial statements become available for distribution.

C. Preparation and Review of Event Notices

1. For each issue of Debt subject to an Undertaking, the Compliance Group shall maintain a list of events for which notice of the occurrence thereof is required pursuant to such Undertaking. The list of such events may differ based on the date when Rex entered into the Undertaking.

2. The Compliance Group shall be responsible for periodically monitoring when any such notice event may have occurred. Common notice events include rating changes, bond redemptions, defeasances, substitution of trustees and the incurrence of financial obligations that are not otherwise publicly offered and subject to the Rule (such as installment financing obligations entered into directly with financial institutions). Other less common events relate to payment or other defaults reflecting financial difficulties or adverse tax events affecting the Debt. Generally, the posting of the occurrence of a notice event must be made in a timely manner not to exceed ten (10) business days from the date of occurrence of such event.

3. If the occurrence of a notice event is subject to a "materiality" threshold or requires a subjective determination of financial impact on Rex, the Principal Officer shall consult with other members of the Compliance Group, other officers or members of the governing body of Rex or outside consultants, as necessary or appropriate, to determine whether or not such materiality threshold or adverse financial impact has been met.

4. With respect to any Undertaking entered into on or after February 27, 2019 as it relates to the new events notices described in paragraphs (b)(5)(i)(C)(15) and (16) of the Rule, the Principal Officer shall be responsible for specifically determining (a) what constitutes a "financial obligation" within the meaning of the Rule and (b) determining whether any such financial obligation is material. The Rule defines a "financial obligation" to mean (a) a debt obligation, (b) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (c) a guarantee of either clause (a) or (b) above. The term "financial obligation" does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule. The Principal Officer shall consult with other members of the Compliance Group, other officers or members of the governing body of Rex or outside consultants, as necessary or appropriate, in making such determinations. Additionally, the Principal Officer shall be responsible for monitoring and determining whether a default, event of acceleration, termination event, modification of terms, or other similar event has occurred under the terms of a financial obligation which reflects financial difficulties and, if so, properly providing notice of the same.

5. A designated member of the Compliance Group shall be responsible for the preparation of any event notice required to be posted on the EMMA website. The Principal Officer (and his or her designees) shall be responsible for reviewing and confirming the accuracy and completeness of such event notice in a timely manner in order to meet the posting deadline imposed by the Undertaking and the Rule. The Principal Officer

may also decide in his or her discretion to have the proposed form of event notice reviewed by an outside consultant.

D. Preparation and Review of Voluntary Disclosure Notices

1. The Principal Officer shall be responsible for determining if and when a voluntary disclosure notice not otherwise required by a specific Undertaking may be appropriate to be filed on the EMMA website as a voluntary notice. The Principal Officer shall consult with other members of the Compliance Group, other officers or members of the governing body of Rex or outside consultants as necessary in making such determination.

2. A designated member of the Compliance Group shall be responsible for the preparation of any voluntary disclosure notice intended to be posted on the EMMA website. The Principal Officer (and his or her designees) shall be responsible for reviewing and confirming the accuracy and completeness of such notice prior to posting. The Principal Officer may also decide in his or her discretion to have the proposed form of such voluntary notice reviewed by an outside consultant.

E. Posting of Annual Financial Information and Notices on EMMA Website

1. The Principal Officer (or his or her designees) shall ensure that at least one member of the Compliance Group (or a designee of a member of the Compliance Group) is registered on the EMMA system and authorized and permitted to post materials on the EMMA website. In lieu of Rex posting materials directly on the EMMA website, an outside consultant may be contracted with to assist with the posting of materials on the EMMA website on behalf of Rex. The Principal Officer shall be responsible for managing any such outside consultant used for this purpose, and the Principal Officer shall ultimately be responsible for compliance by Rex with its Undertakings.

2. Appropriate care shall be taken by the person or outside consultant posting any materials to the EMMA website to (a) appropriately designate the type of materials or notices being provided and (b) ensure that such materials or notices are properly tied to the applicable CUSIP numbers for the Debt to which such materials or notices relate. In certain cases, it may be appropriate to tie certain materials or notices to the six-digit base CUSIP number that is applicable to multiple Debt issues.

3. A designated member of the Compliance Group shall review the various postings of Rex on the EMMA website periodically (at least annually) to confirm that such postings have been appropriately made, labeled and categorized. If any material posting errors are discovered, such designated member of the Compliance Group should work with EMMA representatives to promptly correct such errors.

VI. BOND DOCUMENT COMPLIANCE

A. Maintenance of List of Bond Document Filing Requirements

1. For each issue of Debt, a designated member of the Compliance Group shall maintain a list of the various filing requirements (annual or otherwise) to be made pursuant to the various financing documents relating to such Debt, as well as the filing deadlines for each required filing. Such financing documents may include, without limitation, the Master Trust Indenture, the Supplement Indenture, the Loan Agreement and any Continuing Covenant Agreement, Credit Agreement or similar instrument, as the same may be applicable to such Debt. In connection with the issuance of Debt by the N.C. Medical Care Commission on behalf of Rex, bond counsel will generally prepare a post-issuance compliance checklist evidencing such filing requirements.

2. Such designated member of the Compliance Group shall also maintain a list of the parties to receive the required information, which may include the Master Trustee, the Bond Trustee, the N.C. Medical Care Commission, the N.C. Local Government Commission, the Rating Agency or Agencies rating such Debt and certain holders of the Debt or credit providers providing credit or liquidity support for such Debt.

A. Preparation and Review of Document Filings

1. A designated member of the Compliance Group shall be responsible for the preparation of any documentation required to be filed pursuant to this **Part VI**. Appropriate templates shall be prepared for such filings as shall be appropriate. The Principal Officer (and his or her designees) shall be responsible for reviewing and confirming the accuracy and completeness of such documents in a timely manner in order to meet any filing deadlines imposed by the financing documents. The Principal Officer may decide in his or her discretion to have the proposed documents to be filed reviewed by an outside consultant.

UNC REX HEALTHCARE

August 2019

UNC REX North Carolina Medical Care Commission (NCMCC) Bond Compliance

Situation:

On 8/21/2019 UNC Rex President and CFO were scheduled to present for preliminary approval from NCMCC (they administer the Health Care Facilities Finance Act which enables Commission to issue tax-exempt revenue bonds) to continue the process to seek $250 Mil in public debt financing to fund the Holly Springs Hospital and Cancer Center projects.

During this meeting the NCMCC initially made a motion with a second to not allow the UNC Rex team to present and continue through the process due to its multi-year history of non-compliance with their policy. This would have disabled UNC Rex's ability to seek funding this year and negatively impact the progress of these strategic projects.

After this motion was voted down, the NCMCC granted preliminary approval contingent upon the President and CFO returning to an executive session in September to provide formal documentation of procedures and policies that addresses UNC Rex's history of non-compliance with the NCMCC's compliance policy.

Background:

Healthcare organizations presenting must be in compliance with the NCMCC compliance policy (timely filing of quarterly financials, annual operating and capital budgets, annual audit report, project status filings, and other financial forms) to pursue preliminary and final approval for debt issuance. The following two policies are addressed prior to presenting for preliminary approval:

1. Violation of 12 month compliance requirement (section B of policy)
2. Violation of multi-year history of non-compliance (section A of policy)

If an organization does not pass #2, they must at a minimum be in compliance for the most recent 12-month time period and request an exemption for #2.

With UNC Rex's multi-year history as summarized below, an exemption was requested as UNC Rex has been in compliance over the last 18-months.

Fiscal Year	Late Sched K	Late Operating and Capital Budget	Late Project Status Report	Late 2nd QTR Financial Report	Late Officers Certificate filing re new debt	Commentary
2018	X	X	X	X		CFO implemented structure, policy, procedure
2017	X		X			
2016	X				X	Audit finding resulting in reclass of $523K of equip purchase as note payable

The request for exemption was initially denied and replaced with preliminary approval to continue in the process, contingent upon the President and CFO returning to an executive session in September to provide formal documentation of procedures and policies that addresses UNC Rex's history of non-compliance and meets the requirements of the NCMCC's compliance policy.

Assessment:

During this history of non-compliance, duties and responsibilities were centralized to the UNC Health Care System Finance team and UNC Rex had 4 different CFO's in three years. Collectively this resulted in a breakdown of process, policy, accountability, and transparency related to escalating and resolving non-compliance matters with the President and CFO of UNC Rex Healthcare.

Following numerous matters escalated in 2018 to the UNC Rex CFO; policy, procedure and a local finance structure was put in place that included a dedicated resource for NCMCC filing needs as well as liaison with the Centralized Finance team on matters related to treasury, cash management, financial reporting and other governmental and regulatory filings.

With this model in place, UNC Rex has remained in compliance for 18-months. This model and compliance was confirmed and supported by NCMCC staff during the 8/21/2019 meeting.

Recommendation(s):

Report our history of non-compliance; and policies, procedures, and structure put in place to ensure there is an appropriate level of transparency and accountability to meet requirements NCMCC's Compliance Policy to the following:

- Senior Executive Team, UNC Health Care System – 8/28/2019
- Senior Executive Team, UNC Rex Healthcare – 9/3/2019
- UNC Rex Board – 9/9/2019

UNC Rex Healthcare President and CFO return to executive session of NCMCC in September 2019 to review this document and the following in support of our commitment to remain compliant with this very important policy:

- Policy and Procedure Document
    - Ongoing transparency
    - Escalation and resolution process
    - Structure and accountability
    - Calendar and requirements
    - Corrective actions

2. Adjournment

There being no further business, the meeting was adjourned at 2:43 p.m.

Respectfully submitted,

Geary W. Knapp
Assistant Secretary

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

The North Carolina Medical Care Commission
809 Ruggles Drive
Raleigh, North Carolina

MINUTES

CALLED MEETING OF THE EXECUTIVE COMMITTEE CONFERENCE TELEPHONE MEETING ORIGINATING FROM THE COMMISSION'S OFFICE OCTOBER 11, 2019 11:00 A.M.

Members of the Executive Committee Present:

Dr. John J. Meier, IV, Chairman
Joseph D. Crocker, Vice-Chairman
Charles H. Hauser
Eileen C. Kugler, RN, BSN, MPH, FNP
Albert F. Lockamy

Members of the Executive Committee Absent:

None

Members of Staff Present:

Geary W. Knapp, JD, CPA, Assistant Secretary
Crystal Watson-Abbott, Auditor
Kathy C. Larrison, Auditor
Alice S. Creech, Executive Assistant

Others Present:

Alice Adams, Robinson Bradshaw & Hinson, P.A.
Allen Robertson, Robinson Bradshaw & Hinson, P.A.
David Cheatwood, First Tryon Advisors
Seth Wagner, BB&T Capital Markets

1. Purpose of Meeting

To authorize the sale of bonds, the proceeds of which are to be loaned to Galloway Ridge, Inc.

2. Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of $45,990,000 North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Refunding Bonds (Galloway Ridge) Series 2019A.

Statements were given by Dr. John Meier, Mr. Geary Knapp, Mr. Seth Wagner, Mr. David Cheatwood, Mr. Joe Crocker, Mr. Allen Robertson, and Mr. Charles Hauser.

Executive Committee Action: Motion was made to approve the resolution by Mrs. Eileen Kugler, seconded by Mr. Al Lockamy, and unanimously approved.

WHEREAS, the North Carolina Medical Care Commission (the "Commission") is a commission of the Department of Health and Human Services of the State of North Carolina and is authorized under Chapter 131A of the General Statutes of North Carolina, as amended (the "Act"), to borrow money and to issue in evidence thereof bonds and notes for the purpose of providing funds to pay all or any part of the cost of financing or refinancing health care facilities (including retirement facilities); and

WHEREAS, Galloway Ridge, Inc. (the "Corporation") is a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina and is a "nonprofit agency" within the meaning of the Act; and

WHEREAS, the Corporation has made application to the Commission for a loan for the purpose of providing funds, together with other available funds, to (a) refund $50,240,000 of the outstanding principal amount of the Commission's Retirement Facilities First Mortgage Revenue Bonds (Galloway Ridge Project), Series 2010A (the "2010A Bonds"), which is all of the 2010A Bonds maturing on and after January 1, 2021 (the "Refunded Bonds"), and (b) pay certain expenses incurred in connection with the issuance of the Bonds by the Commission; and

WHEREAS, proceeds of the 2010A Bonds were used, together with other funds, to (a) refund a portion of existing taxable bank loans, the proceeds of which were used to refinance a portion of the costs of acquiring, constructing and equipping a continuing care retirement community known as Galloway Ridge located at 3000 Galloway Ridge, Pittsboro, Chatham County, North Carolina (the "Community"), (b) pay a portion of the cost of an expansion of the Community, including (i) the construction and equipping of 66 new independent living apartment units and one independent living villa, (ii) the construction and equipping of 29 assisted living units (15 of which are designated for dementia care and 14 of which are designated as multi-unit assisted housing with services), (iii) the construction and equipping of 24 skilled nursing beds, and (iv) the addition and renovation of common areas, (c) pay interest on the new money portion of the 2010A Bonds for approximately 24 months, (d) fund a debt service reserve fund, and (e) pay certain expenses incurred in connection with the issuance of the 2010A Bonds by the Commission; and

WHEREAS, the Commission has determined that the public will best be served by the proposed refinancing and, by a resolution adopted on August 21, 2019, has approved the issuance of the Bonds, subject to compliance by the Corporation with the conditions set forth in such resolution, and the Corporation has complied with such conditions to the satisfaction of the Commission; and

WHEREAS, there have been presented to officers and staff of the Commission draft copies of the following documents relating to the issuance of the Bonds:

(a) a Contract of Purchase, dated October 11, 2019 (the "Purchase Contract"), between the Local Government Commission of North Carolina and BB&T Capital Markets, a division of BB&T Securities, LLC, and Herbert J. Sims & Co., Inc. (collectively, the "Underwriters"), and approved by the Commission and the Corporation, pursuant to which the Underwriters have agreed to purchase the Bonds on the terms and conditions set forth therein and in the Trust Agreement (as defined below);

(b) a Trust Agreement, dated as of October 1, 2019 (the "Trust Agreement"), between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the "Bond Trustee"), the provisions of which relate to the issuance of and security for the Bonds and includes the form of the Bonds;

(c) a Loan Agreement, dated as of October 1, 2019 (the "Loan Agreement"), between the Commission and the Corporation, pursuant to which the Commission will lend the proceeds of the Bonds to the Corporation;

(d) an Amended and Restated Master Trust Indenture, dated as of October 1, 2019 (the "Master Indenture"), between the Corporation and The Bank of New York Mellon Trust Company, N.A., as master trustee (the "Master Trustee");

(e) a Supplemental Indenture for Obligation No. 6, dated as of October 1, 2019 ("Supplement No. 6"), between the Corporation and the Master Trustee;

(f) Obligation No. 6, to be dated the date of delivery of the Bonds ("Obligation No. 6"), to be issued by the Corporation to the Commission;

(g) a Second Amendment to Deed of Trust, dated as of October 1, 2019 (the "Second Amendment to Deed of Trust"), between the Corporation and the Master Trustee, amending the Deed of Trust, dated as of October 1, 2010 (the "Corporation Deed of Trust"), as amended by a First Amendment thereto dated as of September 1, 2014, by the Corporation to the deed of trust trustee named therein for the benefit of the Master Trustee; and

(h) a Preliminary Official Statement, dated September 26, 2019, relating to the Bonds (the "Preliminary Official Statement"); and

WHEREAS, the Commission has determined that the Corporation is financially responsible and capable of fulfilling its obligations under the Loan Agreement, the Master Indenture, Supplement No. 6 and Obligation No. 6; and

WHEREAS, the Commission has determined that adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

NOW, THEREFORE, THE NORTH CAROLINA MEDICAL CARE COMMISSION DOES HEREBY RESOLVE, as follows:

Section 1. Capitalized words and terms used in this Series Resolution and not defined herein shall have the same meanings in this Series Resolution as such words and terms are given in the Master Indenture, the Trust Agreement and the Loan Agreement.

Section 2. Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Refunding Bonds (Galloway Ridge) Series 2019A (the "Bonds"), in the aggregate principal amount of $45,990,000. The Bonds shall mature in such amounts and at such times and shall bear interest at such rates as are set forth in Schedule 1 attached hereto. The Bonds designated as Term Bonds shall be subject to the Sinking Fund Requirements set forth in Schedule 1 hereto.

The Bonds shall be issued as fully registered bonds in the denominations of $5,000 or any whole multiple thereof. The Bonds shall be issued in book-entry form as provided in the Trust Agreement. Interest on the Bonds shall be paid on each January 1 and July 1, beginning January 1, 2020. Payments of principal of and interest on the Bonds shall be made to the registered owners of the Bonds in such manner as is set forth in the Trust Agreement.

Section 3. The Bonds shall be subject to optional, extraordinary and mandatory sinking fund redemption, all at the times, upon the terms and conditions, and at the prices set forth in the Trust Agreement.

Section 4. The proceeds of the Bonds shall be applied as provided in Section 2.08 of the Trust Agreement. The Commission hereby finds that the use of the proceeds of the Bonds for a loan to refund the Refunded Bonds and pay costs of issuing the Bonds will accomplish the public purposes set forth in the Act.

Section 5. The forms, terms and provisions of the Trust Agreement and the Loan Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute and deliver the Trust Agreement and the Loan Agreement in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 6. The form, terms and provisions of the Purchase Contract are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) is hereby authorized and directed to execute and deliver the Purchase Contract in substantially the form presented at this meeting, together with such changes, modifications, insertions and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. The forms of the Bonds set forth in the Trust Agreement are hereby approved in all respects, and the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such forms of the Bonds, and to deliver to the Bond Trustee for authentication on behalf of the Commission, the Bonds in definitive form, which shall be in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary, appropriate and consistent with the Trust Agreement, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. The forms, terms and provisions of the Master Indenture, Supplement No. 6, Obligation No. 6 and the Second Amendment to Deed of Trust are hereby approved in substantially the forms presented to this meeting, together with such changes, modifications and deletions as the Chairman or Vice Chairman (or any member of the Commission designated by the Chairman) and the Secretary or any Assistant Secretary of the Commission, with the advice of counsel may deem necessary and appropriate; and the execution and delivery of the Trust Agreement as provided in Section 5 of this Series Resolution shall be conclusive evidence of the approval of the documents listed in this Section by the Commission.

Section 9. The Commission hereby approves the action of the Local Government Commission in awarding the Bonds to the Underwriters at the purchase price of $50,154,001.45 (representing the principal amount of the Bonds plus original issue premium of $4,738,876.45 and less underwriters' discount of $574,875.00).

Section 10. Upon their execution in the form and manner set forth in the Trust Agreement, the Bonds shall be deposited with the Bond Trustee for authentication, and the Bond Trustee is hereby authorized and directed to authenticate the Bonds and, upon the satisfaction of the conditions set forth in Section 2.08 of the Trust Agreement, the Bond Trustee shall deliver the Bonds to the Underwriters against payment therefor.

Section 11. The Commission hereby approves and ratifies the use and distribution of the Preliminary Official Statement and approves the use and distribution of a final Official Statement (the "Official Statement"), both in connection with the sale of the Bonds. The Chairman, Vice Chairman, Secretary or any Assistant Secretary (or any member of the Commission designated by the Chairman) is hereby authorized to execute, on behalf of the Commission, the Official Statement in substantially the form of the Preliminary Official Statement, together with such changes, modifications and deletions as they, with the advice of counsel, may deem appropriate.

Such execution shall be conclusive evidence of the approval thereof by the Commission. The Commission hereby approves and authorizes the distribution and use of copies of the Official Statement, the Trust Agreement, the Loan Agreement, the Master Indenture, Supplement No. 6, Obligation No. 6 and the Corporation Deed of Trust by the Underwriters in connection with such sale.

Section 12. The Bank of New York Mellon Trust Company, N.A. is hereby appointed as the initial Bond Trustee for the Bonds.

Section 13. The Depository Trust Company, New York, New York is hereby appointed as the initial Securities Depository for the Bonds, with Cede & Co., a nominee thereof, being the initial Securities Depository Nominee and initial registered owner of the Bonds.

Section 14. S. Mark Payne, Secretary of the Commission, Geary W. Knapp, Assistant Secretary of the Commission, Steven Lewis, Chief of the Construction Section of the Division of Health Service Regulation, and Kathy C. Larrison and Crystal Watson-Abbott, Auditors for the Commission, are each hereby appointed a Commission Representative as that term is defined in the Loan Agreement, with full power to carry out the duties set forth therein.

Section 15. The Chairman, Vice Chairman, Secretary, and any Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are each hereby authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effect the refunding of the Refunded Bonds and the transactions contemplated by the Trust Agreement, the Loan Agreement and the Purchase Contract.

Section 16. This Series Resolution shall take effect immediately upon its passage.

Schedule 1

2019A Bonds

$24,475,000 Serial Bonds

Due January 1	Principal Amount	Interest Rate
2021	$1,840,000	3.00%
2022	1,895,000	3.00
2023	1,955,000	3.00
2024	2,010,000	4.00
2025	2,090,000	4.00
2026	2,180,000	4.00
2027	2,260,000	5.00
2028	2,380,000	5.00
2029	2,495,000	5.00
2030	2,620,000	5.00
2031	2,750,000	5.00

$9,415,000 3.50% Term Bonds due January 1, 2035

Due January 1	Sinking Fund Requirement
2032	$2,885,000
2033	2,990,000
2034	3,095,000
2035	445,000

$12,100,000 5.00% Term Bonds due January 1, 2039

Due January 1	Sinking Fund Requirement
2035	$2,755,000
2036	3,355,000
2037	3,520,000
2038	775,000
2039	1,695,000

Professional Fees Comparison for
Galloway Ridge, Inc.

Professional	Fees Estimated In Preliminary Approval Resolution	Actual Fees
Underwriters' discount (includes Underwriters' counsel)	$605,375 (including $50,000 for counsel)	$574,875(including $50,000 for counsel)
Financial advisor	$68,750	$67,600
Accountants	35,000	35,000
Corporation Counsel	60,000	55,000
Bond Counsel	85,000	80,000

Attachment A

NC MCC Bond Sale Approval Form											
Facility Name: Galloway Ridge											
	Time of Preliminary Approval		**Time of Mailing POS (if applicable)**		**Time of Final Approval**		**Total Variance**		**Explanantion of Variance**		
SERIES: 2019A Revenue Refunding Bonds											
PAR Amount	$48,430,000.00		$48,420,000.00		$45,990,000.00		($2,440,000.00)		Coupon adjustments and lower yields produced more premium		
Estimated Interest Rate	3.89%		3.75%		3.42%				Lower interest rates		
All-in True Interest Cost	3.96%		3.82%		3.49%				Lower interest rates		
Maturity Schedule (Interest) - Date	January 1 and July 1		January 1 and July 1		January 1 and July 1						
Maturity Schedule (Principal) - Date	January 1		January 1		January 1						
Bank Holding Period (if applicable) - Date	n/a		n/a		n/a						
Estimated NPV Savings ($) (if refunded bonds)	$8,581,879		$9,287,023		$11,130,789		$2,548,910		Lower interest rates		
Estimated NPV Savings (%) (if refunded bonds)	16.55%		19.25%		22.16%		5.61%		Lower interest rates		
NOTES:											

3. Adjournment

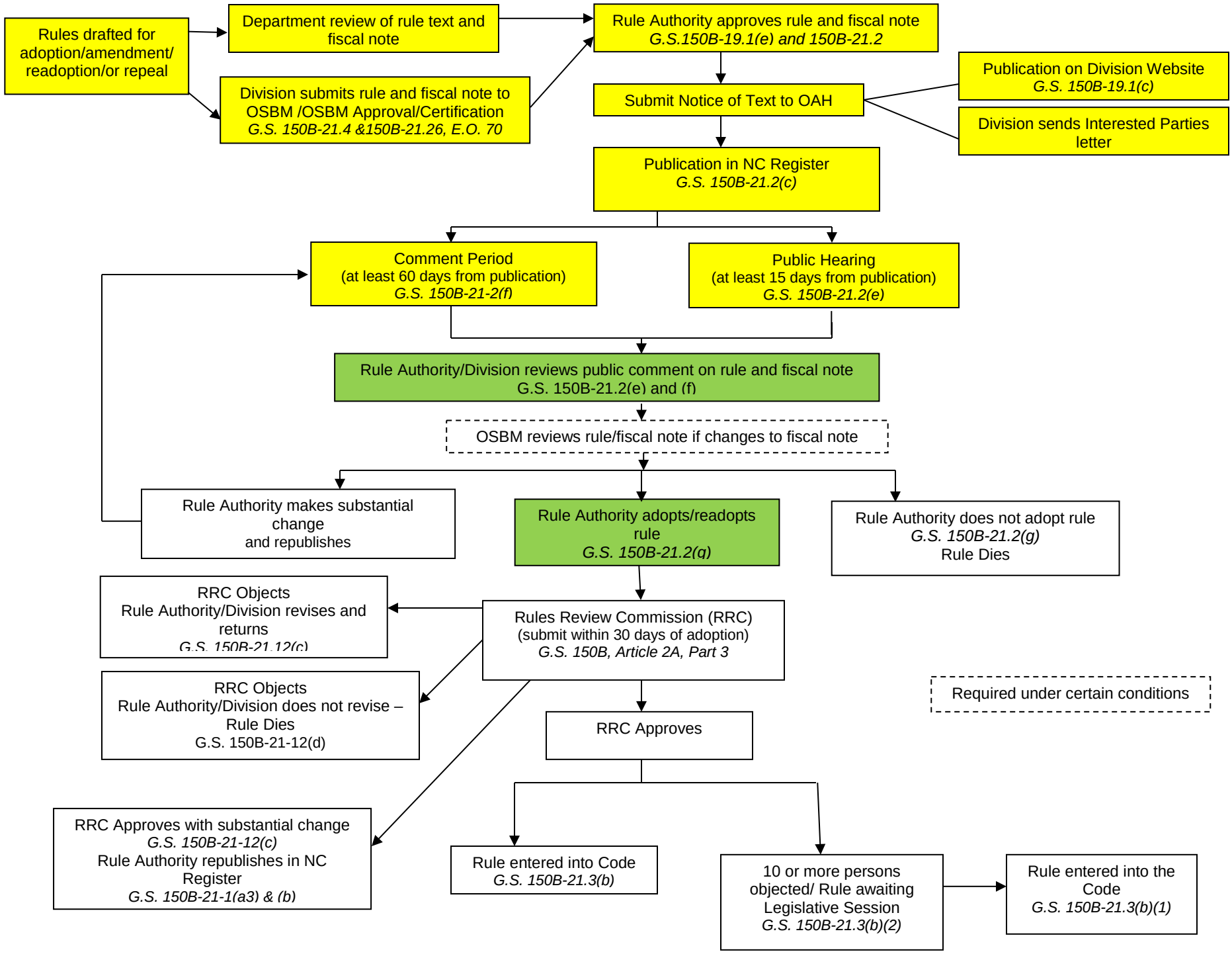
There being no further business, the meeting was adjourned at 11:11 a.m.

Respectfully submitted,

Geary W. Knapp, C.P.A.
Assistant Secretary

Process for Medical Care Commission to Adopt/Readopt Rule

Exhibit C



10A NCAC 13F .0203 is repealed through readoption as published in 33:24 NCR 2356-2358 as follows:

10A NCAC 13F .0203 PERSONS NOT ELIGIBLE FOR NEW ADULT CARE HOME LICENSES

History Note: *Authority G.S. 131D-2.4; 131D-2.5; 131D-4.5; 131D-2.16; 143B-165;*
Temporary Adoption Eff. December 1, 1999;
Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. June 1, ~~2004.~~ 2004;
Repealed Eff. January 1, 2020.

10A NCAC 13F .0207 is readopted with changes as published in 33:24 NCR 2356-2358 as follows:

10A NCAC 13F .0207 CHANGE OF LICENSEE

~~When a licensee plans to sell the adult care home business, the following procedure is required.~~ Prior to the sale of an adult care home business, the current and prospective licensee shall meet the requirements of this Rule.

(1) The current licensee shall provide written notification of a planned change of licensee to the Division of Health Service Regulation, the county department of social ~~services~~ services, and the residents or their responsible persons at least 30 days prior to the date of the planned change of licensee.

(2) If the prospective licensee plans to purchase the building, the prospective licensee shall provide the Healthcare Planning and Certificate of Need Section of the Division of Health Service Regulation with prior written notice as required by G.S. ~~13E-184(a)(8)~~ 131E -184(a)(8) prior to the purchase of the building.

~~(3) If the licensee is changing but the ownership of the building is not, the applicant for the license shall request in writing an exemption from review from the Certificate of Need Section.~~

~~(4)~~ (3) The prospective licensee shall submit the following license application material to the Division of Health Service Regulation:

(a) the ~~Initial License Application~~ Change Licensure Application for Adult Care Home (7 or more Beds) ~~which~~ that is available on the internet website, ~~http://facility-services.state.nc.us/gcpage.htm,~~ [~~www2.ncdhhs.gov/dhsr/acls/pdf/acchgapp.pdf~~] https://info.ncdhhs.gov/dhsr/acls/pdf/acchgapp.pdf at no cost ~~or from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708;~~ and includes the following:

(i) facility administrator and building owner information;

(ii) operation disclosure including new licensee information and management company, if any; and

(iii) ownership disclosure including new owners, principles, affiliates, shareholders, and members;

(b) a ~~current~~ fire and building safety inspection report from the local fire ~~marshal;~~ marshal dated within the past 12 months;

(c) a ~~current~~ sanitation report from the sanitation division of the county health ~~department;~~ department dated within the past 12 months; and

(d) a nonrefundable license fee as required by ~~G.S. 131D-2(b)(1).~~ G.S. 131D-2.5.

~~(5) Following the licensing of the facility to the new licensee, a survey of the facility shall be made by program consultants of the Division of Health Service Regulation and an adult home specialist of the county department of social services.~~

History Note: *Authority G.S. 131D-2.4; 131D-2.5; 131D-2.16; 143B-165;*

Eff. January 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. April 1, 1984;

Temporary Amendment Eff. September 1, 2003; July 1, 2003;

Amended Eff. June 1, ~~2004.~~ 2004;

Readopted Eff. January 1, 2020.

10A NCAC 13F .0214 is repealed through readoption as published in in 33:24 NCR 2356-2358 as follows:

10A NCAC 13F .0214 SUSPENSION OF ADMISSIONS

History Note: *Authority G.S. 131D-2.7;*
Eff. January 1, ~~1982.~~ 1982;
Repealed Eff. January 1, 2020.

10A NCAC 13F .1206 is readopted as published in 33:24 NCR 2356-2358 as follows:

10A NCAC 13F .1206 ~~ADVERTISING~~ MARKETING

~~The~~ An adult care home may ~~advertise~~ market provided:

(1) ~~The~~ the name used is as it appears on the ~~license.~~ license;

(2) ~~Only~~ only the services and accommodations for which the home is licensed are ~~used.~~ used; and

(3) ~~The~~ the home is ~~listed under proper classification in telephone books, newspapers or magazines.~~ classified by licensure status.

History Note: *Authority G.S. 131D-2.1; 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. July 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2020.

10A NCAC 13G .0207 is readopted with changes as published in 33:24 NCR 2356-2358 as follows:

10A NCAC 13G .0207 CHANGE OF LICENSEE

~~When a licensee wishes to sell or lease the family care home business, the following procedure is required:~~

~~(1) The licensee shall notify the county department of social services that a change is desired. When there is a plan for a change of licensee and another person applies to operate the home immediately, the licensee shall notify the county department and the residents or their responsible persons. The county department shall talk with the residents, giving them the opportunity to make other plans if they so desire.~~

~~(2) The county department of social services shall submit all forms and reports specified in Rule .0204 (b) of this Subchapter to the Division of Health Service Regulation.~~

~~(3) The Division of Health Service Regulation shall review the records of the facility and may visit the home.~~

~~(4) The licensee and prospective licensee shall be advised by the Division of Health Service Regulation of any changes which must be made to the building before licensing to a new licensee can be recommended.~~

~~(5) Frame or brick veneer buildings over one story in height with resident services and accommodations on the second floor shall not be considered for re-licensure.~~

Prior to the sale of a family care home business, the current and prospective licensee shall meet the requirements of this Rule.

(1) The current licensee shall provide written notification of a planned change of licensee to the Division of Health Service Regulation, the county department of social services, and the residents or their responsible persons at least 30 days prior to the date of the planned change of licensee.

(2) The prospective licensee shall submit the following license application material to the Division of Health Service Regulation:

(a) the Change Licensure Application for Family Care Home (2 to 6 Beds) that is available on the internet website, [~~www2.ncdhhs.gov/dhsr/acls/pdf/fcchgapp.pdf~~] https://info.ncdhhs.gov/dhsr/acls/pdf/fcchgapp.pdf at no cost and includes the following:

(i) facility, administrator and building owner information;

(ii) operation disclosure including new licensee information and management company, if any; and

(iii) ownership disclosure including new owners, principles, affiliates, shareholders, and members;

(b) a fire and building safety inspection report from the local fire marshal dated within the past 12 months;

(c) a sanitation report from the sanitation division of the county health department dated within the past 12 months; and

(d) a nonrefundable license fee as required by G.S. 131D-2.5.

History Note: *Authority G.S. 131D-2.4; 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; April 1, 1984;
Temporary Amendment Eff. September 1, 2003;
Amended Eff. June 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2020.

10A NCAC 13G .0214 is repealed through readoption as published in 33:24 NCR 2356-2358 as follows:

10A NCAC 13G .0214 SUSPENSION OF ADMISSIONS

History Note: *Authority G.S. 131D-2.7;*
Eff. January 1, 1982;
Amended Eff. July 1, ~~1990.~~ 1990;
Repealed Eff. January 1, 2020.

10A NCAC 13G .1207 is readopted as published in 33:24 NCR 2356-2358 as follows:

10A NCAC 13G .1207 ~~ADVERTISING~~ MARKETING

~~The administrator~~ A family care home may ~~use acceptable methods of advertising~~ market provided:

(1) ~~The~~ the name used is as it appears on the ~~license.~~ license;

(2) ~~Only~~ only the services and accommodations for which the home is licensed are ~~used.~~ used; and

(3) ~~The~~ the home is ~~listed under proper classification in telephone books, newspapers or magazines.~~ classified by licensure status.

History Note: *Authority G.S. 131D-2.1; 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, ~~1984.~~ 1984;
Readopted Eff. January 1, 2020.

DHSR Adult Care Licensure Section

Fiscal Impact Analysis

Permanent Rule Adoptions without Substantial Economic Impact

Agency:	North Carolina Medical Care Commission	
Contact Persons:	Nadine Pfeiffer, MCC/DHSR Rulemaking Coordinator, 919-855-3811	
	Megan Lamphere, Chief, Adult Care Licensure Section, 919-855-3784	
	Doug Barrick, Policy Coordinator, Adult Care Licensure Section, 919 - 855-3778	
Impact:	Federal Government Impact:	No
	State Government Impact:	Yes
	Local Government Impact:	Yes
	Private Entities	Yes
	Substantial Economic Impact:	No

Titles of Rule Changes and N.C. Administrative Code citations

Rule Repeal:

10A NCAC 13F.0203 Persons Not Eligible for New Adult Care Home Licenses

10A NCAC 13F .0214 Suspension of Admissions

10A NCAC 13G .0214 Suspension of Admissions

Rule Readoptions (*See proposed text of these rules in Appendix):*

10A NCAC 13F .0207 Change of Licensee

10A NCAC 13F .1206 Marketing

10A NCAC 13G .0207 Change of Licensee

10A NCAC 13G .1207 Marketing

Authorizing Statutes: G.S. 131D-2.1; 131D- 2.4; 131D-2.5; 131D-4.5; 131D-2.16; 143B-165; 131D-2.7

Introduction and Background

Under the authority of G.S. 150B-21.3A, Periodic review and expiration of existing rules, the North Carolina Medical Care Commission and Rule Review Commission approved the Subchapter reports with classifications for the rules under 10A NCAC 13F Licensing of Adult Care Homes of Seven or More Beds and 10A NCAC 13G Licensing of Family Care Homes. The rules were classified in the reports as necessary with substantive public interest. Rules 10A NCAC 13F .0207 and .1206 and 10A NCAC 13G .0207 and .1207 are being presented for readoption with substantive changes. Rules 10A NCAC 13F .0203 and .0214 and 10A NCAC .0214 are being readopted as repeals and will not be discussed in this analysis.

Rules 10A NCAC 13F .0207 and .1206 and 13G .0207 were last amended in 2004. Rule 10NCAC 13G .1207 was last amended in 1984. Assisted Living regulatory policies and procedures and changes in technology have changed over the years since those amendment dates to allow for greater regulatory efficiency. The changes to these rules are intended to update the process that has been followed in recent years in the regulation of currently 595 adult care homes of seven or more beds for a total of 37,562 beds and 625 family care homes (2-6 beds) for a total of 3525 beds. A further intent of the changes is to make the rules of these two types of assisted living residences comparable if not the same for regulatory efficiency since they both house the same type of residents as permitted by law. Currently most of the rules for both types of residences are the same with the primary exception of staffing and physical plant requirements. The 13F and 13G rules are being reviewed, changes made and readoption proposed concurrently to assure this consistency.

Rule Summary and Anticipated Fiscal Impact

10A NCAC 13F .0207 Change of Licensee: This rule specifies what is required of the current licensee of an adult care home and an entity applying for a license for the adult care home. The process involves notification of affected parties by the current licensee and submission of particular material by the prospective licensee for a change of license. Licenses are not transferable so a new license must be issued to the new owner of the adult care home business.

1. The new requirement in this proposed readoption is the 30-day notification of change of ownership. The rationale is as follows.

Rationale: The current licensee must notify Division of Health Service Regulation, the county department of social services and the residents or responsible persons within 30 days of the planned change of licensee. The rationale is to promote a smooth and well-planned change of ownership by assuring the change of ownership occurs by the date of change worked out between current owner and applicant licensee. The 30-day period will ensure adequate time for processing of the ownership change by the licensing agency and allow time for residents and responsible parties with the assistance of the county departments of social services to make plans for obtaining placement elsewhere if so desired or as determined necessary by admission policy of prospective licensee.

The current and historical context is that current and applicant licensees are notified by the Adult Care Licensure's Section's established policies of 30 days notice necessary to process the change

of ownership application. If that procedural guideline is not followed, the change of ownership may not occur at the expected time of closure on the sale of the business because processing of the application cannot necessarily be completed in a shorter timeframe, meaning, the change of ownership would be delayed. The benefit of the 30-day notice is to assure the timeframe for the actual change of ownership as agreed upon by the parties involved is met.

The consequence of not meeting the timeframe is the expense to the current owner in keeping the facility open and the lack of revenue by prospective owner. Reapplication for a license by the prospective licensee would require payment of licensure fees again. These costs to the current and prospective owners would result if sufficient notice, as required by either rule or agency policy/practice, to process the change of ownership was not given to the licensing agency.

Requiring a 30-day notice period does not in itself result in additional costs to either the licensing agency or the county department of social services. However, failure to notify residents at least 30 days prior to the change of ownership could create a hardship on residents, responsible parties, the facility and the county departments of social services in finding other placement for the residents if they cannot or choose not to remain at the facility under new ownership. Based on input from surveyors and other state licensure staff involved in the change of ownership, residents typically remain at the facility through and after the change of ownership with resident records remaining in the facility and being updated as needed by the new licensee. In this majority of cases the notification is significant in regards to assuring Residents' Right #1 in G.S. 131D-21, "To be treated with respect, consideration, dignity….." The negative result, from a licensure standpoint, of not abiding by the notice timeframe would be a citation of a deficiency in rule compliance though this would not result in a monetary penalty.

Fiscal Impact: There is no fiscal impact resulting from this proposed rule readoption.

2. The requirement for requesting an exemption from the Certificate of Need (CON) Section for a change of licensee when the building ownership does not change is proposed for deletion as indicated in what was Paragraph 3 of proposed rule readoption.

Rationale: This request for exemption was not a requirement of CON so was unenforceable and, therefore, needs deletion from rule.

Fiscal Impact: Not applicable.

3. Paragraph 3 of proposed rule adoption has technical changes in Parts (a) and (d) and specification of basic contents in the referenced license application.

Rationale: Name of application and website address in Part (a) require updating. Statutory reference in Part (d) requires updating due to reorganization of what was G.S. 131D-2 several years ago. The contents of the application are listed to meet OAH requirement of noting what named documents include content-wise.

Fiscal Impact: There is no fiscal impact to these rule changes since the changes are of a technical, non-substantive, nature.

4. The word "current" in Paragraph 3, Parts (b) and (c), is proposed for deletion to be replaced with the timeframe of "within the past 12 months."

Rationale: The purpose of the change is to clearly relate what the licensing agency considers to be current according to county fire and sanitation inspection timeframes. This does not change the timeframe being required by current rule but specifies a time period since "current" is somewhat ambiguous. The change reflects what has been and continues to be the standard timeframe for inspections in practice.

Fiscal Impact: There is no fiscal impact to this change since the rule merely provides clearer language for a long-established standard for fire and sanitation inspections that has been followed by the licensing agency since 1984.

5. Paragraph (5) of this rule is proposed for deletion. It requires staff of the licensing agency and the county department of social services to conduct a survey of the facility following a change of ownership to assure the facility is operating per licensure requirements.

Rationale: This section of the rule has not been a part of the Adult Care Licensure Section's survey or the county departments of social services' adult services monitoring process since the star rating system for all adult care and family care homes became mandated by law in 2008 and annual surveys of all homes in 2009, the combination of which impacted the need for change of ownership surveys. Prior to that time, it was felt that a change of ownership survey was necessary because of the lack of periodic on-site surveys. As a result of the implementation of annual surveys and star rating follow-up surveys, the licensure staff switched to a document review of the change of ownership transaction and the readiness of the new owner to operate the facility and conducted this in-office. Due to surveys from the star rating system or the annual surveys, the new owner would be subject to an on-site survey of the facility within a matter of days, weeks or months depending on the schedule of annual surveys and follow-up surveys from any previous owner violations. This change in policy was made to streamline the CHOW process and optimize staff resources by incorporating the new ownership surveys into the annual and follow-up survey process. The primary benefit was better use of the limited staff time and resources.

Fiscal Impact: The deletion of the change of ownership survey by the Adult Care Licensure Section and the county department of social services' adult home specialists (AHS) results in a cost savings for the state and counties as follows.

Salaries and Wages:

Assumptions:

- Fringe benefits are equal to 37% of annual salary costs for state employees and 33.3% of annual salary costs for county employees.
- Annual salary based on 2040 working hours
- Travel costs of $0.58/mile (based on 2019 IRS reimbursement rates)
- State and county salaries are not likely to increase more than average inflation.

- State surveyors are home-based, living in the region of the facilities they survey. Adult Home Specialists visit facilities in their counties.

Table 1 - Wage Estimates	Salary	Fringe Benefits	Total Cost
ACLS Surveyor, FSC I	$ 58,070	$ 21,486	$ 79,556
County Adult Home Specialist	$ 45,000	$ 14,985	$ 59,985

Table 2 - Adult Care Home Change of Ownership Surveys		
Average Annual # of Adult Care Home Changes of Ownership (CHOW)	48	
Survey Requires:		
2 State Surveyors for 2 Days	$	1,224
Travel Costs - State Employees (100mi/day)	$	232
1 County Adult Home Specialist for 2 Days	$	461
Travel Costs - County Employee (40mi/day)	$	46
Total Costs to State	$	69,885
Total Costs to Counties	$	24,376
Total Costs for FCH CHOW Surveys	$	**94,261**

Table 3 - Family Care Home Change of Ownership Surveys		
Average Annual # of Family Care Home Changes of Ownership (CHOW)		59
Survey Requires:		
1 State Surveyor for 1 Day	$	306
Travel Costs - State Employees	$	58
1 County Adult Home Specialist for 1 Day	$	231
Travel Costs - County Employee	$	23
Total Costs to State	$	21,475
Total Costs to Counties	$	14,981
Total Costs for FCH CHOW Surveys	$	**36,456**

Total fiscal impact (cost savings) of no CHOW surveys for state and county:

$94,261 + 36,456 = $130, 717 in annual cost savings

These savings will occur every year going forward. Future annual cost savings will be dependent on wage and travel reimbursement changes, as well as the number of CHOW surveys that would otherwise have to be done.

10A NCAC 13G .0207 Change of Licensee: The rule specifies certain procedures to be followed when a change of business ownership of a family care home is planned in conjunction

with a prospective licensee to take over the business and operation of the family care home. The rule change reflects the current process and procedures for change of ownership that have been in effect for several years.

Rationale: The changes proposed are the deletion of outdated text in Paragraphs (1) and (2), the result of changes in the licensure change process that is the same for adult care homes; the deletion of Paragraphs (3) and (4) which are part of the internal procedures and licensing process of the Adult Care Licensure Section of the Division of Health Service Regulation; and deletion of Paragraph (5) which is covered in the NC Building Code. The intent of the agency is to update the rule requirements for the change of licensee process to bring them in line with current Division standards of practice and align these requirements to the requirements for adult care homes. The agency feels that there is no need for different standards of practice to be applied to family care homes versus adult care homes as the residents are substantially similar. This action will provide consistency to licensure practice for assisted living facilities and avoid outdated practice, particularly involving the county departments of social services, that creates an extra, unnecessary layer of involvement in the change of licensee process.

The process involving county departments of social services is unnecessary because the counties simply collected the information from the prospective licensee and forwarded it to the Adult Care Licensure Section without taking any action on it other than assuring its completeness. The CHOW process is streamlined by direct submittal of the application by the prospective licensee rather than dealing with the variable timeframes of almost 100 counties in submitting the applications. This will also benefit the licensee because their application will be received by DHSR in a more timely fashion. Since the text of proposed readoption of 10A NCAC 13F .0207 is being incorporated into 13G .0207, the rationale as stated for 13F .0207 in Parts 1 and 4 above applies to this rule readoption.

Fiscal Note: The only fiscal impact of this rule would be cost savings of the county departments of social services in not mailing the change of licensee application materials to the Division for review and licensing and the cost to the applicant licensee of the mailing of those materials directly to the Division. Currently the prospective licensees mail or hand deliver change of license applications to the county departments of social services. The assumption is that the cost of mailing by the county and the prospective licensee is the same and is minimal.

Average # of family care home CHOW's, 2016-2018: 59

Cost of mailing CHOW application by facility is minimal and cost savings of county not mailing applications is minimal as well.

The cost savings of adult home specialists of the county department of social services not having to meet with residents is not quantifiable because of great diversity in number of residents per facility. Also, part of the job responsibilities of adult home specialists already is assistance with resident placement so, if residents wanted to move before a CHOW, they would assist as needed.

10A NCAC 13F .1206 and 13G .1207 Marketing: These rule changes institute the same advertising requirements for both adult care homes and family care homes that address how a facility can market itself if it chooses to do so. If a facility wishes to market itself for advertising

purposes, it must present itself to the public under its correct licensure classification as it appears on its license. This requirement is to ensure that facilities are not misrepresented to the public for services and care provided that they are not licensed to provide. The wording about types of advertising is proposed for deletion to update the rule in allowing for other forms of marketing available other than hard copies of printed texts. The rationale for the use of marketing instead of advertising is as follows.

Rationale: Marketing is a broader term than advertising and includes the development of a strategy and the preparation and dissemination of an advertising product. The end product of marketing is advertising so the change in rule to address marketing is inclusive of advertising but covers any public relations campaigns and other factors that lead to the final advertising product. Marketing captures the whole process leading up to advertising in which the public may become aware of the product or entity that is to be advertised. There would not be advertising without some initial marketing, whether a lengthy or brief process. While the term advertising, therefore, encompasses the process leading up to it, using the term marketing clarifies that it is a process and incorporates more than just a visual or verbal advertisement. While obvious from the rule language, marketing by the facility is a choice but naming of the entity by licensure category if the choice to market the category is made, is a requirement. There's an assumption that most of the 1220 homes, both family care and adult care, advertise in some way, if only by a sign on the property identifying the home or automatic voice messages describing the home. The other assumption is that, if homes advertise, the cost of marketing is included, whether it be extensive or minimal. The cost factor is incorporated in either case. The benefit is that proper classification of the facility is considered and communicated in the process leading up to and including advertising, so that the accuracy of the home's licensure category in advertising and public relations throughout the process is ensured.

Fiscal Impact: This proposed rule readoption carries no determinable or quantifiable fiscal impact from current rule based on change in terms from advertising to marketing.

Conclusion:

The proposed rule readoptions in this report are intended to update rules to bring them into line with current licensure processes and procedures, update statutory references, clarify wording and unify family care home and adult care home rules as much as possible for efficient and effective regulation since both types of assisted living facilities are intended by law to serve residents with similar needs for care and services. This ensures consistency of regulation of facility types determined by capacity.

Summary Impact Table	
State Government	Annual savings of $94,261 based on travel costs and staff time; also unquantifiable savings related to clarity of regulations
Local Government	Annual savings of $36,456 based on travel costs and staff time; unquantifiable savings related to streamlined application process
Private Sector	Unquantifiable benefits related to increased clarity regarding the application process, time savings related to family home application process, decreased administrative burden in not spending time on additional CHOW licensure surveys

The overall fiscal impact of these rule readoptions is a moderate cost savings to the state and county departments of social services as a result of not requiring change of ownership surveys by state and county staff, thereby resulting in wage and travel savings. These rule readoptions and amendments are primarily serving the purpose of updating rules to concur with licensure practice of the past 10 years resulting from law and policy changes impacting process and procedures of the Adult Care Licensure Section of the Division of Health Service Regulation. The changes provide clear guidance based on current licensure practice to adult care home and family care home licensees to ensure a more streamlined licensure process while continuing to ensure safe environments and practices for residents of these facilities such as requiring adequate notices of changes in facility ownership. Fiscal impact is not substantial.

Appendix

10A NCAC 13F .0207 is proposed for readoption with substantive changes as follows:

10A NCAC 13F .0207 CHANGE OF LICENSEE

~~When a licensee plans to sell the adult care home business, the following procedure is required.~~ Prior to the sale of an adult care home business, the current and prospective licensee shall meet the requirements of this Rule.

(1) The current licensee shall provide written notification of a planned change of licensee to the Division of Health Service Regulation, the county department of social ~~services~~ services, and the residents or their responsible persons at least 30 days prior to the date of the planned change of licensee.

(2) If the prospective licensee plans to purchase the building, the prospective licensee shall provide the Healthcare Planning and Certificate of Need Section of the Division of Health Service Regulation with prior written notice as required by G.S. ~~13E-184(a)(8)~~ 131E -184(a)(8) prior to the purchase of the building.

~~(3) If the licensee is changing but the ownership of the building is not, the applicant for the license shall request in writing an exemption from review from the Certificate of Need Section.~~

~~(4)~~ (3) The prospective licensee shall submit the following license application material to the Division of Health Service Regulation:

(a) the ~~Initial License Application~~ Change Licensure Application for Adult Care Home (7 or more Beds) ~~which~~ that is available on the internet website, ~~http://facility-services.state.nc.us/gcpage.htm,~~ www2.ncdhhs.gov/dhsr/acls/pdf/acchgapp.pdf at no cost ~~or from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708;~~ and includes the following:

(i) facility administrator and building owner information;

(ii) operation disclosure including new licensee information and management company, if any; and

(iii) ownership disclosure including new owners, principles, affiliates, shareholders, and members;

(b) a ~~current~~ fire and building safety inspection report from the local fire ~~marshal;~~ marshal dated within the past 12 months;

(c) a ~~current~~ sanitation report from the sanitation division of the county health ~~department;~~ department dated within the past 12 months; and

(d) a nonrefundable license fee as required by ~~G.S. 131D-2(b)(1).~~ G.S. 131D-2.5.

~~(5) Following the licensing of the facility to the new licensee, a survey of the facility shall be made by program consultants of the Division of Health Service Regulation and an adult home specialist of the county department of social services.~~

History Note: *Authority G.S. 131D-2.4; 131D-2.5; 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, 1984;
Temporary Amendment Eff. September 1, 2003; July 1, 2003;
Amended Eff. June 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2020.

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

10A NCAC 13F .1206 ~~ADVERTISING~~ MARKETING

~~The~~ An adult care home may ~~advertise~~ market provided:

(1) ~~The~~ the name used is as it appears on the ~~license.~~ license;

(2) ~~Only~~ only the services and accommodations for which the home is licensed are ~~used.~~ used; and

(3) ~~The~~ the home is ~~listed under proper classification in telephone books, newspapers or magazines.~~ classified by licensure status.

History Note: *Authority G.S. 131D-2.1; 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Temporary Amendment Eff. July 1, 2003;
Amended Eff. July 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2020.

10A NCAC 13G .0207 is proposed for readoption with substantive changes as follows:

10A NCAC 13G .0207 CHANGE OF LICENSEE

~~When a licensee wishes to sell or lease the family care home business, the following procedure is required:~~

~~(1) The licensee shall notify the county department of social services that a change is desired. When there is a plan for a change of licensee and another person applies to operate the home immediately, the licensee shall notify the county department and the residents or their responsible persons. The county department shall talk with the residents, giving them the opportunity to make other plans if they so desire.~~

~~(2) The county department of social services shall submit all forms and reports specified in Rule .0204 (b) of this Subchapter to the Division of Health Service Regulation.~~

~~(3) The Division of Health Service Regulation shall review the records of the facility and may visit the home.~~

~~(4) The licensee and prospective licensee shall be advised by the Division of Health Service Regulation of any changes which must be made to the building before licensing to a new licensee can be recommended.~~

~~(5) Frame or brick veneer buildings over one story in height with resident services and accommodations on the second floor shall not be considered for re-licensure.~~

Prior to the sale of a family care home business, the current and prospective licensee shall meet the requirements of this Rule.

(1) The current licensee shall provide written notification of a planned change of licensee to the Division of Health Service Regulation, the county department of social services, and the residents or their responsible persons at least 30 days prior to the date of the planned change of licensee.

(2) The prospective licensee shall submit the following license application material to the Division of Health Service Regulation:

(a) the Change Licensure Application for Family Care Home (2 to 6 Beds) that is available on the internet website, www2.ncdhhs.gov/dhsr/acls/pdf/fcchgapp.pdf at no cost and includes the following:

(i) facility, administrator and building owner information;

(ii) operation disclosure including new licensee information and management company, if any; and

(iii) ownership disclosure including new owners, principles, affiliates, shareholders, and members;

(b) a fire and building safety inspection report from the local fire marshal dated within the past 12 months;

(c) a sanitation report from the sanitation division of the county health department dated within the past 12 months; and

(d) a nonrefundable license fee as required by G.S. 131D-2.5.

History Note: *Authority G.S. 131D-2.4; 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. July 1, 1990; April 1, 1984;
Temporary Amendment Eff. September 1, 2003;
Amended Eff. June 1, ~~2004.~~ 2004;
Readopted Eff. January 1, 2020.

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

10A NCAC 13G .1207 ~~ADVERTISING~~ MARKETING

~~The administrator~~ A family care home may ~~use acceptable methods of advertising~~ market provided:

(1) ~~The~~ the name used is as it appears on the ~~license.~~ license;

(2) ~~Only~~ only the services and accommodations for which the home is licensed are ~~used.~~ used; and

(3) ~~The~~ the home is ~~listed under proper classification in telephone books, newspapers or magazines.~~ classified by licensure status.

History Note: *Authority G.S. 131D-2.1; 131D-2.16; 143B-165;*
Eff. January 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. April 1, ~~1984.~~ 1984;
Readopted Eff. January 1, 2020.

10A NCAC 13C .1401 is amended as published in 33:24 NCR 2352-2356 as follows:

SECTION .1400 - PHYSICAL PLANT CONSTRUCTION

10A NCAC 13C .1401 ~~OPERATING SUITE~~ DEFINITIONS

~~The size and design of the suite shall be in accordance with individual programs, but the following basic elements designed to ensure no flow of through traffic must be incorporated in all facilities:~~

~~(1) Operating Room(s). The number shall depend on the projected case load and types of procedures to be performed. Rooms used for surgery shall have adequate space to accommodate necessary equipment and personnel.~~

~~(2) Service Areas. The following supporting services shall be provided:~~

~~(a) scrub up facilities with foot or knee controls;~~

~~(b) personnel locker and dressing areas so located that personnel enter from uncontrolled areas and exit directly into a surgical suite. Locker space shall be provided for each employee; and a toilet, shower, and dressing area shall be provided in each personnel dressing room;~~

~~(c) separate rooms for clean and for soiled supplies and equipment;~~

~~(d) anesthesia workroom;~~

~~(e) one clerical control station; and~~

~~(f) a janitor's closet conveniently located to serve only the licensed facility.~~

In addition to the definitions set forth in G.S. 131E-146, the following definitions shall apply in Section .1400 of this Subchapter:

(1) "Addition" means an extension or increase in floor area or height of a building.

(2) "Alteration" means any construction or renovation to an existing building other than construction of an addition.

(3) "Construction documents" means final building plans and specifications for the construction of a facility that a governing body submits to the Construction Section for approval as specified in Rule .0202 of this Subchapter.

(4) "Construction Section" means the Construction Section of the Division of Health Service Regulation.

(5) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.

(6) "Facility" means an ambulatory surgical facility as defined in G.S. 131E-146.

(7) "FGI Guidelines" means the Guidelines for Design and Construction of Outpatient Facilities that is incorporated by reference in Rule .1402 of this Section.

History Note: *Authority G.S. 131E-145; 131E-146; 131E-149;*
Eff. October 14, 1978;

Amended Eff. December 24, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017.~~ 2017;

Amended Eff. January 1, 2020.

10A NCAC 13C .1402 is amended as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1402 ~~RECOVERY AREA~~ LIST OF REFERENCED GUIDELINES, CODES, STANDARDS, AND REGULATION

~~Recovery area with handwashing facilities, secured medication storage space, clerical work space, storage for clerical supplies, linens, and patient care supplies and equipment shall be provided.~~

(a) The FGI Guidelines are incorporated herein by reference, including all subsequent amendments and editions; however, the following chapters of the FGI Guidelines shall not be incorporated herein by reference:

(1) Chapter 2.3;

(2) Chapter 2.4;

(3) Chapter 2.5;

(4) Chapter 2.6;

(5) Chapter 2.8;

(6) Chapter 2.10;

(7) Chapter 2.11;

(8) Chapter 2.12;

(9) Chapter 2.13; and

(10) Chapter 2.14.

Copies of the FGI Guidelines may be purchased from the Facility Guidelines Institute online at https://www.fgiguidelines.org/guidelines-main/purchase/ at a cost of two hundred dollars ($200.00) or accessed electronically free of charge at https://www.fgiguidelines.org/guidelines-main/.

(b) For the purposes of the rules of this Section, the following codes, standards, and regulation are incorporated herein by reference including subsequent amendments and editions. Copies of these codes, standards, and regulation may be obtained or accessed from the online addresses listed:

(1) the North Carolina State Building Codes with copies that may be purchased from the International Code Council online at https://shop.iccsafe.org/ at a cost of six hundred sixty-six dollars ($666.00) or accessed electronically free of charge at https://shop.iccsafe.org/state-and-local-codes/north-carolina.html;

(2) the following National Fire Protection Association standards, codes, and guidelines with copies of these standards, codes, and guidelines that may be accessed electronically free of charge at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards or may be purchased online at https://catalog.nfpa.org/Codes-and-Standards-C3322.aspx for the costs listed:

(A) NFPA 22, Standard for Water Tanks for Private Fire Protection for a cost of fifty-four dollars ($54.00);

(B) NFPA 53, Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres for a cost of fifty-three dollars ($53.00);

(C) NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas for a cost of fifty-four dollars ($54.00);

(D) NFPA 99, Health Care Facilities Code for a cost of seventy-seven dollars ($77.00);

(E) NFPA 101, Life Safety Code for a cost of one hundred and five dollars and fifty cents ($105.50);

(F) NFPA 255, Standard Method of Test of Surface Burning Characteristics of Building Materials for a cost of forty-two dollars ($42.00);

(G) NFPA 407, Standard for Aircraft Fuel Servicing for a cost of forty-nine dollars ($49.00);

(H) NFPA 705, Recommended Practice for a Field Flame Test for Textiles and Films for a cost of forty-two dollars ($42.00);

(I) NFPA 780, Standard for the Installation of Lightning Protection Systems for a cost of sixty-three dollars and fifty cents ($63.50);

(J) NFPA 801, Standard for Fire Protection for Facilities Handling Radioactive Materials for a cost of forty-nine dollars ($49.00); and

(K) Fire Protection Guide to Hazardous Materials for a cost of one hundred and thirty-five dollars and twenty-five cents ($135.25).

(3) 42 CFR Part 416.54 Condition of participation: Emergency preparedness with copies of this regulation that may be accessed free of charge at https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-15.xml or purchased online at https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7 for a cost of seventy-seven dollars ($77.00).

History Note: *Authority G.S. 131E-149;*
Eff. October 14, 1978;
Amended Eff. December 24, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017.~~ 2017;
Amended Eff. January 1, 2020.

10A NCAC 13C .1403 is amended with changes as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1403 ~~SUPPORTING ELEMENTS~~ GENERAL AND EMERGENCY PREPAREDNESS

~~In addition to those areas covered in Rules .1401 and .1402 of this Section, the facility shall provide space for the following:~~

~~(1) the receiving and registering of patients in privacy for obtaining confidential information;~~

~~(2) waiting space with public toilets, public telephone, drinking fountain, and wheelchair storage;~~

~~(3) preoperative preparation and post operative space for both males and females with dressing rooms and toilet facilities; and~~

~~(4) secure storage for patients' personal effects.~~

(a) A new facility or any addition or alterations to an existing facility whose construction documents were approved by the Construction Section on or after July 1, 2020 shall meet the requirements set forth in:

(1) the rules of this Section; and

(2) the FGI Guidelines.

(b) An existing facility whose construction documents were approved by the Construction Section prior to July 1, 2020 shall meet those standards established in the rules of this Section that were in effect at the time the construction documents were approved by the Construction Section. Previous versions of the rules of this Section can be accessed online at [~~https://www.ncdhhs.gov/dhsr/const/index.html.~~] https://info.ncdhhs.gov/dhsr/const/index.html.

(c) The facility shall develop and maintain an emergency preparedness program as required by 42 CFR Part 416.54 Condition of Participation: Emergency Preparedness. The emergency preparedness program shall be developed with input from the local fire department and local emergency management agency. Documentation required to be maintained by 42 CFR Part 416.54 shall be maintained at the facility for at least three years and shall be made available to the Division during an inspection upon request.

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

History Note: *Authority G.S. 131E-149; 42 CFR Part 416.54;*
Eff. October 14, 1978;
Amended Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017.~~ 2017;
Amended Eff. January 1, 2020.

10A NCAC 13C .1404 is readopted as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1404 ~~DETAILS AND FINISHES~~ EQUIVALENCY AND CONFLICTS WITH REQUIREMENTS

~~All details and finishes must meet the following requirements:~~

~~(1) Details~~

~~(a) The type of construction shall meet the requirement of the current edition of the North Carolina State Building Code for "Business Occupancy (B)," except that in the construction of new facilities required exit doors to stairs or to the outside shall be no less than 44" wide doors.~~

~~(b) Exit corridors, in addition to meeting the appropriate requirements of the North Carolina State Building Code, shall:~~

~~(i) be no less than 7'0" clear width between doors from the recovery area or operating rooms and required exit doors; or~~

~~(ii) if in a one story building or on the ground floor of a multi story building and is less than 7'0" clear width be so arranged as to allow a stretcher to exit from the recovery area or operating room directly into the corridor without turning and move to the required exit without having to make a turn.~~

~~(c) Doors between preoperative preparation, operating rooms and recovery areas and recovery rooms and corridors shall be no less than 44" wide. All recovery areas shall have at least one door opening to an exit passage way meeting the requirements of (b)(i) and (b)(ii) of this Rule.~~

~~(d) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.~~

~~(e) No doors shall swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width except doors to spaces such as small closets which are not subject to occupancy.~~

~~(f) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts.~~

~~(g) Single use towel dispensers or air driers shall be provided at all handwashing fixtures except scrub sinks.~~

~~(h) All other rooms shall have not less than 8'0" (2.44 m.) high ceilings except that corridors, storage rooms, toilet rooms, and other minor rooms may be not less than 7' 8" (2.34 m.). Suspended tracks, rails, pipes, etc., located in the path of normal traffic, shall be not less than 7' 6" (2.28 m.) above the floor.~~

~~(2) Finishes~~

~~(a) Floors shall be easily cleanable and have wear resistance appropriate for the locations involved. Joints in tile and similar material in such areas shall be resistant to food acids.~~

~~(b) Wall bases in operating rooms, soiled workrooms, and other areas subject to frequent wet cleaning shall be integral and covered with the floor, tightly sealed within the wall, and constructed without voids that can harbor vermin.~~

~~(c) Walls shall be washable; and, in the immediate area of plumbing fixtures, the finish shall be smooth, moisture resistant, and easily cleaned.~~

~~(d) Floor and wall penetrations by pipes, ducts, conduits, etc., shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.~~

~~(e) Ceilings in operating rooms shall be readily washable and without crevices that can retain dirt particles. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces except where required for fire rating.~~

(a) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements in the rules contained in this Section. The equivalency may be granted by the Division if a governing body submits a written equivalency request to the Division that indicates the following:

(1) the rule citation and the rule requirement that will not be met;

(2) the justification for the equivalency;

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

(4) a statement by the governing body that the equivalency request will not reduce the safety and operational effectiveness of the facility design and layout.

The governing body shall maintain a copy of the approved equivalence issued by the Division.

(b) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

History Note: *Authority G.S. 131E-149;*
Eff. October 14, 1978;
Amended Eff. November 1, 1989; December 24, ~~1979.~~ 1979;
Readopted Eff. January 1, 2020.

10A NCAC 13C .1405 - .1407 are repealed through readoption as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1405 MECHANICAL REQUIREMENTS

10A NCAC 13C .1406 PLUMBING AND OTHER PIPING SYSTEMS

10A NCAC 13C .1407 ELECTRICAL REQUIREMENTS

History Note: *Authority G.S. 131E-149;*
Eff. October 14, 1978;
Amended Eff. April 1, 2003; December 24, ~~1979.~~ 1979;
Repealed Eff. January 1, 2020.

10A NCAC 13C .1408 - .1409 are repealed as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1408 GENERAL

10A NCAC 13C .1409 LIST OF REFERENCED CODES AND STANDARDS

History Note: *Authority G.S. 131E-149;*
Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017.~~ 2017;
Repealed Eff. January 1, 2020.

10A NCAC 13C .1410 is repealed through readoption as published in 33:24 NCR 2352-2356 as follows:

10A NCAC 13C .1410 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

History Note: *Authority G.S. 131E-149;*
Eff. April 1, ~~2003.~~ 2003;
Repealed Eff. January 1, 2020.

Fiscal Impact Analysis of
Permanent Rule Amendments and Readoption without Substantial Economic Impact

Agency Proposing Rule Change
North Carolina Medical Care Commission

Contact Persons
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Impact Summary

State Government:	Yes
Local Government:	No Impact
Private Sector Entities:	Yes
Substantial Impact:	Possible – Benefits Uncertain

Titles of Rule Changes and North Carolina Administrative Code Citations

Rule Repeals:

10A NCAC 13C .1408 General
10A NCAC 13C .1409 List of Referenced Code and Standards

Rule Amendments (See proposed texts of these in Appendix 1):

10A NCAC 13C .1401 ~~Operating Suite~~ Definitions
10A NCAC 13C .1402 ~~Recovery Area~~ List of Referenced Guidelines, Codes, Standards, and Regulation
10A NCAC 13C .1403 ~~Supporting Elements~~ General and Emergency Preparedness

Rule Readoption:

10A NCAC 13C .1404 ~~Details and Finishes~~ Equivalency and Conflicts with Requirements
10A NCAC 13C .1405 Mechanical Requirements
10A NCAC 13C .1406 Plumbing and Other Piping Systems
10A NCAC 13C .1407 Electrical Requirements
10A NCAC 13C .1410 Application of Physical Plant Requirements

Authorizing Statutes

G.S. 131E-145, G.S. 131E-146, and G.S. 131E-149

Background

Under authority of G.S. 150B-21.3A, Periodic review and expiration of existing rules, the North Carolina Medical Care Commission and Rule Review Commission approved the Subchapter report with classifications for the rules located at 10A NCAC 13C – Licensing of Ambulatory Surgical Facilities – August 8, 2017 and October 19, 2017, respectively.

The following rules were classified in the report as necessary with substantive public interest: 10A NCAC 13C .1404, .1405, .1406, .1407, and .1410. This Agency is presenting only one rule for readoption (13C .1404) with substantive changes in this analysis. The other four rules are being readopted as a repeal and will not be discussed in this analysis.

Rules 10A NCAC 13C .1401, .1402, .1403, .1408, and .1409 were classified in the report as necessary without substantive public interest and received a new effective date in the N.C. Administrative Code of December 23, 2017. The Agency is presenting rules 13C .1401, .1402, and .1403 for amendment in this analysis. Rules 13C .1408 and .1409 are being repealed and will not be discussed in this analysis.

There are 123 licensed Ambulatory Surgical Facilities in North Carolina owned by private sector entities: 52 ambulatory surgical facilities and 71 endoscopy facilities. All of these facilities are also certified to receive Medicare reimbursement from the Centers for Medicare and Medicaid Services (CMS). As a result, an ambulatory surgical facility and an endoscopy facility licensed by the State of North Carolina must meet both state licensure requirements and CMS federal regulations.

The current physical plant rules in 10A NCAC 13C – Licensing of Ambulatory Surgical Facilities have not been amended since October of 1978. The rules are antiquated when compared to current trends and national standards for ambulatory surgical facilities. The current rules list the essential spaces required with no reference to minimum size of rooms or minimum clearances around recovery beds. No emphasis is made toward the relationship of certain rooms and areas as they relate to public access areas (unrestricted), public/staff access areas (semi-restricted), and authorized staff only areas (restricted). It would be laborious and difficult to amend the current physical plant rules and assess the fiscal impact of cost to state government and the private sector.

Our agency does not have physical rules for endoscopy facilities, but our Agency does license these facilities. The Agency currently uses the 10A NCAC 13C – Licensing of Ambulatory Surgical Facilities to regulate endoscopy facilities. Since endoscopy facilities do not require operating rooms, personnel locker/dressing areas with toilet, shower, and dressing for both male and female staff, anesthesia workroom, low mechanical return air vents, oxygen/vacuum/medical air at recovery bed locations, and a Type 1 essential electrical system like ambulatory surgical facilities, DHSR Construction Section eliminates the need for these requirements by granting a blanket equivalency for all endoscopy only facilities.

Given the need for extensive amendments to the current physical plant rules, the Agency has chosen to adopt the Facility Guidelines Institute "Guidelines for the Design and Construction of Outpatient Facilities" (FGI Guidelines). The FGI Guidelines are a recognized national standard that could replace the repealed physical plant rules for regulating: Outpatient Surgery Facilities (Chapter 2.7) and Endoscopy Facilities (Chapter 2.9). The FGI Guidelines are more descriptive about the requirements of each room and places emphasis on the relationship between various rooms. Spaces are defined as being one of three types of areas: an unrestricted area where the public wearing street clothes are allowed; a semi-restricted area is for access by patients and staff and contains support spaces to the operating rooms or procedure rooms; and a restricted area is for authorized personnel and surgical staff only wearing surgical attire while attending to operative or invasive procedures.

The rule readoption and amendments presented in this fiscal analysis were revised to: coordinate these rules with the revisions to Rule 10A NCAC 13C .1402 that incorporates by reference the Facility Guidelines Institute "Guidelines for the Design and Construction of Outpatient Facilities" (FGI Guidelines); update the rules to reflect current operating procedures of the Division of Health Service Regulation (DHSR) Construction Section; remove ambiguity from the rules; implement technical and formatting changes; and to also adopt the FGI Guidelines for endoscopy facilities. The DHSR Construction Section has had a staff member attend the FGI Annual Meetings each year since 2002 to assist in implementing changes to the FGI Guidelines which are updated and published every four years. The current edition of the Guidelines is 2018.

Rule Summary and Anticipated Fiscal Impact

Baseline

The current requirements in Rules 10A NCAC 13C form the basis of the regulatory baseline. A review of ambulatory surgery facility and endoscopy facility construction documents submitted between the years of 2008 and 2018 was used to assess current plan submittals under the regulatory baseline. The DHSR Construction Section on an average reviews six ambulatory surgical facilities and three endoscopy facilities per year.

Time Frame for Analysis

The readopted and amended rules will go into effect on July 1, 2020. The design and construction of a facility will have an impact starting in 2020 but this impact will continue over multiple years due to the time it takes for the outpatient facility design and construction and DHSR Construction Section plan reviews. The time schedule for new facility projects that were constructed from 2017 to 2019 were reviewed and the average time frames for design, plan review, and construction activities were determined and are provided in Table 1. This will be used as the time frame for the analysis.

Table 1: Years When Impacts Related to Facility Design and Construction will Occur

Activity Generating Cost	2020	2021	2022
Design of Facility	X		
Submittal and approval of plans to DHSR Construction Section		X	
Construction of Facility			X
DHSR Construction Section inspection and private entity corrects construction deficiencies			X

Assumptions

Number of Facilities Constructed in Future Years

In future years, the total number of project drawing submittals each year is estimated to be approximately equal to the average number of project drawing submittals for the past 11 years 2008 to 2018. Using the information in Table 2, the total number of project submittals in future years is estimated at approximately nine submittals: six ambulatory surgical facilities and three endoscopy facilities. This table does not distinguish between new facilities, additions to existing facilities, or renovations to existing facilities because DHSR Construction Section approval is required for both new construction and additions or renovations. There may be years when no new facilities were submitted for review, but only existing facilities receiving additions or alterations.

Table 2: Number of Project Submittals to the DHSR Construction Section for the Past 11 Years

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Ambulatory Surgical (61 total)	8	2	7	8	7	4	3	2	7	10	3
Endoscopy (29 total)	5	5	3	1	1	2	3	1	0	2	6
(90 total)	13	7	10	9	8	6	6	3	7	12	9

The DHSR Construction Section has determined the total number of ambulatory surgery facilities (Table 3) and endoscopy facilities (Table 4) to be constructed in future years based on the average number of projects submitted during the past eleven years. Each table below takes into consideration that generally, at least half of the design submittals for ambulatory surgery facilities and endoscopy facilities are alterations or additions to existing facilities which would take less time in design and construction, but the same time in DHSR Construction Section review and approval.

Table 3: Projected Number of Ambulatory Surgery Facilities Constructed in Years 2020 – 2022

Activity Generating Cost	2020	2021	2022
Design of new facility, renovation, or addition	6	6	6
Submittal and approval of plans to DHSR Construction Section	3	6	6
Construction of Facility		3	6
DHSR Construction Section inspection and private sector entity corrects construction deficiencies		3	6

Table 4: Projected Number of Endoscopy Facilities Constructed in Years 2020 - 2022

Activity Generating Cost	2020	2021	2022
Design of Facility	3	3	3
Submittal and approval of plans to DHSR Construction Section	1	3	3
Construction of Facility		1	3
DHSR Construction Section inspection and private sector entity corrects construction deficiencies		1	3

Currently North Carolina is a state that requires a Certificate of Need (CON) to build a new licensed ambulatory surgical facility or endoscopy facility with a specified number of operating rooms or procedure rooms, respectively. A CON is also needed to add additional operating rooms or procedure rooms to existing facilities. If the CON process should ever go away, then the number of ambulatory surgical facility and endoscopy facility construction documents submitted each year for review could increase significantly.

Comparison of FGI Guidelines to Baseline

A questionnaire was prepared and used to assess current ambulatory surgery facility and endoscopy facility construction documents using FGI Guidelines. Responses were received from eight different architectural firms on eight different projects (five ambulatory surgery facilities and three endoscopy facilities). All of the architectural firms were familiar with the FGI Guidelines and had a copy of the book in their office. All but one architectural firm stated that they used the FGI Guidelines for determining the recommended size of required rooms, clearances around recovery beds, organization of spaces and how they relate to other spaces. FGI Guidelines were also used to determine what type of finishes were required within unrestricted, semi-restricted, and restricted areas. The construction documents submitted to the DHSR Construction Section by these architectural firms were re-reviewed using the FGI Guidelines as the proposed new rules. All facilities reviewed were noted as meeting the FGI Guidelines for new facilities or for new additions except for three facilities that did not meet the FGI Guidelines, see Table 5.

Future Ambulatory Surgery Facility and Endoscopy Facility Construction Costs Resulting From Proposed Amended and Readopted Rules

- The DHSR Construction Section conducted plan reviews using the FGI Guidelines on five new ambulatory surgery facilities (2017 to current) and three new endoscopy facilities (2018 to current) that are either currently in review, previously reviewed, or under construction. It is assumed that the design of these projects can be used to predict the future impact on future projects designed using FGI Guidelines as the new rules.
- The results of the information collected from the plan reviews are provided in Table 5.
- There was one endoscopy facility that had a non-compliant procedure room by size. The FGI Guidelines specifies 180 square feet minimum procedure rooms and the designer provided a 168 square foot procedure room. Endoscopy facilities cost approximately $268 per square foot which would reflect an extra cost of $3,216 to the facility (12 s.f. x $268 = $3,216). The other two endoscopy facilities exceeded the minimum square footage by 38% or more in size.
- There was one ambulatory surgical facility that had four non-compliant PACU cubicles by size. The FGI Guidelines specifies a minimum size of approximately 72 square feet (8' x 9' = 72 s.f.) and the facility had cubicles that were approximately 48 square feet (6' x 8' = 48 s.f.) in size. This project was an addition to an existing ambulatory surgical facility and the area of non-compliance was not included in the new addition, so a cost was not factored in due to pre-existing conditions.
- All ambulatory surgical facilities met the finish requirements for ceilings throughout the facility except for one. That ambulatory surgery facility met most of the ceiling finish requirements but there was an area in the semi-restricted area that was questionable. The cost differential between regular fissured lay-in ceiling tiles and grid compared to scrubbable lay-in ceiling tiles and grid is approximately $2 per square foot extra cost. This cost was non quantifiable due to the drawings not being specific enough.
- FGI requires a functional program to be submitted along with the schematic design (SD) or construction document (CD) drawing submittals. This functional program is prepared by the designers of record to communicate the owner's intent for the project and to establish the basis of design at the initiation of the project. A space program is also provided that contains a list of rooms and sizes required to meet the owner's operational needs.

Table 5: Number of Existing Ambulatory Surgical Facilities and Endoscopy Facilities Not Compliant with Proposed Rule 10A NCAC 13C .1403

	Number of Ambulatory Surgical Facilities Not Compliant w/Proposed Rule	**Number of Endoscopy Facilities Not Compliant w/Proposed Rule**
FGI Operating Room or Procedure Room Size	**0**	**1**
FGI Pre- and Post- Patient Care Cubicle or Bay Size	**1**	**0**
FGI Patient Toilet per Patient Care Cubicle/Bay	**0**	**0**

FGI Restricted Area Monolithic Ceiling	**0**	**N/A**
FGI Semi-Restricted Area Scrubbable Lay-In Ceiling Tile with 1 lb./foot Weight or Gasketed with Clips	**1**	**0**

Cost and Benefit Estimates

Rule 10A NCAC 13C .1401 ~~Operating Suite~~ Definitions

Purpose for rule changes
The Agency is proposing to amend this rule. The requirements for an operating suite in the existing rules were deleted and moved to 10A NCAC 13C .1403 through FGI Guidelines incorporated in Rule .1402. In the proposed amended rule the following definitions were added:

- Addition
- Alteration
- Construction documents
- Construction Section
- Division
- Facility
- FGI Guidelines

Impact
The impact due to the relocation of the requirements for the operating suite will be discussed in the impact for Rule 10A NCAC 13C .1403.

State Government: No impact

Local Government: No impact

Private Sector: No impact

Rule 10A NCAC 13C .1402 ~~Recovery Area~~ List of Referenced Guidelines, Codes, Standards, and Regulation

Purpose for rule changes
The Agency is proposing to amend this rule. The requirements for a recovery area in the existing rules were deleted and moved to 10A NCAC 13C .1403 through FGI Guidelines incorporated in Rule .1402. The proposed amended rule incorporates by reference the

codes, rules, regulations, and standards that were previously incorporated by reference in the existing Rule 10A NCAC 13C .1409. This change was made because it is preferable to incorporate references to be cited by other rules of the Section at the beginning of the Section of the rules.

The following guideline and regulation were added to proposed Rule .1402:

- In Paragraph (a), the FGI Guidelines are being incorporated by reference.
- In Subparagraph (b)(3), 42 CFR Part 416.54 Condition of participation: Emergency preparedness was added as an incorporation by reference in this Rule. This is a new federal regulation that ambulatory surgery facilities must comply with in order to receive Medicare reimbursement from CMS.

The following codes and standards were relocated from Rule .1409 to this proposed Rule .1402:

- In Subparagraph (b)(1), The North Carolina State Building Code was incorporated by reference.
- In Subparagraph (b)(2), the following NFPA Standards that were also incorporated by reference: NFPA Standards 22, 53,59A, 99, 101, 255, 407, 705, 780, 801, and Fire Protection Guide to Hazardous Materials.

Impact

The impact due to relocation of the requirements for a recovery area will be discussed in the impact for Rule 10A NCAC 13C .1403. The codes, rules, regulations and standards cited in this rule may be accessed electronically free of charge.

According to the Facility Guidelines Institute website there are 23 states that currently use FGI Guidelines to regulate their ambulatory surgical facilities. The remaining 27 states use the FGI Guidelines as a resource for establishing acceptable equivalencies in the design of ambulatory surgical facilities that they regulate.

State Government: No impact

Local Government: No impact

Private Sector: Unquantifiable, but since 23 states use FGI Guidelines for regulating ambulatory surgical facilities, it is easier for architects that have reciprocal Architectural Licenses in other states to be consistent in their designs.

Rule 10A NCAC 13C .1403 ~~Supporting Elements~~ General and Emergency Preparedness

Purpose for rule changes

The Agency is proposing to amend this rule. The requirements for supporting elements in the existing rule were deleted and moved to this rule through compliance with

requirements in the FGI Guidelines as added to the Rule .1403. The proposed rule requires compliance with the FGI Guidelines, Rules of Section .1400, and the 42 CFR Part 416.54 for Emergency Preparedness.

- Paragraph (a) requires a facility or any addition or alteration to an existing facility whose CDs were approved on or after July 1, 2020 to comply with the codes, regulations, rules, and standards incorporated by reference in the proposed Rule .1410 must meet the following:
    - Subparagraph (a)(1) continues to require a facility to comply with requirements of Section .1400 of this Subchapter. This requirement was relocated from Rule .1410.
    - Subparagraph (a)(2) added the requirements for a facility to comply with the FGI Guidelines. The DHSR Construction Section has chosen to adopt the FGI Guidelines, which is a national standard, to replace our current rules which are out-of-date and require extensive amendments. The existing Ambulatory Surgical Facility rules are equal to FGI in the types of spaces required within the facility. FGI is more descriptive of the space requirements related to minimum size of operating rooms, clearances around recovery beds, and minimum size of equipment storage per operating room. FGI allows unisex toilets, smaller door widths, and lower ceiling heights. FGI gives more flexibility in design requirements than the current rules in Subchapter 13C. FGI requires the private sector entity to submit a copy of the functional program for the facility to the DHSR Construction Section with each drawing submittal. FGI is also updated every four years which is more frequent than the State's required rule review every ten years.
- Paragraph (b) continues to require any facility who's CDs approved by the DHSR Construction Section prior to July 1, 2020 must meet the codes, regulations, rules, and standards incorporated by reference in the existing Rule 10A NCAC 13C .1410.
- Paragraph (c) requires a facility to comply with 42 CFR Part 416.54 Condition of Participation: Emergency Preparedness, which has the requirements for a master fire and disaster plan. This master fire and disaster plan requirement was moved from the existing Rule .1408 to this paragraph. This proposed Paragraph aligns a federal regulation and current practices of ambulatory surgery facilities with state rules.
- Paragraph (d) added any existing building converted from another use to a new facility to meet the requirements of Paragraph (a) of this Rule. This rule has always been required to meet the requirements of Section .1400 of this Subchapter with requirements for the facility to comply with FGI Guidelines being added.

<u>Impact</u>

<u>State Government:</u>
State Government is impacted by the requirements of Subparagraph (a)(2) and Paragraph (e) of this rule.

- Subparagraph (a)(2) added the requirements for a facility to comply with the FGI Guidelines as the new Ambulatory Surgical and Endoscopy Facility rules. The DHSR Construction Section architects (10) and engineers (10) will be issued a new 2018 FGI Guideline book for reference during plan reviews. The total cost of $4,000 ($200 x 20 FGI books). This cost is expected to occur in 2020 and every 4 years afterwards when the rules are updated (2022, 2026, 2030, etc.).
- Paragraph (e) requires the posting of previous rule sets on the DHSR Construction Section website. DHSR Construction Section staff time would be spent posting the previous rule sets. The time to collect and post the previous rule sets by an architect is estimated to be two hours, which at a $56 per hour compensation rate is equal to $112. This cost is expected to occur in 2020.

Local Government: No impact

Private Sector:
The preparation of the functional program and space program is required to be submitted at each SD and CD drawing submittal. This cost is estimated to be $2,000 for ambulatory surgical facilities and $1,000 for endoscopy facilities for the first submittal and half that cost for the second submittal.

Benefits:
State Government:
The submittal of the functional program to the DHSR Construction Section along with the SD and CD drawings will save time and cost related to plan review. Currently drawings are submitted without a function program which requires more hours by the review architects and engineers to understand the full intent of the project design prior to reviewing the drawings. The exact amount of time that the DHSR Construction Section will save per project is unknown, but will allow the Section to accelerate other work and better serve their customers.

There will be no deficiencies associated with this review, the functional program and space program will only help state personnel better understand the facility design and how the facility will be used. This functional program could possibly make plan review more efficient and save time and cost. The review time would be completed by an Engineer II and an Architect II. Based on the Midpoint salary, the hourly rate for an Engineer II (GN14) and an Architect II (GN16) including fringe benefits is $48 per hour ($99,883/2080 hours) and $56 per hour ($115,488/2080 hours), respectively. It is assumed that the architect will spend 2 hours and the engineer 1 hour reviewing these programs, possibly twice once at SD and once at CD for a total of $320 per project.

It is also assumed that the benefits contribution for state government staff will stay in the range 33% to 34% for the next three years. Subsequent years are not expected to show any significant increase in staff cost because of continuing stagnant wages and benefits.

Private Sector:
FGI is more descriptive of the requirements for the facility spaces but also offers more flexibility in design than the current rules, such as FGI permits unisex staff lockers, changing rooms, and toilets instead of separate areas for male and female staff. Facility designs will fit the current national trends using the FGI Guidelines as the new proposed rules.

FGI Guidelines also provides more emphasis on unrestrictive, semi-restrictive, and restrictive sterile environments within the facility. Providing a restrictive sterile environment for the operating rooms by requiring authorized staff only that are properly gowned, monolithic cleanable ceilings, and monolithic cleanable flooring helps reduce contaminates during invasive surgeries. This helps provide a safer facility for the patients.

Costs:
Private Sector:

Private sector facility design costs will be impacted by the cost for their architects to prepare a functional program and space program for the project. The architectural firms interviewed with the questionnaire stated that the cost to prepare a functional and space program for an ambulatory surgical facility (four operating rooms or less) and an endoscopy facility (four procedure rooms or less) would cost $2,000 and $1,000, respectively. If the project drawings were submitted for SD and CD then the price could be doubled to $4,000 and $2,000, respectively. This is less than 1/10th of a percent of the average construction cost for each facility type respectively.[1] This functional program and space program could possibly make the State Government plan review more efficient and save time.

Given the eight facilities reviewed using FGI Guidelines as the regulating rules, there was no indication of any significant construction cost increase in the current building designs. The increase in cost for the noncompliant project that was 12 s.f. too small would be slightly more than the cost for the preparation of a functional program.

Rule 10A NCAC 13C .1404 ~~Details and Finishes~~ Equivalency and Conflicts with Requirements

Purpose for rule changes
The Agency is proposing to readopt this rule with substantive changes. The requirements for details and finishes in the existing rules were deleted and relocated to 10A NCAC 13C .1403 through FGI Guidelines incorporated in Rule .1402. The proposed rule for

[1] Based on assumptions of construction costs between $100-$150/sq ft, upfitting to ambulatory surgical center costs of $150-$175/sq ft, upfitting to endoscopy center costs of $125-$140/sq ft, and average center size of approximately 15,000 sq ft.

readoption incorporates the equivalency and conflicts with requirements included in existing Rule 10A NCAC 13C .1410. This change was made to reorganize the rule.

The following items were added to the proposed readoption of Rule .1404:

- Paragraph (a) states the requirements for requesting an equivalency. For the DHSR Construction Section to maintain consistency with the language for a rule to grant equivalencies throughout all licensure Subchapter rules this text was added.
- Paragraph (b) was added to require the most restrictive code or rules to apply when code or rule conflicts occur. Technical changes were made to the existing rule text.

Impact

The impact due to relocation of the requirements for details and finishes will be discussed in the impact for Rule 10A NCAC 13C .1403.

State Government: No impact

Local Government: No impact

Private Sector: No impact

Executive Summary

Benefits

State Government

The DHSR Construction Section will benefit from the adoption of the "Guidelines for the Design and Construction of Outpatient Facilities" (FGI Guidelines) to use as the physical plant rules for regulating ambulatory surgical facilities (Chapter 2.7) and endoscopy facilities (Chapter 2.9). This would replace our current rules which are out-of-date and require extensive amendments. The FGI Guidelines are recognized as a national standard that is updated and republished every four years which is more frequent than the State required rule review every ten years.

Private Sector Entities

The FGI Guidelines are recognized as a national standard for designing outpatient facilities in multiples states. FGI Guidelines are more descriptive of the requirements for the facility spaces and offers more flexibility in design than our current rules. Facility designs can meet current national design trends in ambulatory surgical facilities and endoscopy facilities by using the FGI Guidelines.

Impacts

State Government
For the DHSR Construction Section, the proposed readoption and amendment to these rules with the adoption of FGI Guidelines will have a small budgetary impact on the state as noted in the table below due to: adding definitions (Rule .1401); updating the list of referenced guidelines, codes, standards, and regulation (Rule .1402); making technical changes to the physical plant requirements for outpatient ambulatory surgical facilities and endoscopy facilities by adopting the FGI Guidelines (Rule .1403); and updating the rule language for equivalencies (Rule .1404).

As indicated in Table 6, the State Government total calendar year quantifies costs for the next 10 years starting in 2020.

Finally, the total estimated calendar year cost impact to State Government is indicated in Table 6 for 2020, 2022, and 2026 is $4,112, $4,000, and $4,000, respectively.

Local Government: No impact

Private Sector
The proposed readoption and amendment to these rules with the adoption of FGI Guidelines results in a fiscal impact for private sector entities for the same reasons noted above for the State. The private sector ambulatory surgical center owners and designers will also benefit from greater clarity and flexibility offered by the use of FGI Guidelines in the design of their facilities.

The cost for preparing and submitting a functional program and space program with each SD and CD drawing submittal was estimated (by private sector architects) to be $2,000 for ambulatory surgical facilities and $1,000 for endoscopy facilities for the SD submittal and half that cost for the CD submittal.

Table 6: Summary Costs & Benefits

Costs and Benefits to Parties Affected	2019	2020	2021	2022	2023	2024	2025	2026
Year	0	1	2	3	4	5	6	7
Costs								
Private Citizens								
Ambulatory Surgical Center Owners								
Functional Design Plan		$15,000	$15,000	$15,000	$15,000	$15,000	$15,000	$15,000
State Government								
Purchasing FGI Guidebooks		$4,000		$4,000				$4,000
Updating website		$112						
Total Costs		$19,112	$15,000	$19,000	$15,000	$15,000	$15,000	$19,000
Benefits								
Private Citizens								
Ambulatory Surgical Center Owners								
Increased flexibility in design		Unquantifiable						
Private Architects								
Income from creation of Functional Design Plan		($15,000)	($15,000)	($15,000)	($15,000)	($15,000)	($15,000)	($15,000)
State Government								
Increases in plan review efficiency & possible time savings		Unquantifiable						
Total Benefits		($15,000)	($15,000)	($15,000)	($15,000)	($15,000)	($15,000)	($15,000)
NPV of Rule	$9,559.18							

10A NCAC 13C .1401 is proposed for amendment as follows:

SECTION .1400 - PHYSICAL PLANT CONSTRUCTION

10A NCAC 13C .1401 ~~OPERATING SUITE~~ DEFINITIONS

~~The size and design of the suite shall be in accordance with individual programs, but the following basic elements designed to ensure no flow of through traffic must be incorporated in all facilities:~~

~~(1) Operating Room(s). The number shall depend on the projected case load and types of procedures to be performed. Rooms used for surgery shall have adequate space to accommodate necessary equipment and personnel.~~

~~(2) Service Areas. The following supporting services shall be provided:~~

~~(a) scrub-up facilities with foot or knee controls;~~

~~(b) personnel locker and dressing areas so located that personnel enter from uncontrolled areas and exit directly into a surgical suite. Locker space shall be provided for each employee; and a toilet, shower, and dressing area shall be provided in each personnel dressing room;~~

~~(c) separate rooms for clean and for soiled supplies and equipment;~~

~~(d) anesthesia workroom;~~

~~(e) one clerical control station; and~~

~~(f) a janitor's closet conveniently located to serve only the licensed facility.~~

In addition to the definitions set forth in G.S. 131E-146, the following definitions shall apply in Section .1400 of this Subchapter:

(1) "Addition" means an extension or increase in floor area or height of a building.

(2) "Alteration" means any construction or renovation to an existing building other than construction of an addition.

(3) "Construction documents" means final building plans and specifications for the construction of a facility that a governing body submits to the Construction Section for approval as specified in Rule .0202 of this Subchapter.

(4) "Construction Section" means the Construction Section of the Division of Health Service Regulation.

(5) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.

(6) "Facility" means an ambulatory surgical facility as defined in G.S. 131E-146.

(7) "FGI Guidelines" means the Guidelines for Design and Construction of Outpatient Facilities that is incorporated by reference in Rule .1402 of this Section.

History Note: *Authority G.S. 131E-145; 131E-146; 131E-149;*
Eff. October 14, 1978;
Amended Eff. December 24, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017.~~ 2017;
Amended Eff. January 1, 2020.

10A NCAC 13C .1402 is proposed for amendment as follows:

10A NCAC 13C .1402 ~~RECOVERY AREA~~ LIST OF REFERENCED GUIDELINES, CODES, STANDARDS, AND REGULATION

~~Recovery area with handwashing facilities, secured medication storage space, clerical work space, storage for clerical supplies, linens, and patient care supplies and equipment shall be provided.~~

(a) The FGI Guidelines are incorporated herein by reference, including all subsequent amendments and editions; however, the following chapters of the FGI Guidelines shall not be incorporated herein by reference:

(1) Chapter 2.3;
(2) Chapter 2.4;
(3) Chapter 2.5;
(4) Chapter 2.6;
(5) Chapter 2.8;
(6) Chapter 2.10;
(7) Chapter 2.11;
(8) Chapter 2.12;
(9) Chapter 2.13; and
(10) Chapter 2.14.

Copies of the FGI Guidelines may be purchased from the Facility Guidelines Institute online at https://www.fgiguidelines.org/guidelines-main/purchase/ at a cost of two hundred dollars ($200.00) or accessed electronically free of charge at https://www.fgiguidelines.org/guidelines-main/.

(b) For the purposes of the rules of this Section, the following codes, standards, and regulation are incorporated herein by reference including subsequent amendments and editions. Copies of these codes, standards, and regulation may be obtained or accessed from the online addresses listed:

(1) the North Carolina State Building Codes with copies that may be purchased from the International Code Council online at http://shop.iccsafe.org/ at a cost of six hundred sixty-six dollars ($646.00) or accessed electronically free of charge at http://shop.iccsafe.org/state-and-local-codes/north-carolina.html;

(2) the following National Fire Protection Association standards, codes, and guidelines with copies of these standards, codes, and guidelines that may be accessed electronically free of charge at https://www.nfpa.org/Codes-and-Standards/All-Codes-and-Standards/List-of-Codes-and-Standards or may be purchased online at https://catalog.nfpa.org/Codes-and-Standards-C3322.aspx for the costs listed:

(A) NFPA 22, Standard for Water Tanks for Private Fire Protection for a cost of fifty-four dollars ($54.00);

(B) NFPA 53, Recommended Practice on Materials, Equipment, and Systems Used in Oxygen-Enriched Atmospheres for a cost of fifty-three dollars ($53.00);

(C) NFPA 59A, Standard for the Production, Storage, and Handling of Liquefied Natural Gas for a cost of fifty-four dollars ($54.00);

(D) NFPA 99, Health Care Facilities Code for a cost of seventy-seven dollars ($77.00);

(E) NFPA 101, Life Safety Code for a cost of one hundred and five dollars and fifty cents ($105.50);

(F) NFPA 255, Standard Method of Test of Surface Burning Characteristics of Building Materials for a cost of forty-two dollars ($42.00);

(G) NFPA 407, Standard for Aircraft Fuel Servicing for a cost of forty-nine dollars ($49.00);

(H) NFPA 705, Recommended Practice for a Field Flame Test for Textiles and Films for a cost of forty-two dollars ($42.00);

(I) NFPA 780, Standard for the Installation of Lightning Protection Systems for a cost of sixty-three dollars and fifty cents ($63.50);

(J) NFPA 801, Standard for Fire Protection for Facilities Handling Radioactive Materials for a cost of forty-nine dollars ($49.00); and

(K) Fire Protection Guide to Hazardous Materials for a cost of one hundred and thirty-five dollars and twenty-five cents ($135.25).

(3) 42 CFR Part 416.54 Condition of participation: Emergency preparedness with copies of this regulation that may be accessed free of charge at https://www.gpo.gov/fdsys/pkg/CFR-2017-title42-vol5/xml/CFR-2017-title42-vol5-sec482-15.xml or purchased online at https://bookstore.gpo.gov/products/cfr-title-42-pt-482-end-code-federal-regulationspaper-201-7 for a cost of seventy-seven dollars ($77.00).

History Note: *Authority G.S. 131E-149;*
Eff. October 14, 1978;
Amended Eff. December 24, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017.~~ 2017;
Amended Eff. January 1, 2020.

10A NCAC 13C .1403 is proposed for amendment as follows:

10A NCAC 13C .1403 ~~SUPPORTING ELEMENTS~~ GENERAL AND EMERGENCY PREPAREDNESS

~~In addition to those areas covered in Rules .1401 and .1402 of this Section, the facility shall provide space for the following:~~

~~(1) the receiving and registering of patients in privacy for obtaining confidential information;~~

~~(2) waiting space with public toilets, public telephone, drinking fountain, and wheelchair storage;~~

~~(3) preoperative preparation and post operative space for both males and females with dressing rooms and toilet facilities; and~~

~~(4) secure storage for patients' personal effects.~~

(a) A new facility or any addition or alterations to an existing facility whose construction documents were approved by the Construction Section on or after July 1, 2020 shall meet the requirements set forth in:

(1) Section .1400 of this Subchapter; and

(2) the FGI Guidelines.

(b) An existing facility whose construction documents were approved by the Construction Section prior to July 1, 2020 shall meet those standards established in Section .1400 of this Subchapter that was in effect at the time the construction documents were approved by the Construction Section. Previous versions of the rules of Section .1400 of this Subchapter can be accessed online at https://www.ncdhhs.gov/dhsr/const/index.html.

(c) The facility shall develop and maintain an emergency preparedness program as required by 42 CFR Part 416.54 Condition of Participation: Emergency Preparedness. The emergency preparedness program shall be developed with input from the local fire department and local emergency management agency. Documentation required to be maintained by 42 CFR Part 416.54 shall be maintained at the facility for at least three years and shall be made available to the Division during an inspection upon request.

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

History Note: *Authority G.S. 131E-149; 42 CFR Part 416.54;*
Eff. October 14, 1978;
Amended Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017.~~ 2017;
Amended Eff. January 1, 2020.

10A NCAC 13C .1404 is proposed for readoption with substantive changes as follows:

10A NCAC 13C .1404 ~~DETAILS AND FINISHES~~ EQUIVALENCY AND CONFLICTS WITH REQUIREMENTS

~~All details and finishes must meet the following requirements:~~

~~(1) Details~~

~~(a) The type of construction shall meet the requirement of the current edition of the North Carolina State Building Code for "Business Occupancy (B)," except that in the construction of new facilities required exit doors to stairs or to the outside shall be no less than 44" wide doors.~~

~~(b) Exit corridors, in addition to meeting the appropriate requirements of the North Carolina State Building Code, shall:~~

~~(i) be no less than 7'0" clear width between doors from the recovery area or operating rooms and required exit doors; or~~

~~(ii) if in a one story building or on the ground floor of a multi story building and is less than 7'0" clear width be so arranged as to allow a stretcher to exit from the recovery area or operating room directly into the corridor without turning and move to the required exit without having to make a turn.~~

~~(c) Doors between preoperative preparation, operating rooms and recovery areas and recovery rooms and corridors shall be no less than 44" wide. All recovery areas shall have at least one door opening to an exit passage way meeting the requirements of (b)(i) and (b)(ii) of this Rule.~~

~~(d) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.~~

~~(e) No doors shall swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width except doors to spaces such as small closets which are not subject to occupancy.~~

~~(f) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts.~~

~~(g) Single use towel dispensers or air driers shall be provided at all handwashing fixtures except scrub sinks.~~

~~(h) All other rooms shall have not less than 8'0" (2.44 m.) high ceilings except that corridors, storage rooms, toilet rooms, and other minor rooms may be not less than 7' 8" (2.34 m.). Suspended tracks, rails, pipes, etc., located in the path of normal traffic, shall be not less than 7' 6" (2.28 m.) above the floor.~~

~~(2) Finishes~~

~~(a) Floors shall be easily cleanable and have wear resistance appropriate for the locations involved. Joints in tile and similar material in such areas shall be resistant to food acids.~~

~~(b) Wall bases in operating rooms, soiled workrooms, and other areas subject to frequent wet cleaning shall be integral and covered with the floor, tightly sealed within the wall, and constructed without voids that can harbor vermin.~~

~~(c) Walls shall be washable; and, in the immediate area of plumbing fixtures, the finish shall be smooth, moisture resistant, and easily cleaned.~~

~~(d) Floor and wall penetrations by pipes, ducts, conduits, etc., shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.~~

~~(e) Ceilings in operating rooms shall be readily washable and without crevices that can retain dirt particles. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces except where required for fire rating.~~

(a) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements in the Rules contained in Section .1400 of this Subchapter. The equivalency may be granted by the Division if a governing body submits a written equivalency request to the Division that indicates the following:

(1) the rule citation and the rule requirement that will not be met;

(2) the justification for the equivalency;

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

(4) a statement by the governing body that the equivalency request will not reduce the safety and operational effectiveness of the facility design and layout.

The governing body shall maintain a copy of the approved equivalence issued by the Division.

(b) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

History Note: *Authority G.S. 131E-149;*
Eff. October 14, 1978;
Amended Eff. November 1, 1989; December 24, ~~1979.~~ 1979;
Readopted Eff. January 1, 2020.

10A NCAC 13C .1405 - .1407 are proposed for readoption as a repeal as follows:

10A NCAC 13C .1405 MECHANICAL REQUIREMENTS
10A NCAC 13C .1406 PLUMBING AND OTHER PIPING SYSTEMS
10A NCAC 13C .1407 ELECTRICAL REQUIREMENTS

History Note: *Authority G.S. 131E-149;*
Eff. October 14, 1978;
Amended Eff. April 1, 2003; December 24, ~~1979.~~ 1979;
Repealed Eff. January 1, 2020.

10A NCAC 13C .1408 - .1409 are proposed for repeal as follows:

10A NCAC 13C .1408 GENERAL
10A NCAC 13C .1409 LIST OF REFERENCED CODES AND STANDARDS

History Note: *Authority G.S. 131E-149;*
Eff. April 1, 2003;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 23, ~~2017.~~ 2017;
Repealed Eff. January 1, 2020.

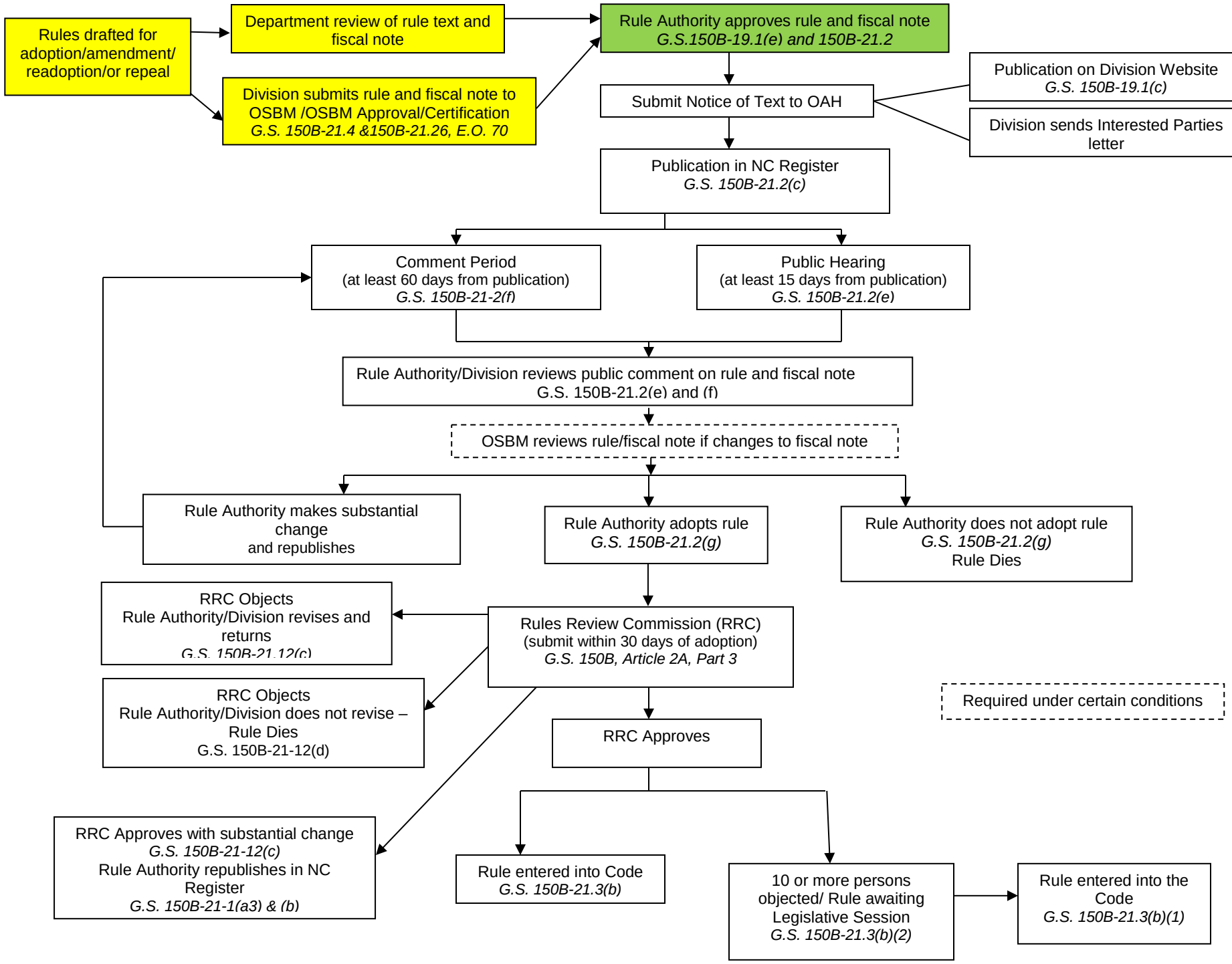
10A NCAC 13C .1410 is proposed for readoption as a repeal as follows:

10A NCAC 13C .1410 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

History Note: *Authority G.S. 131E-149;*
Eff. April 1, ~~2003.~~ 2003;
Repealed Eff. January 1, 2020.

Process for Medical Care Commission to Initiate Rulemaking

Exhibit D



10A NCAC 13B .3501 is proposed for amendment as follows:

SECTION .3500 - GOVERNANCE AND MANAGEMENT

10A NCAC 13B .3501 GOVERNING BODY

(a) The governing body, ~~owner~~ owner, or the person or persons designated by the owner as the governing ~~authority~~ body shall be responsible for ~~seeing~~ ensuring that the objectives specified in the ~~charter (or resolution if publicly owned)~~ facility's governing documents are attained.

(b) The governing body shall be the final authority ~~in the facility~~ ~~to which~~ ~~the administrator,~~ for decisions for which the facility administration, the medical staff, and the facility personnel ~~and all auxiliary organizations~~ are directly or indirectly ~~responsible.~~ responsible within the facility.

(c) A local advisory board shall be established if the facility is owned ~~or controlled~~ by an organization or persons outside of North Carolina. A local advisory board shall include members from the county where the facility is located. The local advisory board will provide non-binding advice to the governing body.

History Note: *Authority G.S. 131E-75; 131E-79;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, ~~2017.~~ 2017;
Amended Eff. July 1, 2020.

10A NCAC 13B .3502 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3502 REQUIRED FACILITY BYLAWS, POLICIES, RULES, AND REGULATIONS

(a) The governing body shall adopt written bylaws, policies, rules, and regulations in accordance with all requirements contained in this Subchapter and in accordance with the community responsibility of the facility. The written bylaws, policies, rules, and regulations shall:

(1) state the purpose of the facility;

(2) describe the powers and duties of the governing body officers and committees and the responsibilities of the chief executive officer;

(3) state the qualifications for governing body membership, the procedures for selecting members, and the terms of service for members, officers and committee chairmen;

(4) describe the authority delegated to the chief executive officer and to the medical staff. No assignment, referral, or delegation of authority by the governing body shall relieve the governing body of its responsibility for the conduct of the facility. The governing body shall retain the right to rescind any such delegation;

(5) require ~~Board~~ governing body approval of the bylaws of any auxiliary organizations established by the ~~hospital;~~ facility;

(6) require the governing body to review and approve the bylaws of the medical ~~staff organization;~~ staff;

(7) establish ~~a procedure~~ procedures for processing and evaluating the applications for medical staff membership and for the granting of clinical privileges;

(8) establish a procedure for implementing, disseminating, and enforcing a Patient's Bill of Rights as set forth in Rule .3302 of this Subchapter and in compliance with G.S. 131E-117; and

(9) require the governing body to institute procedures to provide for:

(A) orientation of newly elected ~~board~~ governing body members to ~~specific~~ board functions and procedures;

(B) the development of procedures for periodic reexamination of the relationship of the ~~board~~ governing body to the total facility community; and

(C) the recording of minutes of all governing body and executive committee meetings and the dissemination of those minutes, or summaries thereof, on a regular basis to all members of the governing body.

(b) The governing body shall ~~assure~~ provide written policies and procedures to assure billing and collection practices in accordance with G.S. 131E-91. These policies and procedures shall include:

(1) a financial assistance policy as defined in G.S. 131E-214.14(b)(3);

(2) how a patient may obtain an estimate of the charges for the statewide 100 most frequently reported Diagnostic Related Groups (DRGs), where applicable, 20 most common outpatient imaging procedures, and 20 most common outpatient surgical procedures. The policy shall require that the

information be provided to the patient in writing, either electronically or by mail, within three business days;

(3) how a patient or patient's representative may dispute a bill;

(4) issuance of a refund within 45 days of the patient receiving notice of the overpayment when a patient has overpaid the amount due to the ~~hospital;~~ facility;

(5) providing written notification to the patient or patient's representative at least 30 days prior to submitting a delinquent bill to a collections agency;

(6) providing the patient or patient's representative with the facility's charity care and financial assistance policies, if the facility is required to file a Schedule H, federal form 990;

(7) the requirement that a collections agency, entity, or other assignee obtain written consent from the facility prior to initiating litigation against the patient or patient's representative;

(8) a policy for handling debts arising from the provision of care by the ~~hospital~~ facility involving the doctrine of necessaries, in accordance with G.S. 131E-91(d)(5); and

(9) a policy for handling debts arising from the provision of care by the ~~hospital~~ facility to a minor, in accordance with G.S. 131E-91(d)(6).

(c) The governing body shall ensure that the bylaws, rules, and regulations of the medical staff and the bylaws, rules, policies, and regulations of the facility shall not be in conflict.

~~(c)~~(d) The written policies, rules, and regulations shall be reviewed every three years, revised as necessary, and dated to indicate when last reviewed or revised.

~~(d)~~(e) To qualify for licensure or license renewal, each facility must provide to the Division, upon application, an attestation statement in a form provided by the Division verifying compliance with the requirements of this Rule.

~~(e)~~(f) On an annual basis, on the license renewal application provided by the Division, the facility shall provide to the Division the direct website address to the facility's financial assistance policy. This ~~Rule~~ requirement applies only to facilities required to file a Schedule H, federal form 990.

History Note: *Authority G.S. 131E-79; 131E-91; 131E-214.8; 131E-214.13(f); 131E-214.14; ~~S.L. 2013-382, s. 10.1; S.L. 2013-382, s. 13.1;~~*
Eff. January 1, 1996;
Temporary Amendment Eff. May 1, 2014;
Amended Eff. November 1, ~~2014.~~ 2014;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3503 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3503 FUNCTIONS

(a) The governing body shall:

(1) provide management, physical ~~resources~~ resources, and personnel determined by the governing body to be required to meet the needs of ~~the~~ patients for ~~which it is licensed;~~ treatment as authorized by the facility's license;

(2) require ~~management~~ facility administration to establish a quality control mechanism ~~which~~ that includes ~~as an integral part~~ a risk management component and an infection control program;

(3) formulate short-range and long-range plans ~~for the development of the facility;~~ as defined in the facility bylaws, policies, rules, and regulations;

(4) conform to all applicable ~~federal,~~ State and federal laws, rules, and regulations, and applicable local ~~laws and regulations;~~ ordinances;

(5) provide for the control and use of the physical and financial resources of the facility;

(6) review the annual audit, ~~budget~~ budget, and periodic reports of the financial operations of the facility;

(7) consider the ~~advice~~ recommendation of the medical staff in granting and defining the scope of clinical privileges to ~~individuals. When the governing body does not concur in the medical staff recommendation regarding the clinical privileges of an individual, there shall be a review of the recommendation by a joint committee of the medical staff and governing body before a final decision is reached by the governing body;~~ individuals in accordance with medical staff bylaws requirements for making such recommendations and the facility bylaws established by the governing body for the review and final determination of such recommendations;

(8) require that applicants be informed of the disposition of their application for medical staff membership or clinical ~~privileges, or both, within an established period of time after their~~ privileges in accordance with the facility bylaws established by the governing body, after an application has been submitted;

(9) review and approve the medical staff bylaws, ~~rules~~ rules, and ~~regulations body;~~ regulations;

(10) delegate to the medical staff the authority ~~to~~ to:

(A) evaluate the professional competence of medical staff members and applicants for ~~staff privileges~~ medical staff membership and clinical privileges; and

(B) ~~hold the medical staff responsible for recommending~~ recommend to the governing body initial medical staff appointments, ~~reappointments~~ reappointments, and assignments or curtailments of privileges;

(11) require that resources be made available to address the emotional and spiritual needs of patients either directly or through referral or arrangement with community agencies;

(12) maintain ~~effective~~ communication with the medical staff which ~~shall~~ may be ~~established,~~ established through:

~~(a)~~(A) meetings with the ~~Executive Committee~~ executive committee of the ~~Medical Staff;~~ medical staff;

~~(b)~~(B) service by the president of the medical staff as a member of the governing body with or without a vote;

~~(c)~~(C) appointment of individual medical staff members to ~~governing body committees; or~~ the medical review committee; or

~~(d)~~(D) a joint conference ~~committee;~~ committee that will be a committee of the governing body and the medical staff composed of equal representatives of each of the governing body, the chairman of the board or designee, the medical staff, and the chief of the medical staff or designee, respectively;

(13) require the medical staff to establish controls that are designed to provide that standards of ethical professional practices are met;

(14) provide ~~the necessary~~ administrative staff support to facilitate utilization review and infection control within the ~~facility and~~ facility, to support quality ~~control,~~ control and any other medical staff functions required by this Subchapter or by the facility bylaws;

(15) meet the following disclosure requirements:

~~(a)~~(A) provide data required by the Division;

~~(b)~~(B) disclose the facility's average daily inpatient charge upon request of the Division; and

~~(c)~~(C) disclose the identity of persons owning ~~5.0~~ five percent or more of the facility as well as the facility's officers and members of the governing body upon request;

(16) establish a procedure for reporting the occurrence and disposition of ~~any unusual incidents.~~ allegations of abuse or neglect of patients and incidents involving quality of care or physical environment at the facility. These procedures shall require that:

~~(a)~~(A) incident reports are analyzed and ~~summarized;~~ summarized by a designated party; and

~~(b)~~(B) corrective action is taken ~~as indicated by~~ based upon the analysis of incident reports;

(17) in a facility with one or more units, or portions of units, however described, utilized for psychiatric or substance abuse treatment, adopt policies implementing the provisions of G.S. 122C, Article 3, and Article 5, Parts, 2, 3, 4, 5, 7, and 8;

(18) develop arrangements for the provision of extended care and other long-term healthcare services. Such services shall be provided in the facility or by outside resources through a transfer agreement or referrals;

(19) provide and implement a written plan for the care or for the referral, or ~~for~~ both, of patients who require mental health or substance abuse services while in the ~~hospital;~~ facility;

(20) develop a conflict of interest policy which shall apply to all governing body members and ~~corporate officers.~~ facility administration. All governing body members shall execute a conflict of interest ~~statement;~~ statement; and

~~(21) prohibit members of the governing body from engaging in the following forms of self-dealing:~~

~~(a) the sale, exchange or leasing of property or services between the facility and a governing board member, his employer or an organization substantially controlled by him on a basis less favorable to the facility than that on which such property or service is made available to the general public;~~

~~(b) furnishing of goods, services or facilities by a facility to a governing board member, unless such furnishing is made on a basis not more favorable than that on which such goods, services, or facilities are made available to the general public or employees of the facility; or~~

~~(c) any transfer to or use by or for the benefit of a governing board member of the income or assets of a facility, except by purchase for fair market value; and~~

~~(22) prohibit the lease, sale, or exclusive use of any facility buildings or facilities receiving a license in accordance with this Subchapter to any entity which provides medical or other health services to the facility's patients, unless there is full, complete disclosure to and approval from the Division.~~

(21) conduct direct consultations with the medical staff at least twice during the year.

(b) For the purposes of this Rule, "direct consultations" means the governing body, or a subcommittee of the governing body, meets with the leader(s) of the medical staff(s), or his or her designee(s) either face-to-face or via a telecommunications system permitting immediate, synchronous communication.

(c) The direct consultations shall consist of discussions of matters related to the quality of medical care provided to the hospital's patients, including quality matters arising out of the following:

(1) the scope and complexity of services offered by the facility;

(2) specific clinical populations served by the facility;

(3) limitations on medical staff membership other than peer review or corrective action in individual cases;

(4) circumstances relating to medical staff access to a facility resource; or

(5) any issues of patient safety and quality of care that a hospital's quality assessment and performance improvement program might identify as needing the attention of the governing body in consultation with the medical staff.

(d) For the purposes of this Rule, "specific clinical populations" includes those individuals who may be treated at the facility by the medical staff in place at the time of the consultation.

History Note: *Authority G.S. 131E-14.2; 131E-79; 42 CFR 482.12; 42 CFR 482.22;*
Eff. January 1, ~~1996.~~ 1996;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3701 is proposed for readoption with substantive changes as follows:

SECTION .3700 - MEDICAL STAFF

10A NCAC 13B .3701 GENERAL PROVISIONS

a) The facility shall have a self-governed medical staff ~~organized in accordance with the facility's by-laws which~~ that shall be accountable to the governing body ~~and which shall have responsibility~~ for the quality of ~~professional services~~ care provided by individuals with medical staff membership and clinical ~~privileges.~~ privileges to provide medical services in the facility. Facility policy shall provide that individuals with clinical privileges shall perform only services within the scope of individual privileges granted.

b) Minutes required by the rules of this Section shall reflect all transactions, conclusions, and recommendations of meetings. Minutes shall be prepared and retained in accordance with a policy established by the facility and medical staff, and available for inspection by members of the medical staff and governing body, respectively, unless such minutes include confidential peer review information that is not accessible to others in accordance with applicable law, or as otherwise protected by law.

History Note: *Authority G.S. 131E-79;*
Eff. January 1, ~~1996.~~ 1996;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3702 is proposed for readoption as a repeal as follows:

10A NCAC 13B .3702 ESTABLISHMENT

History Note: *Authority G.S. 131E-79;*
Eff. January 1, ~~1996.~~ 1996;
Repealed Eff. July 1, 2020.

10A NCAC 13B .3703 is proposed for amendment as follows:

10A NCAC 13B .3703 APPOINTMENT

(a) The governing body may grant, deny, renew, modify, suspend, or terminate medical staff membership and clinical privileges after consideration of the recommendation made by the medical staff in accordance with the bylaws established by the medical staff and approved by the governing body for making such recommendations, and the facility bylaws established by the governing body for review and final determination of such recommendations.

(b) ~~Formal appointment~~ Review of an applicant for medical staff membership and the granting of clinical privileges shall follow procedures set forth in the ~~by-laws, rules or~~ bylaws, rules, and regulations of the medical staff. These procedures shall require the following:

(1) a signed application for medical staff membership, specifying ~~age,~~ date of birth, year and school of graduation, date of licensure, statement of postgraduate or special training and ~~experience with~~ experience, and a statement of the scope of the clinical privileges sought by the applicant;

(2) verification by the ~~hospital~~ facility of the applicant's qualifications ~~of the applicant~~ as stated in the application, including ~~evidence of~~ any required continuing education; and

(3) written notice to the applicant from ~~the medical staff and~~ the governing ~~body,~~ body regarding appointment or ~~reappointment~~ reappointment, which specifies the approval or denial of clinical privileges and the scope of the privileges ~~granted; and~~ if granted.

~~(4) members of the medical staff and others granted clinical privileges in the facility shall hold current licenses to practice in North Carolina.~~

(c) Members of the medical staff and others granted clinical privileges in the facility shall hold current licenses to practice in North Carolina.

(d) Medical staff appointments shall be reviewed at least once every two years by the medical staff in accordance with the bylaws established by the medical staff and approved by the governing body, and shall be followed with recommendations made to the governing body for review and a final determination.

(e) The facility shall maintain a file containing performance information for each medical staff member. Representatives of the Division shall have access to these files in accordance with, and subject to the limitations and restrictions set forth in, G.S. 131E-80; however, to the extent that the same includes confidential medical review information, such information shall be reviewable and confidential in accordance with G.S. 131E-80(d) and other applicable law.

(f) Minutes shall be taken and maintained of all meetings of the medical staff and governing body that concern the granting, denying, renewing, modifying, suspending or terminating of clinical privileges.

History Note: *Authority G.S. 131E-79; 42 CFR 482.12(a)(10); 42 CFR 482.22(a)(1);*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, ~~2017.~~ 2017;

1 *Amended Eff. July 1, 2020;*

10A NCAC 13B .3704 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3704 ~~STATUS~~ ESTABLISHMENT AND CATEGORIES OF MEDICAL STAFF MEMBERSHIP

(a) The medical staff shall be established in accordance with the bylaws of the facility and organized in accordance with the bylaws, rules, and regulations of the medical staff. The governing body of the facility, after considering the recommendations of the medical staff, may grant medical staff membership and clinical privileges to qualified, licensed practitioners in accordance with their training, experience, and demonstrated competence and judgment in accordance with the medical staff bylaws, rules, and regulations.

~~(a)~~(b) Every facility shall have an active medical ~~staff~~ staff, as defined by the medical staff bylaws, rules, and regulations, to deliver medical services within the ~~facility. The active medical staff shall be responsible for the organization and administration of the medical staff. Every member~~ facility and to administer medical staff functions. The members of the active medical staff shall be eligible to vote at medical staff meetings and to hold ~~office.~~ medical staff office positions as determined by the medical staff bylaws, rules, and regulations and shall be responsible for recommendations made to the governing body regarding the organization and administration of the medical staff. Medical staff office positions shall be determined in the medical staff bylaws, rules, and regulations.

~~(b)~~(c) The active medical staff may establish other categories for membership in the medical staff. These categories for membership shall be identified and defined in the medical staff ~~bylaws, rules or regulations adopted by the active medical staff.~~ bylaws. Examples of ~~these other~~ membership categories ~~for membership are:~~ include:

(1) active medical staff;

~~(1)~~ (2) associate medical staff;

~~(2)~~ (3) courtesy medical staff;

~~(3)~~ (4) temporary medical staff;

~~(4)~~ (5) consulting medical staff;

~~(5)~~ (6) honorary medical staff; or

~~(6)~~ (7) other staff classifications.

The medical staff ~~bylaws, rules or regulations may grant limited or full~~ bylaws shall describe the authority, duties, privileges, and voting rights ~~to any one or more of these other~~ for each membership ~~categories.~~ category consistent with applicable law, rules, and regulations and requirements of facility accrediting bodies.

~~(c) Medical staff appointments shall be reviewed at least once every two years by the governing board.~~

~~(d) The facility shall maintain an individual file for each medical staff member. Representatives of the Department shall have access to these files in accordance with G.S. 131E-80.~~

~~(e) Minutes of all actions taken by the medical staff and the governing board concerning clinical privileges shall be maintained by the medical staff and the governing board, respectively.~~

History Note: *Authority G.S. 131E-79;*
Eff. January 1, ~~1996.~~ 1996;

Readopted Eff. July 1, 2020.

10A NCAC 13B .3705 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3705 MEDICAL STAFF BYLAWS, ~~RULES~~ RULES, ~~OR~~ AND REGULATIONS

(a) The active medical staff shall develop and adopt, subject to the approval of the governing body, a set of bylaws, ~~rules or~~ rules, and ~~regulations,~~ regulations to establish a framework for ~~self-governance~~ self-governance of medical staff activities and accountability to the governing body.

(b) The medical staff bylaws, ~~rules~~ rules, and regulations shall provide for ~~at least~~ the following:

(1) organizational structure;

(2) qualifications for medical staff membership;

(3) procedures for ~~admission, retention, assignment, and reduction or withdrawal of~~ granting or renewing, denying, modifying, suspending, and revoking clinical privileges;

(4) procedures for disciplinary or corrective actions;

~~(4)~~ (5) procedures for fair hearing and appellate review mechanisms for ~~denial of staff appointments, reappointments, suspension, or revocation of~~ denying, modifying, suspending, and revoking clinical privileges;

~~(5)~~ (6) composition, functions and attendance of standing committees;

~~(6)~~ (7) policies for completion of medical ~~records and procedures for disciplinary actions;~~ records;

~~(7)~~ (8) formal liaison between the medical staff and the governing body;

~~(8)~~ (9) methods developed to formally verify that each medical staff member on appointment or reappointment agrees to abide by current medical staff ~~bylaws~~ bylaws, rules, and regulations, and the facility ~~bylaws; and~~ bylaws, rules, policies, and regulations;

~~(9)~~ (10) procedures for ~~members of medical staff~~ participation in quality assurance ~~functions.~~ functions by medical staff members;

(11) the process for the selection and election and removal of medical staff officers; and

(12) procedures for the proposal, adoption, and amendment, and approval of medical staff bylaws, rules, and regulations.

(c) Neither the medical staff, the governing body, nor the facility administration may unilaterally amend the medical staff bylaws, rules, and regulations.

(d) Neither the medical staff, the governing body, nor the facility administration may waive any provision of the medical staff bylaws, rules, and regulations, except in an emergency circumstance. For purposes of this Rule, an "emergency circumstance" means a situation of urgency that justifies immediate action and when there is not sufficient time to follow the applicable provisions and procedures of the medical staff bylaws. Examples of an emergency circumstance include an immediate threat to the life or health of an individual or the public, a natural disaster, or a judicial or regulatory order. The duration of a waiver permitted by this Rule will be only so long as the emergency circumstance exists.

History Note: Authority G.S. 131E-79;

Eff. January 1, ~~1996.~~ 1996;

Readopted Eff. July 1, 2020.

10A NCAC 13B .3706 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3706 ORGANIZATION AND RESPONSIBILITIES OF THE MEDICAL STAFF

(a) The medical staff shall be organized to accomplish its required functions as established by the governing body and medical staff bylaws, rules, and regulations and provide for the election or appointment of its own officers.

(b) There shall be an executive committee, or its equivalent, which represents the medical staff, ~~which~~ that has responsibility for the effectiveness of all medical activities of the staff, and ~~which~~ that acts for the medical staff.

~~(c) All minutes of proceedings of medical staff committees shall be recorded and available for inspections by members of the medical staff and the governing body.~~

~~(d)~~ (c) The following ~~reviews and~~ functions shall be performed by the medical staff:

(1) credentialing review;

~~(2) surgical case review;~~

~~(3)~~ (2) medical records review;

~~(4) medical care evaluation review;~~

~~(5)~~ (3) drug utilization review;

~~(6)~~ (4) radiation safety review;

~~(7)~~ (5) blood usage review; ~~and~~

~~(8)~~ (6) bylaws ~~review.~~ review;

(7) medical review;

(8) peer review; and

(9) recommendations for discipline or corrective action of medical staff members.

~~(e)~~ (d) ~~There shall be medical staff and departmental meetings for the purpose of reviewing the performance of the medical staff, departments or services, and reports and recommendations of medical staff and multi disciplinary committees.~~ The medical staff shall ensure that minutes are ~~taken at~~ prepared for each ~~meeting and retained in accordance with the policy of the facility. These minutes shall reflect the transactions, conclusions and recommendations of the meetings~~. medical staff, departmental, and committee meeting.

History Note: *Authority G.S. 131E-79;*
Eff. January 1, ~~1996.~~ 1996;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3707 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3707 MEDICAL ORDERS

(a) No medication or treatment shall be administered or discontinued except in response to the order of a member of the medical staff in accordance with ~~established rules~~ policies, rules, and regulations established by the facility and medical staff and as provided in Paragraph (f) ~~below.~~ of this Rule.

(b) Such orders shall be dated and recorded directly in the patient ~~chart or in a computer or data processing system which provides a hard copy printout of the order for the patient chart.~~ medical record. A method shall be established to safeguard against fraudulent recordings.

(c) All orders for medication or treatment shall be authenticated according to ~~hospital policies.~~ medical staff and facility policies, rules, or regulations. The order shall be taken by personnel qualified by medical staff ~~rules~~ bylaws, rules, and regulations, and shall include the date, time, and name of persons who gave the order, and the full signature of the person taking the order.

(d) The names of drugs shall be recorded in full and not abbreviated except where approved by the medical staff.

(e) The medical staff shall establish a written policy in conjunction with the pharmacy committee or its equivalent for all medications not specifically prescribed as to time or number of doses to be automatically stopped after a reasonable time limit, but no more than 14 days. The prescriber shall be notified according to established policies and procedures at least 24 hours before an order is automatically stopped.

(f) For patients who are under the continuing care of an out-of-state physician but are temporarily located in North Carolina, a ~~hospital~~ facility may process the out-of-state physician's prescriptions or orders for diagnostic or therapeutic studies which maintain and support the patient's continued program of care, where the authenticity and currency of the prescriptions or orders can be verified by the physician who prescribed or ordered the treatment requested by the patient, and where the ~~hospital~~ facility verifies that the out-of-state physician is licensed to prescribe or order the treatment.

History Note: *Authority G.S. 131E-75; 131E-79; ~~143B-165;~~*
Eff. January 1, 1996;
Amended Eff. April 1, 2005; August 1, ~~1998.~~ 1998;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3708 is proposed for amendment as follows:

10A NCAC 13B .3708 MEDICAL STAFF RESPONSIBILITIES FOR QUALITY IMPROVEMENT REVIEW

(a) The medical staff shall have in effect a system to review ~~medical services rendered,~~ care provided at the facility by members of the medical staff, to assess quality, to provide a process for ~~improving performance when indicated~~ quality improvement, and to monitor the ~~outcome.~~ outcome of quality improvement activities.

(b) The medical staff shall establish criteria for the evaluation of the quality of ~~medical~~ care.

(c) The facility shall have a written plan ~~approved by the medical staff, administration and governing body which~~ that generates reports to permit identification of patient care ~~problems. The plan shall establish~~ problems and that establishes a system to use this data to document and identify interventions. The plan shall be approved by the medical staff, facility administration, and the governing body.

(d) The medical staff shall establish ~~and~~ a policy to maintain a ~~continuous~~ review process of the care ~~rendered to both inpatients and outpatients~~ provided by members of the medical staff to all patients in every medical department of the facility. ~~At least quarterly, the~~ The medical staff shall have a ~~meeting~~ policy to schedule meetings to examine the review process and results. The review process shall include both practitioners and allied health professionals from the ~~facility~~ medical staff.

(e) Minutes shall be ~~taken at~~ prepared for all meetings reviewing quality ~~improvement, and these minutes shall be made available to the medical staff on a regular basis in accordance with established policy. These minutes shall be retained as determined by the facility.~~ improvement and shall reflect all of the transactions, conclusions, and recommendations of the meeting.

History Note: *Authority G.S. 131E-79;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, ~~2017.~~ 2017;
Amended Eff. July 1, 2020.

Fiscal Impact Analysis of
Permanent Rule Readoption with No Substantial Economic Impact

Agency Proposing Rule Change
North Carolina Medical Care Commission

Contact Persons
Nadine Pfeiffer, DHSR Rules Review Manager -- (919) 855-3811
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Impact Summary

Federal Government Entities:	No Impact
State Government entities:	No Impact
Local Government Entities:	No Impact
Small Business:	No Impact
Substantial Impact:	No Impact

Title of Rules Changes and Statutory Citations

10A NCAC 13B

Section .3500 – Governance and Management
- Governing Body 10A NCAC 13B .3501 (Amend)
- Required Facility Policies, Rules, and Regulations 10A NCAC 13B .3502 (Readopt)
- Functions 10A NCAC 13B .3503 (Readopt)

Section .3700 – Medical Staff
- General Provisions 10A NCAC 13B .3701 (Readopt)
- Establishment 10A NCAC 13B .3702 (Repeal)
- Appointment 10A NCAC 13B .3703 (Amend)
- Categories of Medical Staff Membership 10A NCAC 13B .3704 (Readopt)
- Medical Staff Bylaws, Rules and Regulations 10A NCAC 13B .3705 (Readopt)
- Organization and Responsibilities of the Medical Staff 10A NCAC 13B .3706 (Readopt)
- Medical Orders 10A NCAC 13B .3707 (Readopt)
- Medical Staff Responsibilities for Quality Improvement Review 10A NCAC 13B .3708 (Amend)

See proposed text of these rules in Appendix 1

Statutory Authority

N.C.G.S. 131E-79

Background and Purpose

The Medical Care Commission is proposing changes to eleven hospital licensure rules related to the responsibilities of the governing body and medical staff. Under authority of N.C.G.S. 150B-21-3A, Periodic review and expiration of existing rules, the Medical Care Commission, Rules Review Commission and the Joint Legislative Administrative Procedure Oversight Committee approved the

subchapter report with classifications for the rules located at 10A NCAC 13B—Rules for the Licensing of Hospitals on February 10, 2017, May 18, 2017, and July 22, 2017, respectively. Eight rules were determined as necessary with substantive change and therefore subject to readoptions as new rules (10A NCAC 13B .3502, .3503, .3701, 3702, .3704, .3705, .3706, and .3707).

Three rules are proposed for amendment (10A NCAC 13B .3501, .3703, and.3708).

There are 119 licensed Hospitals in North Carolina, each operated by a governing body with final decision-making authority regarding conduct of the facility, including granting clinical privileges to medical staff and defining the scope of services offered at the facility. The Commission believes that medical staff offer a unique perspective on the needs of the community served, and current state, federal, and Joint Commission rules require the governing body to consider input from the medical staff. However, the Commission is concerned about the effect of recent decisions by some governing body to discontinue or greatly reduce certain service lines, affecting access to care and continuity of care for residents. Access to care can be particularly challenging in some rural parts of the state where patients may be required to travel for miles to get to a hospital facility. Some of the major hospitals, such as UNC is working to help improve access to care by partnering with affiliate hospitals and hospital systems across the state. The rule readoptions presented in this fiscal analysis are intended to improve safety, quality and access to care by promoting improved communication between facilities and medical staff. Readoptions will also update language, provide clarity, remove ambiguity, address previous Rules Review objections, and implement several technical changes. Changes will also clarify authorities granted in federal regulations and allow reference to the statute where appropriate.

It is unknown whether the changes will result in different management decisions and therefore different patient outcomes, however, the changes are intended to ensure that medical staff are consulted and kept informed. The Commission believes that the proposed changes will establish a structure for information sharing that may increase medical staff awareness of their opportunity to make recommendations on proposed decisions and increase feedback on the potential impact of those changes on medical staff, patient, and health outcomes. Ultimate responsibility for the hospital from a corporate, legal, accreditation, licensure, and compliance standpoint will continue to reside with the governing body.

Rules Summary and Anticipated Fiscal Impact

Rule .3501 – Governing Body
The agency is proposing to amend this rule. This rule established criteria for the Governing Body. Changes clarify that the governing body is the entity responsible for ensuring charter objectives are attained and is the authority for decisions in the facility. This is and continues to be the standard.

Changes clarify that the local advisory board should contain members from the county where the facility is located. This is a current occurrence. Local advisory boards are established to advise facilities regarding community needs, ensure locals are involved in decision making, which will ultimately improve quality of care, safety and access to care. Local advisory boards are a current requirement for facilities that have out of state owners. There are three such facilities in North Carolina - Kindred Hospital, Frye Regional, and Martin General Hospital. Current healthcare administration research advocates for the use of patient advisory boards and community advisory boards but research is limited as to their impact on hospital leadership decision-making.

A review of Kindred's website revealed that Kindred Hospital has an advisory board of physicians who care for patients within the patients' community. A similar internet search of Martin General Hospital did not reveal a specific reference to an advisory board; however, it did express a commitment to sharing information with employees, patients and the community, to include working with the community to

provide quality healthcare that fits their lifestyle.[1] They do endorse several national and regional organizations of this nature. For Kindred, the advisory board already has members from the county and thus the new requirement will have no additional impact. Martin General currently doesn't specifically identify an advisory board on it's website. There could potentially be a minimal cost regarding administrative staff time and space required to hold meetings. Generally, advisory boards don't include reimbursement. In addition, the Centers for Disease Control requires hospitals every three years to communicate with the community and conduct a community health assessment. A community health assessment gives organizations comprehensive information about the community's current health status, needs, and issues. In turn, this information can help with developing a community health improvement plan by justifying how and where resources should be allocated to best meet community needs.[2] Frye Regional completes the Community Needs Health Assessment in which it defines priorities for health improvement, creates a collaborative community environment to engage stakeholders, and an open and transparent process to listen and understand the health needs of the community served by Frye Regional medical center. It brings together all the care providers, citizens, government, schools, churches, not for profit organizations and business and industry around an effective plan of action. In state hospital facilities also have advisor boards. Community advisory boards advise on important outreach initiatives and provide a vital link between the facility and the community. Facilities with out of state owners already have advisory boards/committees with members from the county. This rule change will have minimal impact on communication and information sharing between the local community and the governing board and impose minimal additional costs. Local advisory boards' advice is nonbinding, and it is unknown whether any additional input will result in different decisions and outcomes.[3]

Rule .3502-- Required Policies, Rules, and Regulations & Rule .3705 – Medical Staff Bylaws, Rules, or Regulations

The agency is proposing to readopt these rules with substantive changes. Rule .3502 and .3705 includes a new requirement that facility policies, rules, and regulations shall not conflict with the medical staff bylaws, rules, and regulations. The governing body, medical staff, or facility administration may not unilaterally change the medical staff bylaws, rules and regulations except in emergency circumstances. In addition, the rules further specify the required content of the medical staff bylaws. The remainder of the changes clarify governing body responsibilities regarding facility policies, rules, and regulations. The rule was changed to clarify language regarding the governing body and to make technical changes.

By requiring the medical staff bylaws and facility bylaws to be congruent, these rules are possibly changing the process that medical staff and facility staff will use when developing their bylaws. The governing body and the medical staff will have to review and update their bylaws, rules, and regulations to ensure they are congruent, requiring an investment of time by both medical staff and governing body members. However, it is unclear whether this requirement is likely to result in more collaboration or more effective communication. Under current rules, both the governing body and the medical staff must have bylaws, and the governing body must review and approve medical staff bylaws. Given the existing approval process, the extent of any changes to medical staff bylaws, rules, and regulations resulting from this new requirement is unknown.

More detail was added to clarify what subjects the medical staff bylaws, rules, and regulations shall cover. The rule requires medical staff bylaws to include a process for selection/election or removal of medical staff officers and for the adoption and amendment of medical staff bylaws. The North Carolina Medical Society Model Medical Staff Bylaws document currently includes a process for

[1] https://www.kindredhealthcare.com/resources/blog-kindred-continuum/2012/03/29/medical-advisory-boards-help-kindred-improve-quality-of-patient-care

[2] https://www.cdc.gov/publichealthgateway/cha/index.html

[3] https://www.fryemedctr.com/community-health/community-health-needs-assessment

selection/election or removal of medical staff officers, and amendment of bylaws. However, this document only serves as an example and is not mandated for use, so it is unclear how many entities will need to update their bylaws, or how much staff time may need to be devoted to updating the bylaws. Remaining changes to these rules are primarily technical in nature and will not affect processes currently used by hospitals.

Rule .3503 – Functions

The agency is proposing to readopt this rule with substantive changes. This rule establishes functions for the governing body. Proposed changes would require the facility and medical staff to develop a policy for how it will make recommendations to the governing body regarding granting and defining the scope of clinical privileges. Because the agency has no authority to establish a process when the governing body does not concur with medical staff recommendations, that language was deleted.

Current rules also provide several means for maintaining communications with medical staff. The governing body may establish meetings with the executive committee of the medical staff or appoint individual medical staff members to the medical review committee (previously "governing body committees"). In addition, a provision was added that requires the governing body to have consultation with medical staff twice during the year regarding quality of care provided, and limitations placed on medical staff.

The agency is also further interpreting policies established by federal regulations, to include updating authorities delegated and not delegated to the state agency as they relate to the functions of the governing body. Finally, these changes also updated language to current terminology and include other technical and clarifying changes.

The governing body is currently required to consider recommendations of staff regarding appointments. Language was added to require facilities to establish a policy for making recommendations. This language was added in an attempt to address any potential information asymmetry problems. Comments were submitted to the Medical Care Commission regarding areas of concern include the ability for physician privileges to be eliminated without peer physicians on the hospital staff being involved. Having a policy in place for this process may increase awareness and engagement in the process.

This requirement to establish policy for making recommendations may have no effect on medical staff and patient outcomes, or it may have some effect of unknown magnitude. While organizational research generally agrees that communication is essential to informed decision making, it is unclear whether this requirement will result in the governing body receiving different information from the medical staff compared to current practices or how additional information may change decision-making. The ultimate authority for granting and defining the scope of clinical privileges resides with the governing body.

The facility and medical staff may incur staff time costs to develop their policy for making recommendations about clinical privileges, depending upon the existing process in the facility. The governing body is currently required to consider recommendations of staff regarding appointments. While the number of affected facilities is unknown, facilities may need to establish formal policies for the first time or revise existing policies to satisfy both parties. The time required is likely to be highly variable for each facility.

Changes also require facilities to formulate short and long range plans as defined in their bylaws, policies, rules, and regulations. Facilities currently have short and long range plans. It is unclear how timeframes are chosen. Medical staff are currently required to participate in strategic planning as described in their bylaws. Changes will require facilities to formulate long range plans according to their bylaws, policies,

rules or regulations. It is likely that some facilities currently meet the requirement, but it is unknown to what extent. Strategic plans improve the ability to manage and control resources, which are critical to the organization's survival. This is especially true in rural hospitals that are struggling to maintain operations. Strategic planning offers a proactive way to foresee and prepare for the future and increase operational efficiency. If facilities do not currently have short and long range plans defined in their bylaws, policies, rules, and regulations, there will likely be some marginal staff time costs involved in revising the timeframe of the plans, but the agency expects the costs to be minimal. The MCC is also further interpreting policies established by federal regulations, to include updating authorities delegated and not delegated to the state agency as they relate to the functions of the governing body. These changes also updated language to current terminology.

As the governing body is the final authority regarding what happens in a facility, there is no authority to establish a process when the governing body does not concur with medical staff recommendations. That language was deleted.

This rule amendment also includes changes made to the language around the reporting of "unusual incidents." The term "unusual incidents" was removed, and replaced with "allegations of abuse and neglect of patients." Abuse and neglect are currently reported and investigated. Improving the definition of the intent of this rule helps to provide clarity as to the expectations for reporting.

In addition, detail regarding conflict of interest was removed and language was added requiring governing body members to execute a conflict of interest statement. General Statute 131E-14.2 address conflicts of interest in public hospitals. Pursuant to the Internal Revenue Manual,[4] 26 CFR § 53 addresses the prohibition on self-dealing in private hospitals. These provisions makes it unnecessary to discuss self dealings regarding the governing body in rule, so this language has been removed. These changes have no fiscal impact.

Rule .3701 – General Provisions & Rule .3704 – Categories of Medical Staff Membership
The agency is proposing to readopt these rules with substantive changes. Rule .3701 establishes general provision for medical staff. The rule is changed to interpret language in the federal regulation regarding medical staff. Changes clarify that medical staff are self-governed, responsible for working in collaboration with facility administration, and accountable to the governing body. Federal regulation requires medical staff to make recommendations to the governing body regarding medical staff appointments[5]. The governing body has approval authority for medical staff bylaws, rules, and other medical staff regulations. This rule change does not require any additional actions by the facility or staff.

Rule .3704 also establishes categories of medical staff membership, expand who is eligible to vote and hold medical staff office positions and informs facilities that they are to determine medical staff office positions in their bylaws, rules, and regulations. This is a current requirement in the Conditions of Participation (COP) and is a current practice. Together the rules grant the medical staff the authority to determine the organization and office positions of the medical staff. While we believe the changes will improve the communication process by better informing medical staff and facilities regarding responsibilities, it will be difficult to quantify its effectiveness.

The requirement for taking minutes was relocated from .3704 and .3706 to this rule to eliminate redundancy and clarifying language was added to identify what the minutes should reflect and the retention schedule. This was done to eliminate ambiguity. As minutes are currently taken at Medical

[4] https://www.irs.gov/irm/part7/irm_07-027-030
[5] See 42 CFR 482.22

Staff meetings, (following Parliamentary procedures of Roberts Rules of Order) there is not expected to be a change in procedure or cost related to additional time spent.
This rule also includes several technical changes. Language regarding staff appointments, review, file retention, and minutes was relocated to Rule.3703. Relocating this information to .3703 grouped similar guidance together. The changes will result in zero to minimal fiscal impact.

Rule .3703 – Appointment
The agency is proposing to amend this rule that establishes staff appointment requirements.

In accordance with G.S. 131E-85 and 42 CFR 482.12, the rule identifies the governing body as the final decision maker regarding appointment of staff and clinical privileges. Changes also clarify what appointment of staff means and requires facilities and medical staff to develop a policy for making recommendations to grant, deny, renew, modify, suspend, or terminate medical staff membership and clinical privileges to the governing body.

Although current state and federal requirements direct the governing body to consider the recommendations of the medical staff regarding appointments, the proposed rules expand the scope of topics on which the governing body must consult with the medical staff. Medical staff will make recommendations to the governing body regarding appointment or reappointment which specifies the approval or denial of clinical privileges and the scope of privileges, excluding qualified providers from medical service lines; or limiting facility access to medical staff. In addition, the rules require medical staff appointments to be reviewed once every two years.

The intent of these rule changes is to increase communication between the governing body and medical staff regarding quality of care issues. This requirement may increase the frequency of communication between the governing body and medical staff. However, the magnitude of the impact on medical staff and patient outcomes is unknown. While organizational research generally agrees that communication is essential to informed decision making, it is unclear whether this requirement will result in the governing body receiving different information from the medical staff compared to current practices, or how additional information may change decision-making. The ultimate authority for decisions related to staffing and service lines resides with the governing body.

Other amendments remove ambiguity, clarify rule language and make technical changes. They also include relocating certain existing requirements from other sections of rule.

The requirement for medical staff and others granted clinical privileges to hold a current license was relocated and is a current requirement in federal and state regulation. Regulations also address medical staff and access to the facility's medical resources which is a normal part of facility protocol. The remaining requirements that were added to e, f, and g were relocated from existing rules.

Rule .3706 – Organization and Responsibilities of the Medical Staff
The agency is proposing to readopt this rule with substantive changes. This rule established organization and responsibilities of the medical staff. The rule is being changed to reference the federal requirement that medical staff have bylaws that describe the organization of the medical staff.[6] This is a current practice.

The requirement to keep minutes of proceedings was relocated to .3701 (General Provision) to eliminate redundancy. The functions listed as those performed by medical staff are a current requirement in the federal regulations as a condition of participation in the Medicare and Medicaid programs. Changes were

[6] See 42 CFR 482.22

made to combine similar items, and add medical review and peer review as identified in the federal regulations. Surgical case reviews and medical care evaluation reviews was deleted as a result of adding medical review and peer review which are more encompassing.

Medical staff are currently required to make recommendation regarding granting of privileges to staff. The rule was changed to include recommendations for discipline or corrective action. The rule also, identified what meetings require minutes. It is unlikely that there is any fiscal impact associated with this rule change, as the rule generally incorporates federal requirements that are currently being done. A potential cost could result from a change in which meetings require someone to record minutes, versus what meetings are currently appropriate for minutes. However, any cost will likely be minor.

Rule .3707 – Medical Orders
This rule is being readopted with technical changes to reflect more current terminology but does not require any changes in current practices. This rule addresses guidelines for medical orders. The electronic health record did not exist at the time this rule was last amended, thus the requirement relating to the patient chart, computer or data processing system was removed and replaced with a reference to the medical record. Two additional technical changes/clarifications were made to replace hospital policies with facility polices, rules, and regulations and to replace rules with bylaws, rules, or regulations. All changes are technical in nature and do not have cost implications.

Rule .3708 – Medical Staff Responsibilities for Quality Improvement Review
The agency is proposing to amend this rule to clarify rule language and meeting requirements for medical staff. This rule established medical staff responsibilities for quality improvement review. The rule is being amended to change the requirements for quarterly meetings to having a policy to schedule meetings. Medical staff, together with the governing body, may choose to change the frequency of quality improvement meetings.

Other amendments clarify rule language and make technical changes. Medical staff are currently required to have a plan for review of services. Plans must currently be approved by the facility administration and ultimately the governing body. The governing body has the final authority. Meeting minutes are a current requirement, but language was added to clarify what the minutes should reflect and to impose a retention schedule as identified by the facility and medical staff. The only possible cost will involve the time required for facilities and medical staff to establish a policy for maintaining the minutes as well as the additional time required if additional details are added to the minutes. With the change, facilities will be required to retain minutes as determined by the facility. It is expected that any costs will be minimal.

Impact Summary

Taken together, the total impact of these rule amendments on access and quality of care is unknown. There may be no change, or, the rule provisions could increase communication between the medical staff and the governing body and may inform management decision-making - particularly the requirements to establish a formal policy for medical staff to make recommendations to the governing body, and for twice annual consultations on quality of care matters, medical staff membership, and medical staff access to facility resources. However, any effect on medical staff and patient outcomes depends upon three unknown factors: the extent to which these new provisions differ from current practices, whether governing bodies are likely to receive more or different information from the medical staff compared to current practices, and how any additional information may change final management decisions. The governing body retains final decision-making authority regarding conduct of the facility.

Similarly, hospitals may incur administrative costs to implement these changes dependent upon each facility's current practices. Although, resource requirements cannot be quantified, any changes to current

processes or an increase in the frequency of communication may require additional staff time from hospital leadership and staff across the state's 119 licensed facilities. It is unknown to what extent hospitals may be affected.

It is highly unlikely that there will be a State government impact. Changes may improve the communication process and transparency, but it is almost impossible to determine what impact those changes may have on facilities. The changes won't add any additional tasks or responsibilities to State staff. State staff will continue to provide oversight of hospitals, which is a part of their current responsibilities.

Appendix 1

10A NCAC 13B .3501 is proposed for amendment as follows:

SECTION .3500 - GOVERNANCE AND MANAGEMENT

10A NCAC 13B .3501 GOVERNING BODY

(a) The governing body, ~~owner~~ owner, or the person or persons designated by the owner as the governing ~~authority~~ body shall be responsible for ~~seeing~~ ensuring that the objectives specified in the ~~charter (or resolution if publicly owned)~~ facility's governing documents are attained.

(b) The governing body shall be the final authority ~~in the facility~~ ~~to which~~ ~~the administrator,~~ for decisions for which the facility administration, the medical staff, and the facility personnel ~~and all auxiliary organizations~~ are directly or indirectly ~~responsible.~~ responsible within the facility.

(c) A local advisory board shall be established if the facility is owned ~~or controlled~~ by an organization or persons outside of North Carolina. A local advisory board shall include members from the county where the facility is located. The local advisory board will provide non-binding advice to the governing body.

History Note: *Authority G.S. 131E-75; 131E-79;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, ~~2017.~~ 2017;
Amended Eff. July 1, 2020.

10A NCAC 13B .3502 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3502 REQUIRED FACILITY BYLAWS, POLICIES, RULES, AND REGULATIONS

(a) The governing body shall adopt written bylaws, policies, rules, and regulations in accordance with all requirements contained in this Subchapter and in accordance with the community responsibility of the facility. The written bylaws, policies, rules, and regulations shall:

(1) state the purpose of the facility;

(2) describe the powers and duties of the governing body officers and committees and the responsibilities of the chief executive officer;

(3) state the qualifications for governing body membership, the procedures for selecting members, and the terms of service for members, officers and committee chairmen;

(4) describe the authority delegated to the chief executive officer and to the medical staff. No assignment, referral, or delegation of authority by the governing body shall relieve the governing body of its responsibility for the conduct of the facility. The governing body shall retain the right to rescind any such delegation;

(5) require ~~Board~~ governing body approval of the bylaws of any auxiliary organizations established by the ~~hospital;~~ facility;

(6) require the governing body to review and approve the bylaws of the medical ~~staff organization;~~ staff;

(7) establish ~~a procedure~~ procedures for processing and evaluating the applications for medical staff membership and for the granting of clinical privileges;

(8) establish a procedure for implementing, disseminating, and enforcing a Patient's Bill of Rights as set forth in Rule .3302 of this Subchapter and in compliance with G.S. 131E-117; and

(9) require the governing body to institute procedures to provide for:

(A) orientation of newly elected ~~board~~ governing body members to ~~specific~~ board functions and procedures;

(B) the development of procedures for periodic reexamination of the relationship of the ~~board~~ governing body to the total facility community; and

(C) the recording of minutes of all governing body and executive committee meetings and the dissemination of those minutes, or summaries thereof, on a regular basis to all members of the governing body.

(b) The governing body shall ~~assure~~ provide written policies and procedures to assure billing and collection practices in accordance with G.S. 131E-91. These policies and procedures shall include:

(1) a financial assistance policy as defined in G.S. 131E-214.14(b)(3);

(2) how a patient may obtain an estimate of the charges for the statewide 100 most frequently reported Diagnostic Related Groups (DRGs), where applicable, 20 most common outpatient imaging procedures, and 20 most common outpatient surgical procedures. The policy shall require that the

information be provided to the patient in writing, either electronically or by mail, within three business days;

(3) how a patient or patient's representative may dispute a bill;

(4) issuance of a refund within 45 days of the patient receiving notice of the overpayment when a patient has overpaid the amount due to the ~~hospital;~~ facility;

(5) providing written notification to the patient or patient's representative at least 30 days prior to submitting a delinquent bill to a collections agency;

(6) providing the patient or patient's representative with the facility's charity care and financial assistance policies, if the facility is required to file a Schedule H, federal form 990;

(7) the requirement that a collections agency, entity, or other assignee obtain written consent from the facility prior to initiating litigation against the patient or patient's representative;

(8) a policy for handling debts arising from the provision of care by the ~~hospital~~ facility involving the doctrine of necessaries, in accordance with G.S. 131E-91(d)(5); and

(9) a policy for handling debts arising from the provision of care by the ~~hospital~~ facility to a minor, in accordance with G.S. 131E-91(d)(6).

(c) The governing body shall ensure that the bylaws, rules, and regulations of the medical staff and the bylaws, rules, policies, and regulations of the facility shall not be in conflict.

~~(c)~~(d) The written policies, rules, and regulations shall be reviewed every three years, revised as necessary, and dated to indicate when last reviewed or revised.

~~(d)~~(e) To qualify for licensure or license renewal, each facility must provide to the Division, upon application, an attestation statement in a form provided by the Division verifying compliance with the requirements of this Rule.

~~(e)~~(f) On an annual basis, on the license renewal application provided by the Division, the facility shall provide to the Division the direct website address to the facility's financial assistance policy. This ~~Rule~~ requirement applies only to facilities required to file a Schedule H, federal form 990.

History Note: *Authority G.S. 131E-79; 131E-91; 131E-214.8; 131E-214.13(f); 131E-214.14; ~~S.L. 2013-382, s. 10.1; S.L. 2013-382, s. 13.1;~~*
Eff. January 1, 1996;
Temporary Amendment Eff. May 1, 2014;
Amended Eff. November 1, ~~2014.~~ 2014;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3503 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3503 FUNCTIONS

(a) The governing body shall:

(1) provide management, physical ~~resources~~ resources, and personnel determined by the governing body to be required to meet the needs of ~~the~~ patients for ~~which it is licensed;~~ treatment as authorized by the facility's license;

(2) require ~~management~~ facility administration to establish a quality control mechanism ~~which~~ that includes ~~as an integral part~~ a risk management component and an infection control program;

(3) formulate short-range and long-range plans ~~for the development of the facility;~~ as defined in the facility bylaws, policies, rules, and regulations;

(4) conform to all applicable ~~federal,~~ State and federal laws, rules, and regulations, and applicable local ~~laws and regulations;~~ ordinances;

(5) provide for the control and use of the physical and financial resources of the facility;

(6) review the annual audit, ~~budget~~ budget, and periodic reports of the financial operations of the facility;

(7) consider the ~~advice~~ recommendation of the medical staff in granting and defining the scope of clinical privileges to ~~individuals. When the governing body does not concur in the medical staff recommendation regarding the clinical privileges of an individual, there shall be a review of the recommendation by a joint committee of the medical staff and governing body before a final decision is reached by the governing body;~~ individuals in accordance with medical staff bylaws requirements for making such recommendations and the facility bylaws established by the governing body for the review and final determination of such recommendations;

(8) require that applicants be informed of the disposition of their application for medical staff membership or clinical ~~privileges, or both, within an established period of time after their~~ privileges in accordance with the facility bylaws established by the governing body, after an application has been submitted;

(9) review and approve the medical staff bylaws, ~~rules~~ rules, and ~~regulations body;~~ regulations;

(10) delegate to the medical staff the authority ~~to~~ to:

(A) evaluate the professional competence of medical staff members and applicants for ~~staff privileges~~ medical staff membership and clinical privileges; and

(B) ~~hold the medical staff responsible for recommending~~ recommend to the governing body initial medical staff appointments, ~~reappointments~~ reappointments, and assignments or curtailments of privileges;

(11) require that resources be made available to address the emotional and spiritual needs of patients either directly or through referral or arrangement with community agencies;

(12) maintain ~~effective~~ communication with the medical staff which ~~shall~~ may be ~~established,~~ established through:

~~(a)~~(A) meetings with the ~~Executive Committee~~ executive committee of the ~~Medical Staff;~~ medical staff;

~~(b)~~(B) service by the president of the medical staff as a member of the governing body with or without a vote;

~~(c)~~(C) appointment of individual medical staff members to ~~governing body committees; or~~ the medical review committee; or

~~(d)~~(D) a joint conference ~~committee;~~ committee that will be a committee of the governing body and the medical staff composed of equal representatives of each of the governing body, the chairman of the board or designee, the medical staff, and the chief of the medical staff or designee, respectively;

(13) require the medical staff to establish controls that are designed to provide that standards of ethical professional practices are met;

(14) provide ~~the necessary~~ administrative staff support to facilitate utilization review and infection control within the ~~facility and~~ facility, to support quality ~~control,~~ control and any other medical staff functions required by this Subchapter or by the facility bylaws;

(15) meet the following disclosure requirements:

~~(a)~~(A) provide data required by the Division;

~~(b)~~(B) disclose the facility's average daily inpatient charge upon request of the Division; and

~~(c)~~(C) disclose the identity of persons owning ~~5.0~~ five percent or more of the facility as well as the facility's officers and members of the governing body upon request;

(16) establish a procedure for reporting the occurrence and disposition of ~~any unusual incidents.~~ allegations of abuse or neglect of patients and incidents involving quality of care or physical environment at the facility. These procedures shall require that:

~~(a)~~(A) incident reports are analyzed and ~~summarized;~~ summarized by a designated party; and

~~(b)~~(B) corrective action is taken ~~as indicated by~~ based upon the analysis of incident reports;

(17) in a facility with one or more units, or portions of units, however described, utilized for psychiatric or substance abuse treatment, adopt policies implementing the provisions of G.S. 122C, Article 3, and Article 5, Parts, 2, 3, 4, 5, 7, and 8;

(18) develop arrangements for the provision of extended care and other long-term healthcare services. Such services shall be provided in the facility or by outside resources through a transfer agreement or referrals;

(19) provide and implement a written plan for the care or for the referral, or ~~for~~ both, of patients who require mental health or substance abuse services while in the ~~hospital;~~ facility;

(20) develop a conflict of interest policy which shall apply to all governing body members and ~~corporate officers.~~ facility administration. All governing body members shall execute a conflict of interest ~~statement;~~ statement; and

~~(21) prohibit members of the governing body from engaging in the following forms of self-dealing:~~

~~(a) the sale, exchange or leasing of property or services between the facility and a governing board member, his employer or an organization substantially controlled by him on a basis less favorable to the facility than that on which such property or service is made available to the general public;~~

~~(b) furnishing of goods, services or facilities by a facility to a governing board member, unless such furnishing is made on a basis not more favorable than that on which such goods, services, or facilities are made available to the general public or employees of the facility; or~~

~~(c) any transfer to or use by or for the benefit of a governing board member of the income or assets of a facility, except by purchase for fair market value; and~~

~~(22) prohibit the lease, sale, or exclusive use of any facility buildings or facilities receiving a license in accordance with this Subchapter to any entity which provides medical or other health services to the facility's patients, unless there is full, complete disclosure to and approval from the Division.~~

(21) conduct direct consultations with the medical staff at least twice during the year.

(b) For the purposes of this Rule, "direct consultations" means the governing body, or a subcommittee of the governing body, meets with the leader(s) of the medical staff(s), or his or her designee(s) either face-to-face or via a telecommunications system permitting immediate, synchronous communication.

(c) The direct consultations shall consist of discussions of matters related to the quality of medical care provided to the hospital's patients, including quality matters arising out of the following:

(1) the scope and complexity of services offered by the facility;

(2) specific clinical populations served by the facility;

(3) limitations on medical staff membership other than peer review or corrective action in individual cases;

(4) circumstances relating to medical staff access to a facility resource; or

(5) any issues of patient safety and quality of care that a hospital's quality assessment and performance improvement program might identify as needing the attention of the governing body in consultation with the medical staff.

(d) For the purposes of this Rule, "specific clinical populations" includes those individuals who may be treated at the facility by the medical staff in place at the time of the consultation.

History Note: *Authority G.S. 131E-14.2; 131E-79; 42 CFR 482.12; 42 CFR 482.22;*
Eff. January 1, ~~1996.~~ 1996;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3701 is proposed for readoption with substantive changes as follows:

SECTION .3700 - MEDICAL STAFF

10A NCAC 13B .3701 GENERAL PROVISIONS

a) The facility shall have a self-governed medical staff ~~organized in accordance with the facility's by-laws which~~ that shall be accountable to the governing body ~~and which shall have responsibility~~ for the quality of ~~professional services~~ care provided by individuals with medical staff membership and clinical ~~privileges.~~ privileges to provide medical services in the facility. Facility policy shall provide that individuals with clinical privileges shall perform only services within the scope of individual privileges granted.

b) Minutes required by the rules of this Section shall reflect all transactions, conclusions, and recommendations of meetings. Minutes shall be prepared and retained in accordance with a policy established by the facility and medical staff, and available for inspection by members of the medical staff and governing body, respectively, unless such minutes include confidential peer review information that is not accessible to others in accordance with applicable law, or as otherwise protected by law.

History Note: *Authority G.S. 131E-79;*
Eff. January 1, ~~1996.~~ 1996;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3702 is proposed for readoption as a repeal as follows:

10A NCAC 13B .3702 ESTABLISHMENT

History Note: *Authority G.S. 131E-79;*
Eff. January 1, ~~1996.~~ 1996;
Repealed Eff. July 1, 2020.

10A NCAC 13B .3703 is proposed for amendment as follows:

10A NCAC 13B .3703 APPOINTMENT

(a) The governing body may grant, deny, renew, modify, suspend, or terminate medical staff membership and clinical privileges after consideration of the recommendation made by the medical staff in accordance with the bylaws established by the medical staff and approved by the governing body for making such recommendations, and the facility bylaws established by the governing body for review and final determination of such recommendations.

(b) ~~Formal appointment~~ Review of an applicant for medical staff membership and the granting of clinical privileges shall follow procedures set forth in the ~~by-laws, rules or~~ bylaws, rules, and regulations of the medical staff. These procedures shall require the following:

(1) a signed application for medical staff membership, specifying ~~age,~~ date of birth, year and school of graduation, date of licensure, statement of postgraduate or special training and ~~experience with~~ experience, and a statement of the scope of the clinical privileges sought by the applicant;

(2) verification by the ~~hospital~~ facility of the applicant's qualifications ~~of the applicant~~ as stated in the application, including ~~evidence of~~ any required continuing education; and

(3) written notice to the applicant from ~~the medical staff and~~ the governing ~~body,~~ body regarding appointment or ~~reappointment~~ reappointment, which specifies the approval or denial of clinical privileges and the scope of the privileges ~~granted; and~~ if granted.

~~(4) members of the medical staff and others granted clinical privileges in the facility shall hold current licenses to practice in North Carolina.~~

(c) Members of the medical staff and others granted clinical privileges in the facility shall hold current licenses to practice in North Carolina.

(d) Medical staff appointments shall be reviewed at least once every two years by the medical staff in accordance with the bylaws established by the medical staff and approved by the governing body, and shall be followed with recommendations made to the governing body for review and a final determination.

(e) The facility shall maintain a file containing performance information for each medical staff member. Representatives of the Division shall have access to these files in accordance with, and subject to the limitations and restrictions set forth in, G.S. 131E-80; however, to the extent that the same includes confidential medical review information, such information shall be reviewable and confidential in accordance with G.S. 131E-80(d) and other applicable law.

(f) Minutes shall be taken and maintained of all meetings of the medical staff and governing body that concern the granting, denying, renewing, modifying, suspending or terminating of clinical privileges.

History Note: *Authority G.S. 131E-79; 42 CFR 482.12(a)(10); 42 CFR 482.22(a)(1);*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017. *2017;*

Amended Eff. July 1, 2020;

10A NCAC 13B .3704 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3704 ~~STATUS~~ ESTABLISHMENT AND CATEGORIES OF MEDICAL STAFF MEMBERSHIP

(a) The medical staff shall be established in accordance with the bylaws of the facility and organized in accordance with the bylaws, rules, and regulations of the medical staff. The governing body of the facility, after considering the recommendations of the medical staff, may grant medical staff membership and clinical privileges to qualified, licensed practitioners in accordance with their training, experience, and demonstrated competence and judgment in accordance with the medical staff bylaws, rules, and regulations.

~~(a)~~(b) Every facility shall have an active medical ~~staff~~ staff, as defined by the medical staff bylaws, rules, and regulations, to deliver medical services within the ~~facility. The active medical staff shall be responsible for the organization and administration of the medical staff. Every member~~ facility and to administer medical staff functions. The members of the active medical staff shall be eligible to vote at medical staff meetings and to hold ~~office.~~ medical staff office positions as determined by the medical staff bylaws, rules, and regulations and shall be responsible for recommendations made to the governing body regarding the organization and administration of the medical staff. Medical staff office positions shall be determined in the medical staff bylaws, rules, and regulations.

~~(b)~~(c) The active medical staff may establish other categories for membership in the medical staff. These categories for membership shall be identified and defined in the medical staff ~~bylaws, rules or regulations adopted by the active medical staff.~~ bylaws. Examples of ~~these other~~ membership categories ~~for membership are:~~ include:

(1) active medical staff;

~~(1)~~ (2) associate medical staff;

~~(2)~~ (3) courtesy medical staff;

~~(3)~~ (4) temporary medical staff;

~~(4)~~ (5) consulting medical staff;

~~(5)~~ (6) honorary medical staff; or

~~(6)~~ (7) other staff classifications.

The medical staff ~~bylaws, rules or regulations may grant limited or full~~ bylaws shall describe the authority, duties, privileges, and voting rights ~~to any one or more of these other~~ for each membership ~~categories.~~ category consistent with applicable law, rules, and regulations and requirements of facility accrediting bodies.

~~(c) Medical staff appointments shall be reviewed at least once every two years by the governing board.~~

~~(d) The facility shall maintain an individual file for each medical staff member. Representatives of the Department shall have access to these files in accordance with G.S. 131E-80.~~

~~(e) Minutes of all actions taken by the medical staff and the governing board concerning clinical privileges shall be maintained by the medical staff and the governing board, respectively.~~

History Note: *Authority G.S. 131E-79;*
Eff. January 1, ~~1996.~~ 1996;

Readopted Eff. July 1, 2020.

10A NCAC 13B .3705 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3705 MEDICAL STAFF BYLAWS, ~~RULES~~ RULES, ~~OR~~ AND REGULATIONS

(a) The active medical staff shall develop and adopt, subject to the approval of the governing body, a set of bylaws, ~~rules or~~ rules, and ~~regulations,~~ regulations to establish a framework for ~~self-governance~~ self-governance of medical staff activities and accountability to the governing body.

(b) The medical staff bylaws, ~~rules~~ rules, and regulations shall provide for ~~at least~~ the following:

(1) organizational structure;

(2) qualifications for medical staff membership;

(3) procedures for ~~admission, retention, assignment, and reduction or withdrawal of~~ granting or renewing, denying, modifying, suspending, and revoking clinical privileges;

(4) procedures for disciplinary or corrective actions;

~~(4)~~ (5) procedures for fair hearing and appellate review mechanisms for ~~denial of staff appointments, reappointments, suspension, or revocation of~~ denying, modifying, suspending, and revoking clinical privileges;

~~(5)~~ (6) composition, functions and attendance of standing committees;

~~(6)~~ (7) policies for completion of medical ~~records and procedures for disciplinary actions;~~ records;

~~(7)~~ (8) formal liaison between the medical staff and the governing body;

~~(8)~~ (9) methods developed to formally verify that each medical staff member on appointment or reappointment agrees to abide by current medical staff ~~bylaws~~ bylaws, rules, and regulations, and the facility ~~bylaws; and~~ bylaws, rules, policies, and regulations;

~~(9)~~ (10) procedures for ~~members of medical staff~~ participation in quality assurance ~~functions.~~ functions by medical staff members;

(11) the process for the selection and election and removal of medical staff officers; and

(12) procedures for the proposal, adoption, and amendment, and approval of medical staff bylaws, rules, and regulations.

(c) Neither the medical staff, the governing body, nor the facility administration may unilaterally amend the medical staff bylaws, rules, and regulations.

(d) Neither the medical staff, the governing body, nor the facility administration may waive any provision of the medical staff bylaws, rules, and regulations, except in an emergency circumstance. For purposes of this Rule, an "emergency circumstance" means a situation of urgency that justifies immediate action and when there is not sufficient time to follow the applicable provisions and procedures of the medical staff bylaws. Examples of an emergency circumstance include an immediate threat to the life or health of an individual or the public, a natural disaster, or a judicial or regulatory order. The duration of a waiver permitted by this Rule will be only so long as the emergency circumstance exists.

History Note: *Authority G.S. 131E-79;*

Eff. January 1, ~~1996.~~ 1996;

Readopted Eff. July 1, 2020.

10A NCAC 13B .3706 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3706 ORGANIZATION AND RESPONSIBILITIES OF THE MEDICAL STAFF

(a) The medical staff shall be organized to accomplish its required functions as established by the governing body and medical staff bylaws, rules, and regulations and provide for the election or appointment of its own officers.

(b) There shall be an executive committee, or its equivalent, which represents the medical staff, ~~which~~ that has responsibility for the effectiveness of all medical activities of the staff, and ~~which~~ that acts for the medical staff.

~~(c) All minutes of proceedings of medical staff committees shall be recorded and available for inspections by members of the medical staff and the governing body.~~

~~(d)~~ (c) The following ~~reviews and~~ functions shall be performed by the medical staff:

(1) credentialing review;

~~(2) surgical case review;~~

~~(3)~~ (2) medical records review;

~~(4) medical care evaluation review;~~

~~(5)~~ (3) drug utilization review;

~~(6)~~ (4) radiation safety review;

~~(7)~~ (5) blood usage review; ~~and~~

~~(8)~~ (6) bylaws ~~review.~~ review;

(7) medical review;

(8) peer review; and

(9) recommendations for discipline or corrective action of medical staff members.

~~(e)~~ (d) ~~There shall be medical staff and departmental meetings for the purpose of reviewing the performance of the medical staff, departments or services, and reports and recommendations of medical staff and multi disciplinary committees.~~ The medical staff shall ensure that minutes are ~~taken at~~ prepared for each ~~meeting and retained in accordance with the policy of the facility. These minutes shall reflect the transactions, conclusions and recommendations of the meetings~~. medical staff, departmental, and committee meeting.

History Note: *Authority G.S. 131E-79;*
Eff. January 1, ~~1996.~~ 1996;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3707 is proposed for readoption with substantive changes as follows:

10A NCAC 13B .3707 MEDICAL ORDERS

(a) No medication or treatment shall be administered or discontinued except in response to the order of a member of the medical staff in accordance with ~~established rules~~ policies, rules, and regulations established by the facility and medical staff and as provided in Paragraph (f) ~~below.~~ of this Rule.

(b) Such orders shall be dated and recorded directly in the patient ~~chart or in a computer or data processing system which provides a hard copy printout of the order for the patient chart.~~ medical record. A method shall be established to safeguard against fraudulent recordings.

(c) All orders for medication or treatment shall be authenticated according to ~~hospital policies.~~ medical staff and facility policies, rules, or regulations. The order shall be taken by personnel qualified by medical staff ~~rules~~ bylaws, rules, and regulations, and shall include the date, time, and name of persons who gave the order, and the full signature of the person taking the order.

(d) The names of drugs shall be recorded in full and not abbreviated except where approved by the medical staff.

(e) The medical staff shall establish a written policy in conjunction with the pharmacy committee or its equivalent for all medications not specifically prescribed as to time or number of doses to be automatically stopped after a reasonable time limit, but no more than 14 days. The prescriber shall be notified according to established policies and procedures at least 24 hours before an order is automatically stopped.

(f) For patients who are under the continuing care of an out-of-state physician but are temporarily located in North Carolina, a ~~hospital~~ facility may process the out-of-state physician's prescriptions or orders for diagnostic or therapeutic studies which maintain and support the patient's continued program of care, where the authenticity and currency of the prescriptions or orders can be verified by the physician who prescribed or ordered the treatment requested by the patient, and where the ~~hospital~~ facility verifies that the out-of-state physician is licensed to prescribe or order the treatment.

History Note: *Authority G.S. 131E-75; 131E-79; ~~143B-165;~~*
Eff. January 1, 1996;
Amended Eff. April 1, 2005; August 1, ~~1998.~~ 1998;
Readopted Eff. July 1, 2020.

10A NCAC 13B .3708 is proposed for amendment as follows:

10A NCAC 13B .3708 MEDICAL STAFF RESPONSIBILITIES FOR QUALITY IMPROVEMENT REVIEW

(a) The medical staff shall have in effect a system to review ~~medical services rendered,~~ care provided at the facility by members of the medical staff, to assess quality, to provide a process for ~~improving performance when indicated~~ quality improvement, and to monitor the ~~outcome.~~ outcome of quality improvement activities.

(b) The medical staff shall establish criteria for the evaluation of the quality of ~~medical~~ care.

(c) The facility shall have a written plan ~~approved by the medical staff, administration and governing body which~~ that generates reports to permit identification of patient care ~~problems. The plan shall establish~~ problems and that establishes a system to use this data to document and identify interventions. The plan shall be approved by the medical staff, facility administration, and the governing body.

(d) The medical staff shall establish ~~and~~ a policy to maintain a ~~continuous~~ review process of the care ~~rendered to both inpatients and outpatients~~ provided by members of the medical staff to all patients in every medical department of the facility. ~~At least quarterly, the~~ The medical staff shall have a ~~meeting~~ policy to schedule meetings to examine the review process and results. The review process shall include both practitioners and allied health professionals from the ~~facility~~ medical staff.

(e) Minutes shall be ~~taken at~~ prepared for all meetings reviewing quality ~~improvement, and these minutes shall be made available to the medical staff on a regular basis in accordance with established policy. These minutes shall be retained as determined by the facility.~~ improvement and shall reflect all of the transactions, conclusions, and recommendations of the meeting.

History Note: *Authority G.S. 131E-79;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, ~~2017.~~ 2017;
Amended Eff. July 1, 2020.