STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MEDICAL CARE COMMISSION QUARTERLY MEETING
DIVISION OF HEALTH SERVICE REGULATION
1800 UMSTEAD DRIVE
RALEIGH, NORTH CAROLINA 27603
CONFERENCE ROOM 123B-WILLIAMS BUILDING
OR
TEAMS Video Conference:
Join the meeting now
OR
Dial-IN: 1-984-204-1487 / Passcode: 8 9 8 1 4 7 1 5 6 #

AUGUST 19, 2024 (Monday)
9:00 a.m.

AGENDA

I. **Meeting Opens – Roll Call**…………………………..……………………………..Alice Creech

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

III. **Public Meeting Statement**……………………………………………………...Dr. John Meier
This meeting of the Medical Care Commission is open to the public but is not a public hearing. Therefore, any discussion will be limited to members of the Commission and staff unless questions are specifically directed by the Commission to someone in the audience.

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.

V. **NC Board of Ethics Letters**……………………………………………………….Dr. John Meier

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

Kathy G. Barger **(Exhibit A/1)**
Sally B. Cone **(Exhibit A/2)**
Bryant C. Foriest **(Exhibit A/3)**
Linwood B. Hollowell, III **(Exhibit A/4)**

Eileen C. Kugler **(Exhibit A/5)**
David C. Mayer **(Exhibit A/6)**
Jeffrey S. Wilson **(Exhibit A/7)**
Dr. John J. Meier, IV (**Exhibit A/8**)

VI. NCMCC Reappointments……………………………….…………….……….Dr. John Meier

Governor Cooper has approved the following members for reappointment:

Kathy G. Barger
Joseph D. Crocker
Ashley H. Lloyd, D.D.S.
Neel. G. Thomas, M.D.
Lisa A. Tolnitch, M.D.

VII. Introduction of New Rules Coordinator…………………….…………………Geary W. Knapp

- Shana F. Black

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

- **May 17, 2024** (NCMCC Quarterly Meeting) **(See Exhibit A)**
- **May 20, 2024** (Executive Committee) **(See Exhibit B/1)**
  - Issuance of Thrivemore Series 2024 bonds
  - Waiver of reporting requirements for Hugh Chatham Series 2008
- **July 10, 2024** (Executive Committee) **(See Exhibit B/2)**
  - Issuance of Carolina Meadows Series 2024 bonds
  - Amendments to Trust Agreement / Loan Agreement for FirstHealth Series 2017CD

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

A. Quarterly Report on Bond Program (**See Exhibit B**)
B. Notice for Bond Activity
- July 1, 2024 – FirstHealth Series 2014A & 2017B (Conversion)
  - New Interest Rates
  - New Bank Holder
- July 30, 2024 – FirstHealth Series 2017C & 2017D (Conversion)
  - New Interest Rate
  - New Holding Period

X. Bond Projects (Action Items).…………………...………………………………Geary W. Knapp

A. EveryAge (High Point)

<u>Resolution</u>: The Commission grants preliminary approval to a transaction for EveryAge to provide funds, to be used, together with other available funds to purchase the following:

- Providence Place (Burlington) – CCRC
    - 160 Independent Living
    - 90 Assisted Living Units
    - 129 Skilled Nursing Units
    - Mall & Church property

Capital expenditures for the proposed purchase 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 Issued by NCMCC	$	26,420,000.00
Principal Amount of Bonds Issued by Bank (Taxable)	$	26,420,000.00
Total Sources	**$**	**52,840,000.00**

ESTIMATED USE OF FUNDS		
Acquisition Price	$	46,125,000.00
Debt Service Reserve Fund	$	5,284,000.00
Underwriter Placement Fee	$	660,500.00
Feasibility Study Fee	$	125,000.00
Accountant Fee	$	40,000.00
Corporate Counsel	$	75,000.00
Bond Counsel	$	125,000.00
Underwriter Counsel	$	75,000.00
Rating Agency Fee	$	50,000.00
Trustee Fee	$	15,000.00
Printing Costs	$	7,500.00
Local Government Commission Fee	$	8,750.00
Bank Commitment Fee	$	84,250.00
Bank Counsel	$	50,000.00
Hedge/Swap Advisor Fee	$	45,000.00
Real Estate/Title/Mortgage Fees	$	70,000.00
Total Uses	**$**	**52,840,000.00**

Tentative approval is given with the understanding that the governing board of EveryAge 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. Final 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: <u>Community Benefits/Charity Care Agreement and Program Description for CCRCs</u> 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:

Financially Feasible: YES
Construction & Related Costs are Reasonable: YES

See **Exhibit F** for compliance and selected application information.

B. Twin Lakes (Elon)

<u>Resolution</u>: The Commission grants preliminary approval to a transaction for Twin Lakes to provide funds, to be used, together with other available funds to construct the following:

- 38-unit apartment building (Stockton Phase II)

Capital expenditures for the 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 Issued	$	40,320,000.00
Total Sources	**$**	**40,320,000.00**

ESTIMATED USE OF FUNDS

Construction Cost	$	32,625,000.00
Architect Fee	$	850,000.00
Moveable Equipment	$	925,000.00
Bond Interest (During Construction)	$	1,360,000.00
Debt Service Reserve Fund	$	3,570,000.00
Underwriter Placement Fee	$	500,000.00
Feasibility Study Fee	$	125,000.00
Accountant Fee	$	20,000.00
Corporate Counsel	$	50,000.00
Bond Counsel	$	95,000.00
Underwriter Counsel	$	85,000.00
Trustee Fee	$	15,000.00
Printing Costs	$	7,500.00
Local Government Commission Fee	$	8,750.00
DHSR Fee	$	40,000.00
Appraisal/Survey/Title Fees	$	43,750.00
Total Uses	**$**	**40,320,000.00**

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. Final 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:

Financially Feasible: YES
Construction & Related Costs are Reasonable: YES

See **Exhibit G** for compliance and selected application information.

C. Penick Village (Southern Pines)

Resolution: The Commission grants preliminary approval to a transaction for Penick Village to provide funds, to be used, together with other available funds to refund prior capital projects and construct the following:

- 44 Independent Living Units
- Healthcare renovations
- New Wellness Center
- New Welcome House

Capital expenditures for the 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	$	74,785,000.00
Total Sources	**$**	**74,785,000.00**

ESTIMATED USE OF FUNDS

Construction Cost	$	55,255,503.00
Architect Fees	$	2,054,567.00
Architect Reimbursables	$	69,400.00

Contingency	$	528,176.00
Site Costs (Survey/Subsoil Investigation/etc.)	$	163,392.00
Site Development	$	1,261,909.00
Consultant Fees (Design/Marketing/Project/etc.)	$	2,868,813.00
Bond Interest During Construction	$	6,000,000.00
Debt Service Reserve Fund	$	5,000,000.00
Underwriter Placement Fee	$	1,046,990.00
Feasibility Study Fee	$	110,000.00
Accountant Fee	$	40,000.00
Corporate Counsel	$	75,000.00
Bond Counsel	$	125,000.00
Trustee Fee	$	15,000.00
Underwriter Counsel	$	75,000.00
Local Government Commission Fee	$	8,750.00
Printing Costs	$	7,500.00
Real Estate/Title/Recording	$	80,000.00
Total Uses	**$**	**74,785,000.00**

Tentative approval is given with the understanding that the governing board of Penick Village 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. Final 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:

Financially Feasible: YES
Construction & Related Costs are Reasonable: YES

See **Exhibit H** for compliance and selected application information.

XI. Old Business (Discuss Rules, Fiscal Note, & Comments Submitted) (Action Items)

A. Rules for Adoption

1. **Acute & Home Care Licensure Rules**………..………..….Shana Black & Azzie Conley

20 Rules

- Rules: 10A NCAC 13S .0101, .0104, .0201, .0207, .0212, and .0318-.0331.

(See Exhibits C thru C/2)

B. Periodic Review Rules

1. **Medical Care Commission Executive Committee**…...……..Shana Black & Geary Knapp

4 Rules

- Rules: 10A NCAC 13A .0101, .0201, .0202, .0203.

(See Exhibits D thru D/1)

2. **Rules for the Licensing of Nursing Homes**………..……Shanah Black & Beverly Speroff

64 Rules

- **Rules:** 10A NCAC 13D .2001, .2101, .2102, .2103, .2104, .2105, .2106, .2107, .2108, .2109, .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2208. .2209, .2210, .2211, .2212, .2301, .2302, .2303, .2304, .2305, .2306, .2307, .2308, .2309, .2401, .2402, .2505, .2501, .2502, .2503, .2504, .2601, .2602, .2603, .2604, .2605, .2606, .2607, .2701, .2801, .2802, .2901, .2902, .3003, .3004, .3005, .3031, .3101, .3102, .3103, .3104, .3201, .3202, .3401, .3402, .3403, .3404.

(See Exhibits E thru E/1)

XII. 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 November 8, 2024 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 and amend previously approved projects to include refunding components only between this date and November 8, 2024. Refunding projects may include non-Commission debt, and non- material, routine capital improvement expenditures.

XIII. Meeting Adjournment

EXHIBIT A

STATE OF NORTH CAROLINA
DEPARTMENT OF HEALTH AND HUMAN SERVICES

MEDICAL CARE COMMISSION QUARTERLY MEETING
DIVISION OF HEALTH SERVICE REGULATION
809 RUGGLES DRIVE
RALEIGH, NORTH CAROLINA 27603
CONFERENCE ROOM 026A
OR
TEAMS Video Conference:

Join the meeting now

OR

Dial-IN: 1-984-204-1487 / Passcode: 4 4 7 6 3 9 9 9 2 #

MAY 17, 2024 (Friday)
9:00 a.m.

MINUTES

I. Meeting Attendance

MEMBERS PRESENT	MEMBERS ABSENT
John J. Meier, IV, M.D., Chairman Joseph D. Crocker, Vice-Chairman Kathy G. Barger Sally B. Cone Paul R. G. Cunningham, M.D. Bryant C. Foriest Eileen C. Kugler, RN MSN, MPH, FNP Ashley H. Lloyd, D.D.S. Robert E. Schaaf, M.D. Neel G. Thomas, M.D. Pascal O. Udekwu, M.D. Timothy D. Weber, RPH Jeffrey S. Wilson **DIVISION OF HEALTH SERVICE REGULATION STAFF** S. Mark Payne, Director, DHSR/MCC Secretary Emery E. Milliken, Deputy Director, DHSR Geary W. Knapp, JD, CPA, Assistant Secretary, MCC Jeff Harms, Acting Construction Chief, DHSR	Linwood B. Hollowell, III David C. Mayer, M.D. Karen E. Moriarty Lisa A. Tolnitch, M.D.

Tammy Sylvester, Assistant Construction Chief, DHSR Taylor Corpening, Rules Review Coordinator, DHSR Azzie Conley, Chief, Acute & Home Care Licensure Debbie McCarty, Acute & Home Care Licensure Tonya Oakley, Acute & Home Care Licensure Megan Lamphere, Chief, Adult Care Licensure Libby Kinsey, Assistant Chief, Adult Care Licensure Tameka Riggsbee, Adult Care Licensure Crystal Abbott, Auditor, MCC Kathy Larrison, Auditor, MCC Alice Creech, Executive Assistant, MCC	

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

III. Public Meeting Statement…………………………………………………………...Dr. John Meier

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

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.

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

- **February 2, 2024** (NCMCC Quarterly Meeting) (**See Exhibit A**)
- **February 15, 2024** (Executive Committee) **(See Exhibit B/1)**
- **April 10, 2024** (NCMCC Full Commission Meeting) **(See Exhibit A/1)**

COMMISSION ACTION: *A motion was made to approve the minutes by Mr. Joe Crocker, seconded by* Mr. *Bryant Foriest, and unanimously approved.*

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

A. Quarterly Report on Bond Program (**See Exhibit B**)

VII. Old Business (Discuss Rules, Fiscal Note, & Comments Submitted) (Action Items)

A. Rules for Adoption

1. **Adult Care Licensure Section Rules……..……………..….**T. Corpening & M. Lamphere

- Rules: 10A NCAC 13F .0102, .0402, .0404, .0408, .0601-.0609, 10A NCAC 13G .0102, .0404, .0601

  (**See Exhibits C thru C/4**).

<u>COMMISSION ACTION</u>: *A motion was made to approve the Adult Care Licensure Rules by Dr. Paul Cunningham, seconded by Mrs. Eileen Kugler, and unanimously approved.*

VIII. New Business (Discuss Rules & Fiscal Note) (<u>Action Items</u>)

A. Periodic Review of Existing Rules (150B-21.3A) – Initial Category Determination

1. **Nursing Home Licensing Rules……………………**Taylor Corpening & Beverly Speroff

- **Rules:** 10A NCAC 13D .2001, .2101-.2109, .2201-.2212, .2301-.2309, .2401-.2402, .2501-.2505, .2601-.2607, .2701, .2801-.2802, .2901-.2902, .3003-.3005, .3031, .3101-.3104, .3201, and .3401-.3404.

  (See Exhibits D thru D/1)

<u>COMMISSION ACTION</u>: *A motion was made to approve the Nursing Home Licensing Rules by Mr. Joe Crocker, seconded by Dr. Robert Schaaf, and unanimously approved.*

B. Rules for Approval

1. **Adult Care Licensure Section Rules "Super phase"……..…**Corpening & M. Lamphere

- Rules: Phase 4.5 Construction: 10A NCAC 13F .0302, .0304, .0305, .0307, .0310, .0311, .1304, 10A NCAC 13G .0301, .0305-.0309, .0312, .0313, .0317, .0318
- Phase 6: 10A NCAC 13F .0801, .0802, 10A NCAC 13G .0801, .0802
- Phase 6.5: 10A NCAC 13F .0206, .0306, .0309, .1501, .1601-.1605, 10A NCAC .0206, .0315, .0316, .1601-.1605

  (See Exhibits E thru E/3)

<u>COMMISSION ACTION</u>: *A motion was made to approve the Adult Care Licensure Rules by Mrs. Eileen Kugler, seconded by Mr. Joe Crocker, and unanimously approved.*

2. **Acute & Home Care Licensure Rules……………………...……**T. Corpening & A. Conley

13S Rules: 19 adoptions and 7 repeals (26 total rules)

- Rules: 10A NCAC 13S .0101, .0104, .0112 .0114, .0201, 0202, .0207, .0209-.0212, .0315, .0318-.0331.

(See Exhibits F thru F/1)

COMMISSION ACTION: *A motion was made to approve the Acute & Home Care Licensure 13S Rules, excluding 13S .0315 by Dr. Paul Cunningham, seconded by Mrs. Eileen Kugler, and unanimously approved.*

COMMISSION ACTION: *A motion was made to approve the Acute & Home Care Fiscal Note by Dr. Paul Cunningham, seconded by Mr. Joe Crocker, and unanimously approved.*

IX. DHSR Construction Presentation…………………………………………………………Jeff Harms

(See Exhibit G)

X. 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 August 9, 2024 in Raleigh, North Carolina;

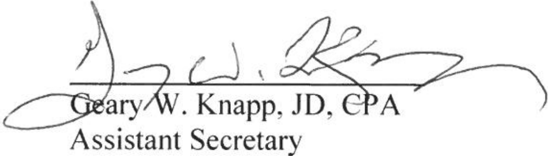
THEREFORE, BE IT RESOLVED; that the Commission authorize its Executive Committee to approve projects involving the refunding of existing Commission debt and amend previously approved projects to include refunding components only between this date and August 9, 2024. Refunding projects may include non-Commission debt, and non- material, routine capital improvement expenditures.

COMMISSION ACTION: *A motion was made to authorize the Executive Committee to approve projects involving the refunding of existing debt between this date and August 9, 2024 by Mrs. Eileen Kugler, seconded by Mr. Joe Crocker, and unanimously approved.*

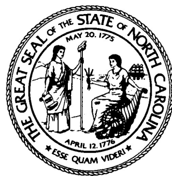
XI. Meeting Adjournment

There being no further business the meeting was adjourned at 11:27 a.m.

Respectfully submitted,



Geary W. Knapp, JD, CPA
Assistant Secretary



STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

July 3, 2024

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Biennial Evaluation of Statement of Economic Interest Filed by Ms. Kathy G. Barger
Member of the North Carolina Medical Care Commission

Dear Governor Cooper:

Our office has received a 2024 Statement of Economic Interest (SEI) from **Ms. Kathy G. Barger** as a member of the **North Carolina Medical Care Commission ("the Commission")**. We have reviewed it for actual and potential conflicts of interest under the State Government Ethics Act ("the Act"), which requires that SEIs be evaluated every two years after initial evaluation.

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. The letter is not meant to impugn the integrity of the covered person in any way. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest or the likelihood of a conflict of interest.

The North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also

requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Ms. Barger fills the role of a member nominated by the North Carolina Hospital Association.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. 138A-24(e), the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. (N.C.G.S. §138A-15 (c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation (N.C.G.S. § 138A-14). Please review the attached document for additional information concerning this requirement.

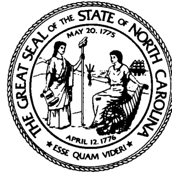
Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Jane Steffens, SEI Unit
State Ethics Commission

cc: Kathy G. Barger
Silas Payne, Ethics Liaison.
Gregory S. McLeod, Deputy General Counsel, Office of the Governor
Scarlett Hargis, Office of the Governor

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION

POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

June 10, 2024

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

**Re: Biennial Evaluation of Statement of Economic Interest Filed by Mrs. Sally Cone
Member of the Medical Care Commission**

Dear Governor Cooper:

Our office has received a 2024 Statement of Economic Interest (SEI) from **Mrs. Sally Cone** as a member of the **Medical Care Commission ("the Commission")**. We have reviewed it for actual and potential conflicts of interest under the State Government Ethics Act ("the Act"), which requires that SEIs be evaluated every two years after initial evaluation.

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. The letter is not meant to impugn the integrity of the covered person in any way. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mrs. Cone fills the role of an at-large member on the Commission. She owns financial interests in Thermo Fisher Scientific Inc., a company that manufactures and sells medical equipment and UnitedHealth Group that is a health care and well-being company. Mrs. Cone is a board member for the Cone Health Cancer Center – Community Advisory Board, Well Spring Group, Well Spring Retirement Community and The Village at Brookwood. Therefore, Mrs. Cone has the potential for a conflict of interest, and should exercise appropriate caution in the performance of her public duties, should issues involving any of these entities or interests come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. 138A-24(e), the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. (N.C.G.S. §138A-15 (c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation (N.C.G.S. § 138A-14). Please review the attached document for additional information concerning this requirement.

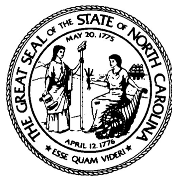
Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Jane Steffens, SEI Unit
State Ethics Commission

cc: Mrs. Sally Cone
Silas Payne, Ethics Liaison
Gregory S. McLeod, Deputy General Counsel, Office of the Governor
Scarlett Hargis, Office of the Governor

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

June 10, 2024

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Biennial Evaluation of Statement of Economic Interest Filed by Mr. Bryant Foriest
Member of the Medical Care Commission

Dear Governor Cooper:

Our office has received a 2024 Statement of Economic Interest (SEI) from **Mr. Bryant Foriest** as a member of the **Medical Care Commission ("the Commission")**. We have reviewed it for actual and potential conflicts of interest under the State Government Ethics Act ("the Act"), which requires that SEIs be evaluated every two years after initial evaluation.

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. The letter is not meant to impugn the integrity of the covered person in any way. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated

persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Foriest fills the role of an at-large member on the Commission. He is the Proprietor and Managing Director for the medical consulting company, Excalibur Consulting LLC. He also receives income from Foriest Enterprises Inc., of which he is also the proprietor, and LSBF Professional Counseling Services PLLC, a health care business. Therefore, Mr. Foriest has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties, should issues involving these entities come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. 138A-24(e), the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. (N.C.G.S. §138A-15 (c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation (N.C.G.S. § 138A-14). Please review the attached document for additional information concerning this requirement.

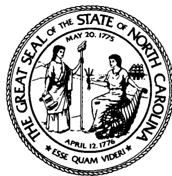
Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Jane Steffens, SEI Unit
State Ethics Commission

cc: Mr. Bryant Foriest
Silas Payne, Ethics Liaison
Gregory S. McLeod, Deputy General Counsel, Office of the Governor
Scarlett Hargis, Office of the Governor

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

June 10, 2024

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Biennial Evaluation of Statement of Economic Interest Filed by Mr. Linwood Hollowell III
Member of the Medical Care Commission

Dear Governor Cooper:

Our office has received a 2024 Statement of Economic Interest (SEI) from **Mr. Linwood Hollowell III** as a member of the **Medical Care Commission ("the Commission")**. We have reviewed it for actual and potential conflicts of interest under the State Government Ethics Act ("the Act"), which requires that SEIs be evaluated every two years after initial evaluation.

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. The letter is not meant to impugn the integrity of the covered person in any way. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated

persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Hollowell fills the role of a member nominated by the Duke Endowment and is also the Director of healthcare for this entity. He has a financial interest in Bristol Myers Squibb, a pharmaceutical company. He also serves as a board member for the North Carolina Healthcare Foundation. As such, Mr. Hollowell has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues involving any of these entities come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. 138A-24(e), the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. (N.C.G.S. §138A-15 (c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation (N.C.G.S. § 138A-14). Please review the attached document for additional information concerning this requirement.

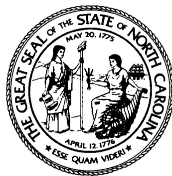
Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Jane Steffens, SEI Unit
State Ethics Commission

cc: Mr. Linwood Hollowell III
Silas Payne, Ethics Liaison
Gregory S. McLeod, Deputy General Counsel, Office of the Governor
Scarlett Hargis, Office of the Governor

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

June 10, 2024

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Biennial Evaluation of Statement of Economic Interest Filed by Ms. Eileen Kugler
Member of the Medical Care Commission

Dear Governor Cooper:

Our office has received a 2024 Statement of Economic Interest (SEI) from **Ms. Eileen Kugler** as a member of the **Medical Care Commission ("the Commission")**. We have reviewed it for actual and potential conflicts of interest under the State Government Ethics Act ("the Act"), which requires that SEIs be evaluated every two years after initial evaluation.

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. The letter is not meant to impugn the integrity of the covered person in any way. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest or the likelihood of a conflict of interest.

The North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also

requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Ms. Kugler fills the role of a member nominated by the North Carolina Nurses Association.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. 138A-24(e), the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. (N.C.G.S. §138A-15 (c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation (N.C.G.S. § 138A-14). Please review the attached document for additional information concerning this requirement.

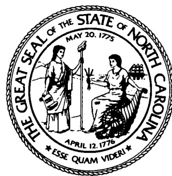
Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Jane Steffens, SEI Unit
State Ethics Commission

cc: Ms. Eileen Kugler
Silas Payne, Ethics Liaison
Gregory S. McLeod, Deputy General Counsel, Office of the Governor
Scarlett Hargis, Office of the Governor

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

June 10, 2024

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Biennial Evaluation of Statement of Economic Interest Filed by Dr. David Mayer
Member of the Medical Care Commission

Dear Governor Cooper:

Our office has received a 2023 Statement of Economic Interest and 2024 No-Change form from **Dr. David Mayer** as a member of the **Medical Care Commission ("the Commission")**. We have reviewed the 2023 Statement of Economic Interest for actual and potential conflicts of interest under the State Government Ethics Act ("the Act"), which requires that SEIs be evaluated every two years after initial evaluation.

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. The letter is not meant to impugn the integrity of the covered person in any way. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business,

N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Dr. Mayer would fill the role of an at-large member on the Commission. He is employed by the UNC School of Medicine which may seek financing through the Commission. Therefore, Dr. Mayer has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues involving the UNC School of Medicine come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. 138A-24(e), the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. (N.C.G.S. §138A-15 (c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation (N.C.G.S. § 138A-14). Please review the attached document for additional information concerning this requirement.

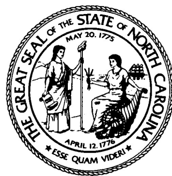
Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Jane Steffens, SEI Unit
State Ethics Commission

cc: Dr. David Mayer
Silas Payne, Ethics Liaison
Gregory S. McLeod, Deputy General Counsel, Office of the Governor
Scarlett Hargis, Office of the Governor

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

June 10, 2024

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Biennial Evaluation of Statement of Economic Interest Filed by Mr. Jeffrey Wilson
Member of the Medical Care Commission

Dear Governor Cooper:

Our office has received a 2024 Statement of Economic Interest (SEI) from **Mr. Jeffrey Wilson** as a member of the **Medical Care Commission ("the Commission")**. We have reviewed it for actual and potential conflicts of interest under the State Government Ethics Act ("the Act"), which requires that SEIs be evaluated every two years after initial evaluation.

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. The letter is not meant to impugn the integrity of the covered person in any way. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated

persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Wilson fills the role of an at-large member on the Commission who has home health experience. He is the Chief Operating Officer of Liberty Healthcare Management and a governing board member of the North Carolina Healthcare Facilities Association. Therefore, Mr. Wilson has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties, should issues involving Liberty Healthcare Management or the North Carolina Healthcare Facilities Association come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. 138A-24(e), the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. (N.C.G.S. §138A-15 (c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation (N.C.G.S. § 138A-14). Please review the attached document for additional information concerning this requirement.

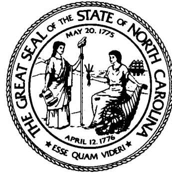
Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Jane Steffens, SEI Unit
State Ethics Commission

cc: Mr. Jeffrey Wilson
Silas Payne, Ethics Liaison
Gregory S. McLeod, Deputy General Counsel, Office of the Governor
Scarlett Hargis, Office of the Governor

Attachment: Ethics Education Guide



STATE ETHICS COMMISSION
POST OFFICE BOX 27685
RALEIGH, NC 27611
PHONE: 919-814-3600

Via Email

June 10, 2024

The Honorable Roy A. Cooper III
Governor of North Carolina
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Re: Biennial Evaluation of Statement of Economic Interest Filed by Dr. John J. Meier IV
Member of the Medical Care Commission

Dear Governor:

Our office has received a 2024 Statement of Economic Interest (SEI) from **Dr. John J. Meier IV** as a member of the **Medical Care Commission ("the Commission")**. We have reviewed it for actual and potential conflicts of interest under the State Government Ethics Act ("the Act"), which requires that SEIs be evaluated every two years after initial evaluation.

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. The letter is not meant to impugn the integrity of the covered person in any way. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The North Carolina Medical Care Commission was created to adopt statewide plans for the construction and maintenance of public and private hospitals, medical centers, and related facilities, including the approval of projects in the amounts of grants-in-aid from funds by both federal and state governments. The Commission is charged with administering the Health Care Facilities Finance Act (N.C.G.S. Chapter 131A) and issues bonds pursuant thereto. In addition, the Commission has the authority to adopt rules, regulations and standards for the different types of hospitals to be licensed, the operation of nursing homes, the inspection, licensure and operation of adult care homes, including personnel requirements of staff employed in adult care homes. The Commission also adopts rules providing for the accreditation of facilities that perform mammography and other procedures.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated

persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Dr. Meier fills the role of a licensed physician nominated by the North Carolina Medical Society to serve on the Commission. He is employed by Wake Internal Medicine Consultants and owns financial interests in several companies, including but not limited to, Exact Sciences, AbbVie, and Abbott Laboratories. Dr. Meier serves as a Board member for Key Medical Practices, North Carolina Medical Society and Carolina Complete Health. Therefore, Dr. Meier has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties, should issues involving Wake Internal Medicine Consultants or any entities in which he owns a financial interest come before the Commission for official action.

In addition to the conflicts standards noted above, the Act prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. 138A-24(e), the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. (N.C.G.S. §138A-15 (c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation (N.C.G.S. § 138A-14). Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,

Jane Steffens, SEI Unit
State Ethics Commission

cc: Dr. John J Meier IV
Silas Payne, Ethics Liaison
Gregory S. McLeod, Deputy General Counsel, Office of the Governor
Scarlett Hargis, Office of the Governor

Attachment: Ethics Education Guide

NC Medical Care Commission

Quarterly Report on **Outstanding Debt** (End: 4th Quarter FYE 2024)

Program Measures	FYE 2023 Ending: 6/30/2023	FYE 2024 Ending: 6/30/2024
Outstanding Debt	**$4,676,200,334**	**$4,677,104,694**
Outstanding Series	**114**[1]	**114**[1]

Detail of Program Measures	Ending: 6/30/2023	Ending: 6/30/2024
Outstanding Debt per Hospitals and Healthcare Systems	$3,212,486,549	$3,088,410,639
Outstanding Debt per CCRCs	$1,463,713,786	$1,588,694,055
Outstanding Debt per Other Healthcare Service Providers	$0	$0
Outstanding Debt Total	**$4,676,200,334**	**$4,677,104,694**
Outstanding Series per Hospitals and Healthcare Systems	51	50
Outstanding Series per CCRCs	63	64
Outstanding Series per Other Healthcare Service Providers	0	0
Series Total	**114**	**114**
Number of Hospitals and Healthcare Systems with Outstanding Debt	10	10
Number of CCRCs with Outstanding Debt	19	20
Number of Other Healthcare Service Providers with Outstanding Debt	0	0
Facility Total	29	30

Note 1: For FYE 2024, NCMCC closed 7 **Bond Series**. Out of the closed Bond Series: 0 conversions, 6 were new money projects, 0 combination of new money project and refunding, and 1 refunding. The Bond Series outstanding from FYE 2023 to current represents all new money projects, refundings, conversions, and redemptions.

GENERAL NOTES: Facility Totals represent a parent entity total and do not represent each individual facility owned/managed 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, and hospice facilities. The following parent entities represent the current "other healthcare service providers" with outstanding NC MCC debt: NONE AT THIS TIME

Exhibit B (Outstanding Balance)

NC Medical Care Commission

Quarterly Report on **History** of NC MCC Finance Act Program (End: 4th Quarter FYE 2024)

Program Measures	FYE 2023 Ending: 6/30/2023	FYE 2024 Ending: 6/30/2024
Total PAR Amount of Debt Issued	**$28,995,305,288**	**$29,378,557,997**
Total Project Debt Issued (excludes refunding/conversion proceeds) [1]	**$13,523,822,513**	**$13,828,615,223**
Total Series Issued	**708**	**715**

Detail of Program Measures	Ending: 6/30/2023	Ending: 6/30/2024
PAR Amount of Debt per Hospitals and Healthcare Systems	$23,116,044,855	$23,116,044,855
PAR Amount of Debt per CCRCs	$5,504,965,203	$5,888,217,912
PAR Amount of Debt per Other Healthcare Service Providers	$374,295,230	$374,295,230
Par Amount Total	**$28,995,305,288**	**$29,378,557,997**
Project Debt per Hospitals and Healthcare Systems	$10,273,019,674	$10,273,019,674
Project Debt per CCRCs	$3,003,788,925	$3,308,581,635
Project Debt per Other Healthcare Service Providers	$247,013,915	$247,013,915
Project Debt Total	**$13,523,822,513**	**$13,828,615,223**
Series per Hospitals and Healthcare Systems	433	433
Series per CCRCs	236	243
Series per Other Healthcare Service Providers	39	39
Series Total	**708**	**715**
Number of Hospitals and Healthcare Systems issuing debt	99	99
Number of CCRCs issuing debt	41	41
Number of Other Healthcare Service Providers issuing debt	46	46
Facility Total	186	186

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, 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

MAY 20, 2024
11:30 A.M.

Members of the Executive Committee Present:
John J. Meier, IV. M.D., Chairman
Sally B. Cone
Eileen C. Kugler, RN, MSN, MPH, FNP
Neel G. Thomas, M.D.

Members of the Executive Committee Absent:
Joseph D. Crocker, Vice-Chairman
Kathy G. Barger
Paul R.G. Cunningham, M.D.

Members of Staff Present:
Emery E. Milliken, Deputy Director, DHSR
Geary W. Knapp, JD, CPA, Assistant Secretary
Crystal Watson-Abbott, Auditor, MCC
Kathy C. Larrison, Auditor, MCC
Alice S. Creech, Executive Assistant, MCC

Others Present:
Paul Billow, Womble Bond Dickinson (US) LLP
Tom Bowden, HJ Sims
Michael Brady, ThriveMore
Kevin May, Hugh Chatham
David Saustad, HJ Sims
Lisa Williams, McGuire Woods, LLP

1. **Purpose of Meeting**

   To authorize the sale of bonds , the proceeds of which are to be loaned to ThriveMore Retirement Community, and to approve a waiver of certain reporting provisions for Hugh Chatham Memorial Hospital.

2. **SERIES RESOLUTION AUTHORIZING SALE AND ISSUANCE OF $86,000,000 NORTH CAROLINA MEDICAL CARE COMMISSION RETIREMENT FACILITIES FIRST MORTGAGE REVENUE BONDS (THRIVEMORE) SERIES 2024**

   EXECUTIVE COMMITTEE ACTION: A motion was made to approve the resolution by Mrs. Sally Cone, seconded by Mrs. Eileen Kugler, 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;

WHEREAS, Baptist Retirement Homes of North Carolina, Incorporated, d/b/a ThriveMore (the "Borrower"), is a nonprofit corporation duly incorporated and validly existing under and by virtue of the laws of the State of North Carolina which owns and operates continuing care retirement communities located in Arden, Concord, Albemarle and Winston-Salem, North Carolina;

WHEREAS, the Borrower has made an application to the Commission for a loan for the purpose of providing funds, together with other available funds, to:

(a) refinance a portion of the acquisition costs of the senior living facility known as Ardenwoods, associated with the 48 assisted living units, located at 2400 Appalachian Boulevard, Arden, North Carolina 28704 and to finance and refinance the acquisition, construction, renovation, equipping and furnishing of existing independent living and assisted living units, dining areas, common areas, administrative offices, and other related improvements at Ardenwoods (collectively, the "Ardenwoods Project");

(b) finance and refinance the acquisition, construction, renovation and equipping of the Borrower's existing continuing care retirement community located at 3700 Taylor Glen Lane, Concord, North Carolina 28027, known as Taylor Glen, including but not limited to, (i) the construction and equipping of approximately 50 new independent living units, 12 new assisted living units, additional parking and dining facilities, (ii) the renovation of existing independent living and assisted living units, dining facilities, common areas, and administrative offices and (iii) other related improvements (the "Taylor Glen Project");

(c) finance and refinance the acquisition, construction, renovation, equipping and furnishing of existing independent living and assisted living units, dining areas, common areas, administrative offices, and other related improvements at the Borrower's existing continuing care

retirement community located at 1199 Hayes Forest Dr., Winston-Salem, North Carolina 27106, known as Brookridge (the "Brookridge Project");

(d) finance and refinance the acquisition of land and the acquisition, construction, furnishing and equipping of a new continuing care retirement community in New Bern, North Carolina (the "New Bern Project");

(e) pay a portion of the interest on the Bonds (as hereinafter defined); and

(f) finance certain expenses incurred in connection with the issuance of the Bonds (collectively, the "Plan of Finance");

WHEREAS, the Plan of Finance would be funded through the issuance by the Commission of its (a) Retirement Facilities First Mortgage Revenue Bonds (ThriveMore) Series 2024A (the "Series 2024A Bonds"), (b) Retirement Facilities First Mortgage Revenue Bonds (ThriveMore) Series 2024B (the "Series 2024B Bonds") and (c) Retirement Facilities First Mortgage Revenue Bonds (ThriveMore) Series 2024C (the "Series 2024C Bonds" and together with the Series 2024A Bonds and the Series 2024B Bonds, the "Bonds");

WHEREAS, the Commission has determined that the public will best be served by the proposed Plan of Finance described above, and, by resolution adopted by the Board of Directors of the Commission on November 3, 2023, has approved the issuance of the Bonds, subject to compliance by the Borrower with the conditions set forth in such resolution, and the Borrower has complied with such conditions to the satisfaction of the Commission;

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

(a) the Trust Agreement, dated as of May 1, 2024 (the "Trust Agreement"), between the Commission and UMB Bank, n.a., as bond trustee (the "Bond Trustee"), the provisions of which relate to the issuance of and security for the Bonds;

(b) the Loan Agreement, dated as of May 1, 2024 (the "Loan Agreement"), between the Commission and the Borrower, pursuant to which the Commission will lend the proceeds of the Bonds to the Borrower;

(c) the Contract of Purchase, to be dated the date of the issuance and sale of the Bonds or such other date as shall be agreed upon by the parties thereto (the "Contract of Purchase"), between the Local Government Commission of North Carolina, a division of the Department of the State Treasurer (the "LGC"), and First-Citizens Bank & Trust Company (the "Purchaser"), and approved by the Commission and the Borrower;

(d) the Promissory Note in the principal amount of the Series 2024A Bonds, to be dated the date of its delivery (the "Series 2024A Note"), to be issued by the Borrower to the Commission and assigned by the Commission to the Bond Trustee;

(e) the Promissory Note in the principal amount of the Series 2024B Bonds, to be dated the date of its delivery (the "Series 2024B Note"), to be issued by the Borrower to the Commission and assigned by the Commission to the Bond Trustee;

(f) the Promissory Note in the principal amount of the Series 2024C Bonds, to be dated the date of its delivery (the "Series 2024C Note" and together with the Series 2024A Note and the Series 2024B Note, the "Notes"), to be issued by the Borrower to the Commission and assigned by the Commission to the Bond Trustee;

(g) the Master Credit Agreement, to be dated as of May 23, 2024 or such other date as shall be agreed upon by the parties thereto (the "Covenant Agreement"), among the Borrower and the Purchaser with respect to the Bonds;

(h) the Deed of Trust, to be dated as of May 23, 2024 or such other date as shall be agreed upon by the parties thereto (the "Ardenwoods Deed of Trust"), from the Borrower to Neuse, Incorporated, as Deed of Trust Trustee, for the benefit of the Bond Trustee, with respect to certain real property of the Borrower located in Buncombe County, North Carolina;

(i) the Deed of Trust, to be dated as of May 23, 2024 or such other date as shall be agreed upon by the parties thereto (the "Brookridge Deed of Trust"), from the Borrower to Neuse, Incorporated, as Deed of Trust Trustee, for the benefit of the Bond Trustee, with respect to certain real property of the Borrower located in Forsyth County, North Carolina;

(j) the Deed of Trust, to be dated as of May 23, 2024 or such other date as shall be agreed upon by the parties thereto (the "New Bern Deed of Trust"), from the Borrower to Neuse, Incorporated, as Deed of Trust Trustee, for the benefit of the Bond Trustee, with respect to certain real property of the Borrower located in Craven County, North Carolina; and

(k) the Deed of Trust, to be dated as of May 23, 2024 or such other date as shall be agreed upon by the parties thereto (the "Taylor Glen Deed of Trust" and together with the Ardenwoods Deed of Trust, the Brookridge Deed of Trust and the New Bern Deed of Trust, the "Deeds of Trust"), from the Borrower to Neuse, Incorporated, as Deed of Trust Trustee, for the benefit of the Bond Trustee, with respect to certain real property of the Borrower located in Cabarrus County, North Carolina;

WHEREAS, the Commission has determined that, taking into account the historical financial performance of the Borrower and financial forecasts internally generated by the Borrower, (i) the Borrower is financially responsible and capable of fulfilling its respective obligations under the Notes and the Deeds of Trust and (ii) the Borrower is financially responsible and capable of fulfilling its obligations under the Loan Agreement; and

WHEREAS, the Commission has determined that the public interest will be served by the proposed financing and that, taking into account the historical financial performance of the Borrower and financial forecasts internally generated by the Borrower, adequate provision has been made for the payment of the principal of, redemption premium, if any, and interest on the Bonds;

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

Section 1. **Defined Terms.** 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 Trust Agreement and the Loan Agreement.

Section 2. **Authorization of Bonds.** Pursuant to the authority granted to it by the Act, the Commission hereby authorizes the issuance of the Bonds in the aggregate principal amount not to exceed $86,000,000. The Bonds shall mature in such amounts and at such times, be subject to Sinking Fund Requirements and bear interest at such rates as are set forth in Schedule 1 attached hereto.

The Bonds shall be dated the date of their issuance and delivery and shall be issued as fully registered bonds, initially in the denominations of $100,000 and any integral multiple of $5,000 in excess of $100,000, while the Bonds bear interest at the Bank-Bought Rate (as defined the Trust Agreement).

Commencing on the date of Closing, the Bonds shall bear interest at the Bank-Bought Rate as set forth on Schedule 1 and made a part hereof. Interest on the Bonds shall be payable on each Interest Payment Date. The Bank-Bought Minimum Holding Period for each series of the Bonds shall commence on the Closing Date and shall end on or before the respective date set forth on Schedule 1. The Bonds may be converted to bear interest under another Interest Rate Determination Method as provided in the Trust Agreement.

Section 3. **Redemption.** The Bonds shall be subject to optional and extraordinary optional redemption at the times, upon the terms and conditions, and at the price set forth in the Trust Agreement. The Bonds shall also be subject to mandatory sinking fund redemption as set forth on Schedule 1 and made a part hereof.

Section 4. **Optional and Mandatory Tender for Purchase.** The Bonds shall be subject to optional and mandatory tender for purchase at the times, upon the terms and conditions, and at the price set forth in the Trust Agreement.

Section 5. **Use of Bond Proceeds**. The proceeds of the Bonds shall be applied as provided in the Trust Agreement. The Commission hereby finds that the use of the proceeds of the Bonds for a loan to the Borrower for the purposes described in the preamble to this Series Resolution will accomplish the public purposes set forth in the Act.

Section 6. **Authorization of Loan Agreement and Trust Agreement.** The forms, terms and provisions of the Trust Agreement and the Loan 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 of the Commission for such purpose and the Secretary or the 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 to this meeting, together with such changes, modifications and deletions, as they, with the advice of counsel, may deem necessary and 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 Contract of Purchase; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 7. **Authorization of the Contract of Purchase.** The form, terms and provisions of the Contract of Purchase are hereby approved in all respects and the Chairman, the Vice Chairman or any member of the Commission designated in writing by the Chairman of the Commission for such purpose is

hereby authorized and directed to approve, by execution and delivery, the Contract of Purchase in substantially the forms presented to this meeting, together with such changes, modifications, insertions and deletions as the Chairman, the Vice Chairman or such member of the Commission, with the advice of counsel, may deem necessary and appropriate; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 8. **Form of Bonds**. The form of the Bonds set forth in the Trust Agreement is hereby approved in all respects and the Chairman, the Vice Chairman or any member of the Commission designated in writing by the Chairman of the Commission for such purpose and the Secretary or the Assistant Secretary of the Commission are hereby authorized and directed to execute, by manual or facsimile signature as provided in such form 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 form presented to 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; such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Commission.

Section 9. **Approval of Other Financing Documents.** The forms, terms and provisions of the Notes, the Covenant Agreement and the Deeds of Trust (collectively, the "Other Financing Documents") are hereby approved in substantially the forms presented at this meeting, together with such changes, modifications and deletions as the Chairman, the Vice Chairman or any member of the Commission designated in writing by the Chairman of the Commission, with the advice of counsel, may deem necessary and appropriate; the execution and delivery of the Trust Agreement pursuant to Section 6 of this Series Resolution shall be conclusive evidence of the approval of the Other Financing Documents by the Commission.

Section 10. **Purchase of Bonds.** The Commission hereby approves the action of the Commission in awarding the Bonds to the Purchaser at an aggregate price not exceeding $86,000,000 (representing the maximum aggregate principal amount of the Bonds). The Borrowers will separately pay, on the date of Closing, the Purchaser an aggregate fee of $424,000 in consideration for such purchase.

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 satisfaction of the provisions of the Trust Agreement, the Bond Trustee shall deliver the Bonds to the Purchaser against payment therefor.

Section 11. **Bond Trustee.** UMB Bank, n.a., is hereby appointed the Bond Trustee.

Section 12. **Commission Representatives.** S. Mark Payne, Secretary of the Commission, Geary Knapp, Assistant Secretary of the Commission, and Crystal Watson-Abbott, Auditor to the Commission, are each hereby appointed a Commission Representative, with full power to carry out the duties set forth herein.

Section 13. **Ancillary Actions.** The Chairman, the Vice Chairman, any member of the Commission designated in writing by the Chairman of the Commission, the 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, consents, agreements or other instruments, as they, with the advice of counsel, may deem necessary or

appropriate to effect the transactions, including the financing of the Plan of Finance and as contemplated by the Trust Agreement, the Loan Agreement, the Deeds of Trust, the Contract of Purchase, and the Other Financing Documents.

Section 14. **Professional Fees**. A comparison of the professional fees as set forth in the resolution of the Executive Committee of the Commission granting preliminary approval of this financing with the actual professional fees incurred in connection with the financing is set forth in Schedule 2 attached hereto.

Section 15. **Effective Date.** This Series Resolution shall take effect immediately upon its passage.

Schedule 1

Maturity Schedule
Series 2024A Bonds

Tax-Exempt Interest Rate: 5.28%
Bank-Bought Minimum Holding Period: June 1, 2034
Maturity: October 1, 2054
Sinking Fund Requirements

Due: October 1	Sinking Fund Requirement	Due: October 1	Sinking Fund Requirement
2035	$1,985,000	2045	$3,325,000
2036	2,090,000	2046	3,500,000
2037	2,205,000	2047	3,680,000
2038	2,320,000	2048	3,880,000
2039	2,445,000	2049	4,085,000
2040	2,570,000	2050	4,300,000
2041	2,705,000	2051	4,525,000
2042	2,845,000	2052	4,765,000
2043	3,000,000	2053	5,015,000
2044	3,160,000	2054*	5,285,000

* Maturity

Series 2024B Bonds

Tax-Exempt Interest Rate: 4.95%
Sinking Fund Requirements: Not applicable
Bank-Bought Minimum Holding Period: June 1, 2029
Maturity: October 1, 2029

Series 2024C Bonds

Tax-Exempt Interest Rate: 5.28%
Bank-Bought Minimum Holding Period: June 1, 2028
Maturity: October 1, 2054
Sinking Fund Requirements

Due: October 1	**Sinking Fund Requirement**	**Due: October 1**	**Sinking Fund Requirement**	**Due: October 1**	**Sinking Fund Requirement**
2029	$55,000	2038	$ 90,000	2047	$140,000
2030	60,000	2039	95,000	2048	150,000
2031	60,000	2040	100,000	2049	160,000
2032	65,000	2041	105,000	2050	165,000
2033	70,000	2042	110,000	2051	175,000
2034	75,000	2043	115,000	2052	185,000
2035	75,000	2044	120,000	2053	195,000
2036	80,000	2045	130,000	2054*	205,000
2037	85,000	2046	135,000		

* Maturity

Schedule 2

Professional Fees

Professional	Preliminary Approval	Actual
Placement Agent	$112,962	$77,221
Accountant/Auditor	$120,000	$50,000
Bond Counsel	$120,000	$150,000
Borrower Counsel	$80,000	$95,000
Trustee (including counsel)	$14,500	$16,500
Commission*	$0	$9,310
Real Estate	$121,723	$233,671
Bank Commitment Fee	$202,870	$424,000
Bank Counsel	$65,000	$95,000
LGC Fee	$8,750	$8,750
Appraisal/Environmental/Flood Fees	$35,000	$24,239

* Estimated DHSR Construction Review Fee.

3. **<u>Resolution of the North Carolina Medical Care Commission Approving the Waiver of Certain Reporting Provisions for the North Carolina Medical Care Commission Variable Rate Demand Health Care Facilities Revenue Bonds (Hugh Chatham Memorial Hospital Project), Series 2008.</u>**

   <u>EXECUTIVE COMMITTEE ACTION</u>: A motion was made to approve the waiver by Mrs. Sally Cone, seconded by Dr. Neel Thomas, 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, 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, pursuant to a Trust Agreement, dated as of as of September 1, 2008 (the "Original Trust Agreement"), between the Commission and U.S. Bank National Association (succeeded by U.S. Bank Trust Company, National Association, as bond trustee (the "Bond Trustee"), the Commission has heretofore issued its North Carolina Medical Care Commission Variable Rate Demand Health Care Facilities Revenue Bonds (Hugh Chatham Memorial Hospital Project), Series 2008 (the "Series 2008 Bonds") for the benefit of Hugh Chatham Memorial Hospital Inc. d/b/a Hugh Chatham Memorial Hospital (the "Corporation");

WHEREAS, the Commission loaned the proceeds of the Series 2008 Bonds to the Corporation pursuant to the Loan Agreement, dated as of September 1, 2008 (the "Original Loan Agreement"), between the Commission and the Corporation;

WHEREAS, in connection with a conversion of the Series 2008 Bonds to an "Index Interest Rate" mode on July 25, 2013, (a) the Original Trust Agreement was amended and restated in its entirety by an Amended and Restated Trust Agreement, dated as of July 25, 2013 (the "2013 Trust Agreement"), between the Commission and the Bond Trustee and (b) the Original Loan Agreement was amended and restated in its entirety by an Amended and Restated Loan Agreement, dated as of July 25, 2013 (the "2013 Loan Agreement"), between the Corporation and the Commission;

WHEREAS, Section 5.3 of 2013 Loan Agreement includes a covenant requiring the Corporation to file certain materials with the Commission on a quarterly basis if the Long-Term Debt Service Coverage Ratio for any Fiscal Year is not greater than 2.0;

WHEREAS, Section 5.3 of the 2013 Loan Agreement provides that the Commission may waive this particular requirement at any time without notice to or consent of the Holders;

WHEREAS, the Commission no longer includes the covenant described above as part of its programmatic requirements for new bond issues; and

WHEREAS, the Corporation has requested that the Commission waive this particular requirement set forth in Section 5.3 of the 2013 Loan Agreement;

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 resolution and not otherwise defined herein shall have the meanings given such terms in the 2013 Trust Agreement and the 2013 Loan Agreement.

Section 2. The provisions of the Section 5.3 of the 2013 Loan Agreement requiring the Corporation to file certain materials with the Commission on a quarterly basis if the Long-Term Debt Service Coverage Ratio for any Fiscal Year is not greater than 2.0 are hereby waived. Such waiver is effective with the reporting requirements for the Fiscal Year ended September 30, 2023 and shall remain in effect until the Series 2008 Bonds are no longer outstanding unless such waiver is otherwise revoked by resolution of the Commission or the Executive Committee of the Commission.

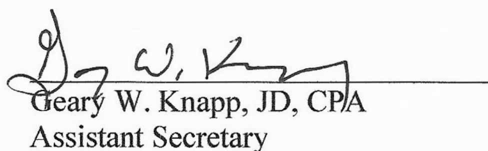
Section 3. The Chairman, the Vice Chairman, any member of the Commission designated by resolution of the Commission or in writing by the Chairman, the Secretary and any Assistant Secretary of the Commission are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver 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 provisions of this resolution.

Section 4. This resolution shall take effect immediately upon its adoption.

4. Adjournment

There being no further business, the meeting was adjourned at 11:46 a.m.

Respectfully submitted,



Geary W. Knapp, JD, CPA
Assistant Secretary

NC MCC Bond Sale Approval Form
Facility Name: Thrivemore

	Time of Preliminary Approval	Time of Final Approval	Total Variance	Explanation of Variance
SERIES: 2024A Long Term Bank Loan				
PAR Amount	$39,865,334.00	$67,685,000.00	($27,819,666.00)	There are three main reasons for the variance: 1) We combined the long-term loan for the Ardenwoods refinancing and reimbursement of previous capex with the long-term loan for the Taylor Glen project (roughly $15 million in debt); 2) We lowered the 2024B entrance fee loan amount as described further below, which increased the long-term loan amount (roughly $7 million in debt); 3) We funded additional capital improvements at ThriveMore's communities ($6 million in debt) to assist the organization with balancing its liquidity position over the next two years.
Estimated Interest Rate*	5.68%	5.17%	0.51%	The interest rate provided by First Citizens at closing was lower than the rate assumed for preliminary approval.
All-in True Interest Cost*	5.71%	5.26%	0.45%	The interest rate provided by First Citizens at closing was lower than the rate assumed for preliminary approval.
Maturity Schedule (Interest) - Date	Monthly, beginning on 2/1/2024	Monthly, beginning on 7/1/2024		Closing was pushed back, which pushed back the beginning of interest/principal payments
Maturity Schedule (Principal) - Date	Monthly, beginning on 2/1/2028 and amortized through 1/1/2053	Monthly, beginning on 7/1/2028 and amortized through 6/1/2053		Closing was pushed back, which pushed back the beginning of interest/principal payments
Bank Holding Period (if applicable) - Date	10 years	10 years		
Estimated NPV Savings ($) (if refunded bonds)	N/A	N/A		
Estimated NPV Savings (%) (if refunded bonds)	N/A	N/A		

NOTES:
*For preliminary approval, the sizing assumed a 6.00% interest rate, but the draw down feature of the bank loan causes DBC to calculate a rate lower than 6.00% for the average coupon/All-in TIC. For final approval, the interest rate is 5.28%

	Time of Preliminary Approval	Time of Final Approval	Total Variance	Explanation of Variance
SERIES: 2024B Entrance Fee Bank Loan				
PAR Amount	$22,651,650.00	$15,315,000.00	$7,336,650.00	The entrance fee loan's par amount decreased due to the change in expected initial entrance fees. At preliminary approval, ThriveMore assumed they would receive a mix of 90% refundable and non-refundable contracts. When pre-sales began, they received deposits based on a majority of non-refundable entrance fee contracts. As a result, ThriveMore recalculated the estimated initial entrance fee pool based only on non-refundable contracts, which lowered the total pool. Since the entrance fee loan is structured to be repaid at 85% occupancy, the loan was decreased based on the new pool estimate.
Estimated Interest Rate*	5.68%	3.56%	2.12%	The interest rate provided by First Citizens at closing was lower than the rate assumed for preliminary approval.
All-in True Interest Cost*	5.71%	3.76%	1.95%	The interest rate provided by First Citizens at closing was lower than the rate assumed for preliminary approval.
Maturity Schedule (Interest) - Date	Monthly, beginning on 2/1/2024	Monthly, beginning on 7/1/2024		Closing was pushed back, which pushed back the beginning of interest/principal payments
Maturity Schedule (Principal) - Date	Repaid from entrance fees, expected by 7/1/2026	Repaid from entrance fees, expected by 11/1/2026		
Bank Holding Period (if applicable) - Date	5 Years	5 Years		
Estimated NPV Savings ($) (if refunded bonds)	N/A	N/A		
Estimated NPV Savings (%) (if refunded bonds)	N/A	N/A		

*For preliminary approval, the sizing assumed a 6.00% interest rate, but the draw down feature of the bank loan causes DBC to calculate a rate lower than 6.00% for the average coupon/All-in TIC. For final approval, the interest rate is 4.95%

	Time of Preliminary Approval	Time of Final Approval	Total Variance	Explanation of Variance
SERIES: 2024C New Bern Land Loan				
PAR Amount	$18,631,117.00	$3,000,000.00	$15,631,117.00	As mentioned above, the majority of this loan was re-allocated towards one long-term loan. The $3 million loan amount represents the amount required to refund the bridge loan that was utilized to purchase the land at New Bern.
Estimated Interest Rate	5.68%	5.28%	0.40%	The interest rate provided by First Citizens at closing was lower than the rate assumed for preliminary approval.
All-in True Interest Cost	5.71%	5.34%	0.37%	The interest rate provided by First Citizens at closing was lower than the rate assumed for preliminary approval.
Maturity Schedule (Interest) - Date	Monthly, beginning on 2/1/2024	Monthly, beginning on 7/1/2024		Closing was pushed back, which pushed back the beginning of interest/principal payments
Maturity Schedule (Principal) - Date	Monthly, beginning on 2/1/2024, ending on 1/1/2049	6/1/2028		ThriveMore is reviewing new development opportunities on the New Bern land. The loan was re-structured for a shorter maturity/structure that would allow the loan to be prepaid earlier in the event ThriveMore seeks to develop a new community on the land.
Bank Holding Period (if applicable) - Date	10 Years	4 Years		
Estimated NPV Savings ($) (if refunded bonds)	N/A	N/A		
Estimated NPV Savings (%) (if refunded bonds)	N/A	N/A		

NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES

The North Carolina Medical Care Commission
809 Ruggles Drive
Raleigh, North Carolina 27603

MINUTES

CALLED MEETING OF THE EXECUTIVE COMMITTEE CONFERENCE TELEPHONE MEETING ORIGINATING FROM THE COMMISSION'S OFFICE JULY 10, 2024 11:30 A.M.

Members of the Executive Committee Present:

John J. Meier, IV. M.D., Chairman
Sally B. Cone
Paul R. G. Cunningham, M.D.
Eileen C. Kugler, RN, MSN, MPH, FNP

Members of the Executive Committee Absent:

Joseph D. Crocker, Vice-Chairman
Kathy G. Barger
Neel G. Thomas, M.D.

Members of Staff Present:

Emery E. Milliken, Deputy Director, DHSR
Geary W. Knapp, JD, CPA, Assistant Secretary
Crystal Watson-Abbott, Auditor, MCC
Kathy C. Larrison, Auditor, MCC
Alice S. Creech, Executive Assistant, MCC

Others Present:

Alice Adams, Robinson Bradshaw & Hinson, PA
Allen Robertson, Robinson Bradshaw & Hinson, PA
Jeff Poley, Hawkins Delafield & Wood, LLP
Kevin McLeod, Carolina Meadows
Ben Cornthwaite, Carolina Meadows
Tad Melton, Ziegler
Adam Garcia, Ziegler

1. **Purpose of Meeting**

To authorize (1) the sale of bonds, the proceeds of which are to be loaned to Carolina Meadows, Inc., and (2) the execution and delivery of (a) a First Supplemental Trust Agreement and a First Amendment to Loan Agreement for the 2017C Bonds issued for the benefit of FirstHealth of the Carolinas, Inc. and (b) a Third Supplemental Trust Agreement and a First Amendment to Loan Agreement for the 2017D Bonds issued for the benefit of FirstHealth of the Carolinas, Inc.

2. **Resolution of the North Carolina Medical Care Commission Authorizing the Issuance of $76,170,000 North Carolina Medical Care Commission Retirement Facilities First Mortgage Revenue Bonds (Carolina Meadows) Series 2024.**

Executive Committee Action: *A motion was made to approve the resolution for Carolina Meadows by Dr. Paul Cunningham, seconded by Mrs. Sally Cone, 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, Carolina Meadows, 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 (1) pay, or reimburse the Corporation for paying, all or a portion of the cost of acquiring, improving, constructing and equipping health care facilities at the Corporation's continuing care retirement community known as Carolina Meadows, including (a) acquiring, constructing and equipping an expansion of and renovation to the Corporation's existing continuing care retirement community located at 100 Whippoorwill Lane, Chapel Hill, North Carolina 27217, including but not limited to, constructing and equipping a replacement nursing facility which will be a four-story, approximately 122,000 square foot building which will contain 90 nursing beds (collectively, the "Project"); (2) pay interest accruing on the Bonds (as defined below) during construction of the Project; and (3) pay certain expenses incurred in connection with the issuance of the Bonds 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 April 10, 2024, 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 Trust Agreement, dated as of July 1, 2024 (the "Trust Agreement"), between the Commission and Truist Bank, 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;

(b) a Loan Agreement, dated as of July 1, 2024 (the "Loan Agreement"), between the Commission and the Corporation, pursuant to which the Commission will lend the proceeds of the Bonds to the Corporation;

(c) a Contract of Purchase, dated July 10, 2024 (the "Purchase Agreement"), between B.C. Ziegler & Company (the "Underwriter") and the Local Government Commission of North Carolina (the "LGC"), and approved by the Commission and the Corporation, pursuant to which the Underwriter has agreed to purchase the Bonds on the terms and conditions set forth therein and in the Trust Agreement;

(d) a Supplemental Indenture for Obligation No. 7, dated as of July 1, 2024 (the "Supplemental Indenture"), between the Corporation and Truist Bank, as successor master trustee (the "Master Trustee") under the Master Trust Indenture, dated as of November 1, 2019 (as further amended or supplemented from to time to time in accordance with its terms, the "Master Indenture"), between the Corporation and the Master Trustee;

(e) Obligation No. 7, to be dated the date of delivery of the Bonds (the "Obligation No. 7"), to be issued by the Corporation to the Commission;

(f) a Second Amendment to Deed of Trust, dated as of July 1, 2024, amending the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of November 1, 2019 (as amended, the "Corporation Deed of Trust"), from the Corporation to the trustee named therein for the benefit of the Master Trustee;

(g) an Assignment of Contracts, dated as of July 1, 2024 (the "Assignment of Contracts"), from the Corporation to the Master Trustee; and

(h) a Preliminary Official Statement, dated June 21, 2024, 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, the Supplemental Indenture and the Obligation No. 7; 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 its Retirement Facilities First Mortgage Revenue Bonds (Carolina Meadows) Series 2024 (the "Bonds") in the aggregate principal amount of $76,170,000. 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 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 June 1 and December 1, beginning December 1, 2024. 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 fund a portion of the cost of the Project, fund interest on the Bonds during construction of the Project and pay certain 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, 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) are hereby authorized and directed to execute and deliver the Purchase Agreement in substantially the form presented, 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 form of the Bonds set forth in the Trust Agreement is 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 form 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 form presented, 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 Supplemental Indenture, Obligation No. 7, the Corporation Deed of Trust and the Assignment of Contracts are hereby approved in substantially the forms presented, together with such changes, modifications, insertions 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 Underwriter at the purchase price of $78,623,864.10 (representing the principal amount of the Bonds plus net original issue premium of $3,177,479.10 and less underwriter's discount of $723,615.00).

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 Underwriter 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 offer and sale of the Bonds. The Chairman, Vice Chairman, Secretary or any Assistant Secretary (or any member of the Commission designated by the Chairman) are hereby authorized to execute, if applicable, and deliver 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. The execution of the Purchase Agreement shall be conclusive evidence of the approval of the Official Statement 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, the Supplemental Indenture, Obligation No. 7, the Corporation Deed of Trust and the Assignment of Contracts by the Underwriter in connection with such offer and sale.

Section 12. Truist Bank 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, Anthony J. Harms, Acting 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 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.

Schedule 1
Series 2024 Bonds

$7,495,000 5.00% Term Bonds due December 1, 2034

Due December 1	Sinking Fund Requirement
2027	$ 820,000
2028	850,000
2029	880,000
2030	915,000
2031	955,000
2032	985,000
2033	1,025,000
2034*	1,065,000

* Maturity

$11,765,000 4.00% Term Bonds due December 1, 2039

Due December 1	Sinking Fund Requirement
2035	$2,170,000
2036	2,260,000
3037	2,350,000
2038	2,445,000
2039*	2,540,000

* Maturity

$10,000,000 4.50% Term Bonds due December 1, 2044

Due December 1	Sinking Fund Requirement
2040	$1,800,000
2041	1,895,000
2042	1,995,000
2043	2,100,000
2044*	2,210,000

* Maturity

$4,530,000 5.25% Term Bonds due December 1, 2044

Due December 1	Sinking Fund Requirement
2040	$845,000
2041	875,000

2042	905,000
2043	935,000
2044*	970,000

* Maturity

$18,495,000 5.25% Term Bonds due December 1, 2049

Due December 1	Sinking Fund Requirement
2045	$3,330,000
2046	3,505,000
2047	3,690,000
2048	3,885,000
2049*	4,085,000

* Maturity

$23,885,000 5.25% Term Bonds due December 1, 2054

Due December 1	Sinking Fund Requirement
2050	$4,300,000
2051	4,525,000
2052	4,765,000
2053	5,015,000
2054*	5,280,000

* Maturity

Professional Fees Comparison for
Carolina Meadows, Inc.

Professional	Fees Estimated In Preliminary Approval Resolution	Actual Fees
Underwriter's Discount	$804,593	$723,615
Underwriter's Counsel	90,000	90,000
Accountants	35,000	30,000
Bond Counsel	90,000	100,000
Corporation Counsel	75,000	85,000
Feasibility Consultant	90,000	110,000
Trustee Fee	10,000	2,500
Trustee Counsel	7,500	5,500

3. **<u>Resolution of the North Carolina Medical Care Commission Approving and Authorizing Execution and Delivery of a First Supplemental Trust Agreement and a First Amendment to Loan Agreement Relating to the North Carolina Medical Care Commission Variable Rate Health Care Facilities Revenue Refunding Bonds (FirstHealth of the Carolinas Project), Series 2017C (the "2017C Bonds") and a Third Supplemental Trust Agreement and a First Amendment to Loan Agreement Relating to the North Carolina Medical Care Commission Variable Rate Health Care Facilities Revenue Refunding Bonds (FirstHealth of the Carolinas Project), Series 2017D (the "2017D Bonds").</u>**

<u>Executive Committee Action</u>**:** *A motion was made to approve the resolution for FirstHealth of the Carolinas by Mrs. Sally Cone, seconded by Dr. Paul Cunningham, and unanimously approved.*

WHEREAS, the North Carolina Medical Care Commission (the "Commission"), a commission of the Department of Health and Human Services of the State of North Carolina, has issued $45,225,000 aggregate principal amount of its Variable Rate Health Care Facilities Revenue Refunding Bonds (FirstHealth of the Carolinas Project), Series 2017C (the "2017C Bonds"), of which $44,610,000 principal amount are outstanding, pursuant to the terms of a Trust Agreement, dated as of October 1, 2017 (the "2017C Trust Agreement"), between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the "2017C Bond Trustee"); and

WHEREAS, the Commission loaned the proceeds from the sale of the 2017C Bonds to FirstHealth of the Carolinas, Inc. (the "Corporation") pursuant to a Loan Agreement, dated as of October 1, 2017 (the "2017C Loan Agreement"), between the Commission and the Corporation; and

WHEREAS, the Commission has issued $28,590,000 aggregate principal amount of its Variable Rate Health Care Facilities Revenue Refunding Bonds (FirstHealth of the Carolinas Project), Series 2017D (the "2017D Bonds"), all of which are outstanding, pursuant to the terms of a Trust Agreement, dated as of September 1, 2017, between the Commission and The Bank of New York Mellon Trust Company, N.A., as bond trustee (the "2017D Bond Trustee," and collectively with the 2017C Bond Trustee, the "Bond Trustee"), as supplemented by a First Supplemental Trust Agreement dated as of April 2, 2020 and a Second Supplemental Trust Agreement dated as of September 1, 2022 (as supplemented, the "2017D Trust Agreement"); and

WHEREAS, the Commission loaned the proceeds from the sale of the 2017D Bonds to the Corporation pursuant to a Loan Agreement, dated as of September 1, 2017 (the "2017D Loan Agreement"), between the Commission and the Corporation; and

WHEREAS, on August 16, 2022, the 2017C Bonds were converted to a new Direct Purchase Rate and remarketed to Truist Commercial Equity, Inc.; and

WHEREAS, on September 1, 2022, the 2017D Bonds were converted to a new Index Interest Rate and also remarketed to Truist Commercial Equity, Inc.; and

WHEREAS, the Corporation desires to convert the 2017C Bonds and the 2017D Bonds to the Daily Interest Rate, supported by direct-pay letters of credit issued by Truist Bank; and

WHEREAS, the Corporation desires to appoint Truist Securities, Inc. as the Remarketing Agent for the 2017C Bonds and the 2017D Bonds; and

WHEREAS, the 2017C and 2017D Bonds will be remarketed pursuant to a Remarketing Official Statement; and

WHEREAS, Sections 11.02 and 11.08 of each of the 2017C Trust Agreement and the 2017D Trust Agreement (each a “Trust Agreement”) permits the Commission and the Bond Trustee, with the consent of Truist Commercial Equity, Inc. as the Holder (as defined in each Trust Agreement) of 100% of the 2017C Bonds and the 2017D Bonds, to enter into agreements supplemental to each Trust Agreement to make any change to each Trust Agreement; and

WHEREAS, there has been presented at this meeting draft copies of a First Supplemental Trust Agreement to the 2017C Trust Agreement, to be dated as of July 10, 2024 or thereafter (the “2017C First Supplement”), and a Third Supplemental Trust Agreement to the 2017D Trust Agreement, to be dated as of July 10, 2024 or thereafter (the “2017D Third Supplement”), each between the Commission and the Bond Trustee, that would amend each Trust Agreement to make changes to the Daily Interest Rate and Weekly Interest Rate modes and certain other changes in connection with the conversions; and

WHEREAS, Section 10.02 of each of the 2017C Loan Agreement and the 2017D Loan Agreement (each a “Loan Agreement”), permits the Commission and the Corporation, without the consent of or notice to any Holder, to enter into any amendment to each Loan Agreement in order to correct or supplement any provisions of the Loan Agreement with respect to matters which do not affect, materially and adversely, the interests of the Holders; and

WHEREAS, there has been presented at this meeting draft copies of a First Amendment to the 2017C Loan Agreement, to be dated as of July 10, 2024 or thereafter (the “2017C First Amendment”), and a First Amendment to the 2017D Loan Agreement, to be dated as of July 10, 2024 or thereafter (the “2017D First Amendment”), each between the Commission and the Corporation, that would amend each Loan Agreement to make changes to the continuing disclosure undertaking in connection with the conversions; and

WHEREAS, the Corporation has requested that the Commission approve the 2017C First Supplement, the 2017D Third Supplement, the 2017C First Amendment and the 2017D First Amendment (collectively, the “Amendment Documents”) and authorize their execution and delivery;

WHEREAS, the Corporation also has requested that the Commission consent to the appointment of Truist Securities, Inc. as the Remarketing Agent for the 2017C Bonds and the 2017D Bonds;

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

Section 1. The form, terms and provisions of the Amendment Documents are hereby approved in all respects, and the Chairman, Vice Chairman, Secretary or Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) are hereby authorized and directed to execute and deliver the Amendment Documents in substantially the forms presented at this meeting, together with such changes, modifications and deletions as they, with the advice of bond 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 2. The Chairman, Vice Chairman, Secretary or Assistant Secretary of the Commission (or any member of the Commission designated by the Chairman) or any duly authorized Commission Representative under each Trust Agreement are authorized and directed to take such other action and to execute and deliver any such other documents, certificates, undertakings, agreements or other instruments as they, with the advice of bond counsel, may deem necessary or appropriate to effect the conversion of the 2017C Bonds and the 2017D Bonds to a Daily Interest Rate, including reviewing and authorizing the delivery of the Remarketing Official Statement.

Section 3. The Commission hereby consents to the appointment of Truist Securities, Inc. as the Remarketing Agent for the 2017C Bonds and the 2017D Bonds.

Section 4. This Resolution shall take effect immediately upon its passage.

4. <u>Adjournment</u>

There being no further business, the meeting was adjourned at 11:52 a.m.

Respectfully submitted,

Geary W. Knapp
Assistant Secretary

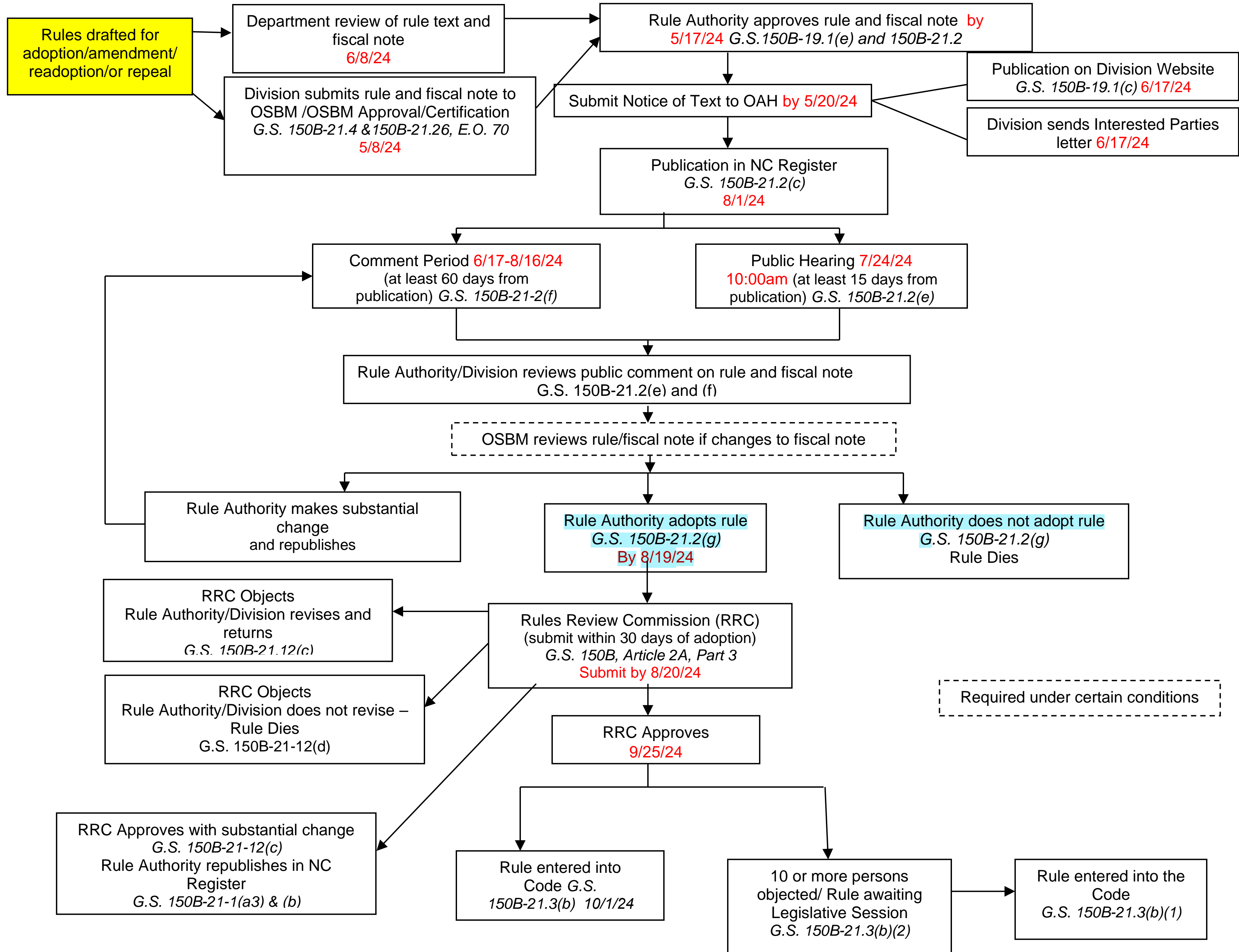
NC MCC Bond Sale Approval Form
Facility Name: Carolina Meadows, Inc.

	Time of Preliminary Approval	Time of Mailing POS (if applicable)	Time of Final Approval	Total Variance	Explanation of Variance
SERIES: 2024					
PAR Amount	$80,110,000.00	$80,195,000.00	$76,170,000.00	($3,940,000.00)	Lesser Original Issue Premium
Estimated Interest Rate	5.50% at Par (Long-Bond)	5.50% at Par (Long-Bond)	5.25% to Yield 4.60% (Long-Bond)		
All-in True Interest Cost	5.65%	5.53%	4.82%	-0.83%	Lower Interest Rates at Pricing
Maturity Schedule (Interest) - Date	12/1/2024 to 12/1/2054	12/1/2024 to 12/1/2054	12/1/2024 to 12/1/2054		
Maturity Schedule (Principal) - Date	12/1/2027 to 12/1/2054	12/1/2027 to 12/1/2054	12/1/2027 to 12/1/2054		
Bank Holding Period (if applicable) - Date	N/A	N/A	N/A		
Estimated NPV Savings ($) (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	Explanation of Variance
SERIES:					
PAR Amount					
Estimated Interest Rate					
All-in True Interest Cost					
Maturity Schedule (Interest) - Date					
Maturity Schedule (Principal) - Date					
Bank Holding Period (if applicable) - Date					
Estimated NPV Savings ($) (if refunded bonds)					
Estimated NPV Savings (%) (if refunded bonds)					
NOTES:					

Process for Medical Care Commission to Initiate Rulemaking

Exhibit C



1 10A NCAC 13S .0101 is proposed for adoption as follows:
2
3 SUBCHAPTER 13S - LICENSURE OF SUITABLE FACILITIES FOR THE PERFORMANCE OF
4 SURGICAL ABORTIONS
5
6 SECTION .0100 – LICENSURE PROCEDURE
7
8 **10A NCAC 13S .0101 DEFINITIONS**
9 The following definitions will apply throughout this Subchapter:
10 (1) "Abortion" means the termination of a pregnancy as defined in G.S 90-21.81(1c).
11 (2) "Clinic" means a freestanding facility neither physically attached nor operated by a licensed hospital
12 for the performance of abortions completed during the first 12 weeks of pregnancy.
13 (3) "Division" means the Division of Health Service Regulation of the North Carolina Department of
14 Health and Human Services.
15 (4) "Gestational age" means the length of pregnancy as indicated by the date of the first day of the last
16 normal monthly menstrual period, if known, or as determined by ultrasound.
17 (5) "Governing authority" means the individual, agency, group, or corporation appointed, elected or
18 otherwise designated, in which the ultimate responsibility and authority for the conduct of the
19 abortion clinic is vested pursuant to Rule .0318 of this Subchapter.
20 (6) "Health Screening" means an evaluation of an employee or contractual employee, including
21 tuberculosis testing, to identify any underlying conditions that may affect the person's ability to
22 work in the clinic.
23 (7) "New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, 2023,
24 and has not been certified or licensed within the previous six months of the application for licensure.
25 (8) "Registered Nurse" means a person who holds a valid license issued by the North Carolina Board
26 of Nursing to practice professional nursing in accordance with the Nursing Practice Act, G.S. 90,
27 Article 9A.
28
29 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
30 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
31 *2023;*
32 *Emergency Rule Eff. November 14, 2023;*
33 *Temporary Adoption Eff. February 8, 2024;*
34 *Adopted Eff. October 1, 2024.*

1 **10A NCAC 13S .0104 IS PROPOSED FOR ADOPTION AS FOLLOWS:**
2
3 **10A NCAC 13S .0104 PLANS AND SPECIFICATIONS**
4 (a) Prior to issuance of a license pursuant to Rule .0107 of this Section, an applicant for a new clinic shall submit one
5 copy of construction documents and specifications to the Division for review and approval.
6 (b) Any license holder or prospective applicant desiring to make alterations or additions to a clinic or to construct a
7 new clinic, before commencing such alteration, addition or new construction shall submit construction documents and
8 specifications to the Division for review and approval with respect to compliance with this Subchapter.
9 (c) Approval of construction documents and specifications shall expire one year after the date of approval unless a
10 building permit for the construction has been obtained prior to the expiration date of the approval of construction
11 documents and specifications.
12
13 *History Note: Authority G.S. 131E-153.5; 143B-165;*
14 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
15 *2023;*
16 *Emergency Rule Eff. November 14, 2023;*
17 *Temporary Adoption Eff. February 8, 2024;*
18 *Adopted Eff. October 1, 2024.*
19
20

1 10A NCAC 13S .0201 is proposed for adoption as follows:
2
3 **SECTION .0200 - MINIMUM STANDARDS FOR CONSTRUCTION AND EQUIPMENT**
4
5 **10A NCAC 13S .0201 BUILDING CODE REQUIREMENTS**
6 (a) The physical plant for a clinic shall meet or exceed minimum requirements of the North Carolina State Building
7 Code for Group B occupancy (business office facilities) which is incorporated herein by reference including
8 subsequent amendments and editions. Copies of the Code can be obtained from the International Code Council online
9 at https://shop.iccsafe.org/catalogsearch/result/?cat=1010&q=+North+Carolina+Building+code for a cost of eight
10 hundred fifty eight dollars ($858.00) or accessed electronically free of charge at https://www.ncosfm.gov/codes/codes-
11 current-and-past.
12 (b) The requirements contained in this Section shall apply to new clinics and to any alterations, repairs, rehabilitation
13 work, or additions which are made to a previously licensed facility.
14
15 *History Note: Authority G.S. 131E-153.5; 143B-165;*
16 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
17 *2023;*
18 *Emergency Rule Eff. November 14, 2023;*
19 *Temporary Adoption Eff. February 8, 2024;*
20 *Adopted Eff. October 1, 2024.*
21
22

1 10A NCAC 13S .0207 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0207 AREA REQUIREMENTS**
4 The following areas shall comply with Rule .0212 of this Section, and are minimum requirements for clinics that are
5 licensed by the Division to perform abortions:
6 (1) reception and waiting room;
7 (2) designated area or areas for pre-procedure and post-procedure activities;
8 (3) procedure room;
9 (4) a clean area for self-contained secure medication storage complying with security requirements of
10 state and federal laws;
11 (5) area compliant with Clinical Laboratory Improvement Amendments (CLIA) requirements in which
12 laboratory testing can be performed;
13 (6) separate areas for storage and handling of clean and soiled materials;
14 (7) patient toilet;
15 (8) personnel toilet facilities;
16 (9) janitor's closets;
17 (10) space and equipment for assembling, sterilizing and storing medical and surgical supplies;
18 (11) storage space for medical records of all media types used by the facility; and
19 (12) space for charting, communications, counseling, business functions, and other administrative
20 activities.
21
22 *History Note: Authority G.S. 131E-153.5; 143B-165;*
23 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
24 *2023;*
25 *Emergency Rule Eff. November 14, 2023;*
26 *Temporary Adoption Eff. February 8, 2024;*
27 *Adopted Eff. October 1, 2024.*
28

1 10A NCAC 13S .0212 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0212 ELEMENTS AND EQUIPMENT**
4 The physical plant shall provide equipment to carry out the functions of the clinic with the following requirements:
5 (1) Mechanical requirements.
6 (a) All fans serving exhaust systems shall be located at the discharge end of the system.
7 (b) The ventilation system shall be designed and balanced to provide the pressure relationships
8 detailed in Sub-Item (f) of this Rule.
9 (c) All ventilation or air conditioning systems shall have a minimum of one filter bed with a
10 minimum filter efficiency of a MERV 8.
11 (d) Ventilation systems serving the procedure rooms shall not be tied in with toilets, soiled
12 holding, or janitors' closets if the air is to be recirculated in any manner.
13 (e) Air handling duct systems shall not have duct linings.
14 (f) The following general air pressure relationships to adjacent areas and ventilation rates shall
15 apply:

Area	Pressure Relationship	Minimum Total Air Changes/Hour
Toilets	N	4
Janitor's closet	N	6
Soiled holding	N	6
Clean holding	NR	2

22 (P = positive pressure N = negative pressure NR = No Requirement)
23 (2) Plumbing And Other Piping Systems.
24 (a) Piped-in medical gas and vacuum systems, if installed, shall meet the requirements of
25 NFPA-99, category 2 system, which is hereby incorporated by reference including
26 subsequent amendments and editions. Copies of NFPA-99 may be purchased from the
27 National Fire Protection Association online at https://www.nfpa.org/product/nfpa-99-
28 code/p0099code at a cost of one hundred forty-nine dollars ($149.00) or accessed
29 electronically free of charge at http://www.nfpa.org.
30 (b) Lavatories and sinks for use by medical personnel shall have the water supply spout
31 mounted so that its discharge point is a minimum distance of ten (10) inches above the
32 bottom of the basin with mixing type fixture valves that can be operated without the use of
33 the hands.
34 (c) Hot water distribution systems shall provide hot water at hand washing facilities at a
35 minimum temperature of 100 degrees F. and a maximum temperature of 116 degrees F.
36 (3) Electrical Requirements.

1 (a) The facility's paths of egress to the outside shall have at a minimum, listed battery backup
2 lighting units of one and one-half hour capability that will automatically provide at least 1
3 foot candle of illumination at the floor in the event needed for a utility or local lighting
4 circuit failure.
5 (b) Electrically operated medical equipment necessary for the safety of the patient shall have,
6 at a minimum, battery backup.
7 (4) Buildings systems and medical equipment shall have preventative maintenance conducted as
8 recommended by the equipment manufacturers' or installers' literature to assure operation in
9 compliance with manufacturer's instructions.
10
11 *History Note: Authority G.S. 131E-153.5; 143B-165;*
12 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
13 *2023;*
14 *Emergency Rule Eff. November 14, 2023;*
15 *Temporary Adoption Eff. February 8, 2024;*
16 *Adopted Eff. October 1, 2024.*
17

1 10A NCAC 13S .0318 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0318 GOVERNING AUTHORITY**
4 (a) The governing authority, as defined in Rule .0101(6) of this Subchapter, shall appoint a chief executive officer or
5 a designee of the clinic to represent the governing authority and shall define his or her authority and duties in writing.
6 This person shall be responsible for the management of the clinic, implementation of the policies of the governing
7 authority and authorized and empowered to carry out the provisions of these Rules.
8 (b) The chief executive officer or designee shall designate, in writing, a person to act on his or her behalf during his
9 or her absence. In the absence of the chief executive officer or designee, the person on the grounds of the clinic who
10 is designated by the chief executive officer or designee to be in charge of the clinic shall have access to all areas in
11 the clinic related to patient care and to the operation of the physical plant.
12 (c) When there is a planned change in ownership or in the chief executive officer, the governing authority of the clinic
13 shall notify the Division in writing of the change.
14 (d) The clinic's governing authority shall adopt operating policies and procedures that shall:
15 (1) specify the individual to whom responsibility for operation and maintenance of the clinic is
16 delegated and methods established by the governing authority for holding such individuals
17 responsible;
18 (2) provide for at least annual meetings of the governing authority, for which minutes shall be
19 maintained; and
20 (3) maintain a policies and procedures manual designed to ensure safe and adequate care for the patients
21 which shall be reviewed, and revised when necessary, at least annually, and shall include provisions
22 for administration and use of the clinic, compliance, personnel quality assurance, procurement of
23 outside services and consultations, patient care policies, and services offered.
24 (e) When the clinic contracts with outside vendors to provide services such as laundry or therapy services, the
25 governing authority shall be responsible to assure the supplier meets the same local and State standards the clinic
26 would have to meet if it were providing those services itself using its own staff.
27 (f) The governing authority shall provide for the selection and appointment of the professional staff and the granting
28 of clinical privileges and shall be responsible for the professional conduct of these persons.
29 (g) The governing authority shall be responsible for ensuring the availability of supporting personnel to meet patient
30 needs and to provide safe and adequate treatment.
31 (h) The governing authority shall certify that the physical facilities to be used are adequate to safeguard the health
32 and safety of patients; of note one area may accommodate various aspects of the patient's visits.
33
34 *History Note:* *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
35 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
36 *2023;*
37 *Emergency Rule Eff. November 14, 2023;*

1 *Temporary Adoption Eff. February 8, 2024;*
2 *Adopted Eff. October 1, 2024.*
3

1 10A NCAC 13S .0319 is proposed for adoption as follows:

2

3 **10A NCAC 13S .0319 POLICIES AND PROCEDURES AND ADMINISTRATIVE RECORDS**

4 (a) The following essential documents and references shall be on file in the administrative office of the clinic:

5 (1) documents evidencing control and ownerships, such as deeds, leases, or incorporation or partnership
6 papers;

7 (2) policies and procedures of the governing authority, as required by Rule .0318 of this Section;

8 (3) minutes of the governing authority meetings;

9 (4) minutes of the clinic's professional and administrative staff meetings;

10 (5) a current copy of the rules of this Subchapter;

11 (6) reports of inspections, reviews, and corrective actions taken related to licensure; and

12 (7) contracts and agreements related to care and services provided by the clinic is a party.

13 (b) All operating licenses, permits, and certificates shall be displayed on the licensed premises.

14 (c) The governing authority shall prepare a manual of clinic policies and procedures for use by employees, medical
15 staff, and physicians to assist them in understanding their responsibilities within the organizational framework of the
16 clinic. These shall include:

17 (1) patient selection and exclusion criteria;

18 (2) clinical discharge criteria;

19 (3) emergency protocols as required by Rule .0326;

20 (4) policy and procedure for validating the full and true name of the patient;

21 (5) policy and procedure for abortion procedures performed at the clinic;

22 (6) policy and procedure for the provision of patient privacy in the recovery area of the clinic;

23 (7) protocol for determining gestational age as defined in Rule .0101(4) of this Subchapter;

24 (8) protocol for referral of patients for whom services have been declined; and

25 (9) protocol that defines use of space to include opportunities that one area may accommodate various
26 aspects of patient visits.

27

28 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
29 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
30 *2023;*
31 *Emergency Rule Eff. November 14, 2023;*
32 *Temporary Adoption Eff. February 8, 2024;*
33 *Adopted Eff. October 1, 2024.*

34

1 10A NCAC 13S .0320 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0320 ADMISSION AND DISCHARGE**
4 (a) There shall be on the premises throughout all hours of operation an employee authorized to receive patients and
5 make administrative decisions regarding patients.
6 (b) All patients shall be admitted only under the care of a physician who is currently licensed to practice medicine in
7 North Carolina.
8 (c) Any patient not discharged within 12 hours following the abortion procedure shall be transferred to a hospital
9 licensed pursuant to Chapter 131E, Article 5 of the General Statutes.
10 (d) Following admission and prior to obtaining the consent for the procedure, representatives of the clinic's
11 management shall provide to each patient the following information:
12 (1) a fee schedule and any extra charges routinely applied;
13 (2) the name of the attending physician or physicians and hospital admitting privileges, if any. In the
14 absence of admitting privileges a statement to that effect shall be included;
15 (3) instructions for post-procedure problems and questions as outlined in Rule .0329(d) of this Section;
16 (4) grievance procedures a patient may follow if dissatisfied with the care and services rendered; and
17 (5) the telephone number for Complaint Intake of the Division.
18
19 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
20 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
21 *2023;*
22 *Emergency Rule Eff. November 14, 2023;*
23 *Temporary Adoption Eff. February 8, 2024;*
24 *Adopted Eff. October 1, 2024.*
25

1 10A NCAC 13S .0321 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0321 MEDICAL RECORDS**
4 (a) The clinic shall maintain a complete and permanent record for all patients including:
5 (1) the date and time of admission and discharge;
6 (2) the patient's full and true name;
7 (3) the patient's address;
8 (4) the patient's date of birth;
9 (5) the patient's emergency contact information;
10 (6) the patient's diagnoses;
11 (7) the patient's duration of pregnancy;
12 (8) the patient's condition on admission and discharge;
13 (9) a voluntarily-signed consent for each procedure and signature of the physician performing the
14 procedure witnessed by a family member, other patient representative, or facility staff member;
15 (10) a copy of the signed 72 hour consent and physician declaration;
16 (11) the patient's history and physical examination including identification of pre-existing or current
17 illnesses, drug sensitivities or other idiosyncrasies that may impact the procedure or anesthetic to be
18 administered; and
19 (12) documentation that indicates all items listed in Rule .0320(d) of this Section were provided to the
20 patient.
21 (b) The clinic shall record and authenticate by signature, date, and time all other pertinent information such as pre-
22 and post-procedure instructions, laboratory reports, drugs administered, report of abortion procedure, and follow-up
23 instruction, including family planning advice.
24 (c) If Rh is negative, the clinic shall explain the significance to the patient and shall record the explanation. The
25 patient in writing may reject Rh immunoglobulin. A written record of the patient's decision shall be a permanent part
26 of her medical record.
27 (d) An ultrasound examination shall be performed by a technician qualified in ultrasonography and the results,
28 including gestational age, placed in the patient's medical record for any patient who is scheduled for an abortion
29 procedure.
30 (e) The clinic shall maintain a daily procedure log of all patients receiving abortion services. This log shall contain at
31 least the following:
32 (1) the patient name;
33 (2) the estimated length of gestation;
34 (3) the type of procedure;
35 (4) the name of the physician:
36 (5) the name of the Registered Nurse on duty; and
37 (6) the date and time of procedure.

(f) Medical records shall be the property of the clinic and shall be preserved or retained in the State of North Carolina for a period of not less than 10 years from the date of the most recent discharge, unless the client is a minor, in which case the record must be retained until three years after the client's 18th birthday, regardless of change of clinic ownership or administration. Such medical records shall be made available to the Division upon request and shall not be removed from the premises where they are retained except by subpoena or court order.

(g) The clinic shall have a written plan for destruction of medical records to identify information to be retained and the manner of destruction to ensure confidentiality of all material.

(h) Should a clinic cease operation, the clinic shall arrange for preservation of records for at least 10 years. The clinic shall send written notification to the Division of these arrangements.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

1 10A NCAC 13S .0322 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0322 PERSONNEL RECORDS**
4 (a) Personnel Records:
5 (1) A record of each employee shall be maintained that includes the following:
6 (A) the employee's identification;
7 (B) the application or resume for employment that includes education, training, experience and
8 references; and
9 (C) a copy of a valid license (if required).
10 (2) Personnel records shall be confidential.
11 (3) Representatives of the Division conducting an inspection of the clinic shall have the right to inspect
12 personnel records.
13 (b) Job Descriptions:
14 (1) The clinic shall have a written description that describes the duties of every position.
15 (2) Each job description shall include position title, authority, specific responsibilities, and minimum
16 qualifications. Qualifications shall include education, training, experience, special abilities, and
17 valid license or certification required.
18 (3) The clinic shall review annually and, if needed, update all job descriptions. The clinic shall provide
19 the updated job description to each employee or contractual employee assigned to the position.
20 (c) All persons having direct responsibility for patient care shall be at least 18 years of age.
21 (d) The clinic shall provide an orientation program to familiarize each new employee or contractual employee with
22 the clinic, its policies, and the employee's job responsibilities.
23 (e) The governing authority shall be responsible for implementing health standards for employees, as well as
24 contractual employees, which are consistent with recognized professional practices for the prevention and
25 transmission of communicable diseases.
26 (f) Employee and contractual employee records for health screening as defined in Rule .0101(6) of this Subchapter,
27 education, training, and verification of professional certification shall be available for review by the Division.
28
29 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
30 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
31 *2023;*
32 *Emergency Rule Eff. November 14, 2023;*
33 *Temporary Adoption Eff. February 8, 2024;*
34 *Adopted Eff. October 1, 2024.*
35

1 10A NCAC 13S .0323 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0323 CLINIC STAFFING**
4 (a) The clinic shall have an organized clinical staff under the supervision of a nursing supervisor who is currently
5 licensed as a Registered Nurse and who has responsibility for all nursing services.
6 (b) The nursing supervisor shall report to the chief executive officer or designee and shall be responsible for:
7 (1) provision of nursing services to patients; and
8 (2) developing a nursing policy and procedure manual and written job descriptions for nursing
9 personnel.
10 (c) The clinic shall have the number of licensed and ancillary nursing personnel on duty to assure that staffing levels
11 meet the total nursing needs of patients based on the number of patients in the clinic and their individual nursing care
12 needs.
13 (d) There shall be at least one Registered Nurse who is currently licensed to practice professional nursing in North
14 Carolina, or other health care practitioner as defined in G.S. 90-640 (a) practicing within the scope of their license or
15 certification who is basic life support (BLS) certified and authorized by state laws to administer medications as
16 required for analgesia, nausea, vomiting, or other indications on duty at all times patients are in the procedure rooms
17 and recovery area.
18
19 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
20 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
21 *2023;*
22 *Emergency Rule Eff. November 14, 2023;*
23 *Temporary Adoption Eff. February 8, 2024;*
24 *Adopted Eff. October 1, 2024.*
25

1 10A NCAC 13S .0324 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0324 QUALITY ASSURANCE**
4 (a) The governing authority shall establish a quality assurance program for the purpose of providing standards of care
5 for the clinic. The program shall include the establishment of a committee that shall evaluate compliance with clinic
6 procedures and policies.
7 (b) The committee shall determine corrective action, if necessary to achieve and maintain compliance with clinic
8 procedures and policies.
9 (c) The committee shall consist of one physician who is not an owner, the chief executive officer or designee, and
10 other health professionals.
11 (d) The frequency of meetings and details of data collection shall be defined by the governing authority.
12
13 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
14 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
15 *2023;*
16 *Emergency Rule Eff. November 14, 2023;*
17 *Temporary Adoption Eff. February 8, 2024;*
18 *Adopted Eff. October 1, 2024.*
19

1 10A NCAC 13S .0325 is proposed for adoption under permanent procedures as follows:

2

3 **10A NCAC 13S .0325 LABORATORY SERVICES**

4 (a) Each clinic shall have the capability to provide or obtain laboratory tests required in connection with the procedure
5 to be performed, and will perform laboratory tests appropriate to their Clinical Laboratory Improvement Amendments
6 (CLIA) certification.

7 (b) The governing authority shall establish written policies regarding which surgical specimens require examination
8 by a pathologist.

9 (c) Each patient shall have laboratory testing as determined to be clinically necessary by the physician, or as required
10 by law. A record of the results of any tests performed will be included in the patient's medical record.

11 (d) The clinic shall maintain a manual in a location accessible by employees, that meets requirements for the level of
12 clinic's CLIA certification. This includes the procedures, instructions, and manufacturer's instructions for each test
13 procedure performed including:

14 (1) sources of reagents, and quality control procedures; and

15 (2) information concerning the basis for the listed "normal" ranges.

16

17 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
18 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
19 *2023;*
20 *Emergency Rule Eff. November 14, 2023;*
21 *Temporary Adoption Eff. February 8, 2024;*
22 *Adopted Eff. October 1, 2024.*

23

1 10A NCAC 13S .0326 is proposed for adoption as follows:

2

3 **10A NCAC 13S .0326 EMERGENCY BACK-UP SERVICES**

4 (a) Each clinic shall have a written plan for the transfer of emergency cases from the clinic to the closest hospital
5 when hospitalization becomes necessary. Emergency case is defined as a condition manifesting itself by acute
6 symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could
7 reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily
8 functions, or serious dysfunction of bodily organs.

9 (b) The clinic shall have written protocols, personnel, and equipment to handle medical emergencies as defined above
10 which may arise in connection with services provided by the clinic.

11 (c) All clinics shall have written emergency instructions for clinic staff to carry out in the event of an emergency. All
12 clinic personnel shall be familiar and capable of carrying out written emergency instructions:

13 (1) Instructions shall be followed in the event of an emergency, any untoward anesthetic, medical or
14 procedural complications, or other conditions making transfer to an emergency department and/or
15 hospitalization of a patient necessary.

16 (2) The instructions shall include arrangements for immediate contact of emergency medical services when
17 indicated and when advanced cardiac life support is needed.

18 (3) When emergency medical services are not indicated, the instructions shall include procedures for timely
19 escort of the patient to the hospital or to an appropriate licensed health care professional.

20 (d) The clinic shall provide intervention for emergency situations. These provisions shall include:

21 (1) basic cardio-pulmonary life support;

22 (2) emergency protocols for:

23 (A) administration of intravenous fluids;

24 (B) establishing and maintaining airway support;

25 (C) oxygen administration;

26 (D) utilizing a bag-valve-mask resuscitator with oxygen reservoir; and

27 (E) utilizing an automated external defibrillator.

28 (3) emergency lighting available in the procedure room as set forth in Rule .0212 of this Subchapter;
29 and

30 (4) ultrasound equipment.

31

32 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
33 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
34 *2023;*
35 *Emergency Rule Eff. November 14, 2023;*
36 *Temporary Adoption Eff. February 8, 2024;*
37 *Adopted Eff. October 1, 2024.*

1 10A NCAC 13S .0327 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0327 OUTPATIENT PROCEDURAL SERVICES**
4 (a) The clinic shall establish procedures for infection control and universal precautions, including cleaning of all
5 patient care areas including procedure rooms.
6 (b) Tissue Examination:
7 (1) The physician performing the abortion is responsible for examination of all products of conception
8 (P.O.C.) prior to patient discharge. Such examination shall note specifically the presence or absence
9 of chorionic villi and fetal parts, or the amniotic sac. The results of the examination shall be recorded
10 in the patient's medical record.
11 (2) If adequate tissue is not obtained based on the gestational age, the physician performing the
12 procedure shall evaluate for ectopic pregnancy, or an incomplete procedure.
13 (3) The clinic shall establish procedures for obtaining, identifying, storing, and transporting specimens.
14
15 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
16 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
17 *2023;*
18 *Emergency Rule Eff. November 14, 2023;*
19 *Temporary Adoption Eff. February 8, 2024;*
20 *Adopted Eff. October 1, 2024.*

1 10A NCAC 13S .0328 is proposed for adoption as follows:

2

3 **10A NCAC 13S .0328 MEDICATIONS AND SEDATION**

4 (a) No medication or treatment shall be given except on written order of a physician.

5 (b) Medications, including injections shall be administered by a physician, Registered Nurse, and other health care
6 practitioners as defined in G.S. 90-640 (a) practicing within the scope of their license or certification authorized by
7 state laws to administer medications. All medications shall be recorded in the patient's permanent record.

8 (c) The sedation shall be administered only under the direct supervision of a licensed physician. Direct supervision
9 means the physician must be present in the clinic and immediately available to furnish assistance and direction
10 throughout the administration of the sedation. It does not mean the physician must be present in the room when the
11 sedation is administered.

12

13 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
14 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
15 *2023;*
16 *Emergency Rule Eff. November 14, 2023;*
17 *Temporary Adoption Eff. February 8, 2024;*
18 *Adopted Eff. October 1, 2024.*

19

1 10A NCAC 13S .0329 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0329 POST PROCEDURAL CARE**
4 (a) A patient whose pregnancy is terminated shall be observed in the clinic to ensure that no post procedural
5 complications are present. Thereafter, patients may be discharged according to a physician's order and the clinic's
6 protocols.
7 (b) Any patient having a complication known or suspected to have occurred during or after the performance of the
8 abortion shall be transferred to a hospital for evaluation or admission.
9 (c) The following criteria shall be documented prior to discharge:
10 (1) the patient shall be able to move independently with a stable blood pressure and pulse; and
11 (2) bleeding and pain are assessed to be stable and not a concern for discharge.
12 (d) Written instructions shall be issued to all patients in accordance with the orders of the physician in charge of the
13 abortion procedure and shall include the following:
14 (1) symptoms and complications to be looked for; and
15 (2) a dedicated telephone number to be used by the patients should any complication occur or question
16 arise. This number shall be answered by a person 24 hours a day, seven days a week.
17 (e) The clinic shall have a defined protocol for triaging post-operative calls and complications. This protocol shall
18 establish a pathway for physician contact to ensure ongoing care of complications that the clinic's physician is
19 incapable of managing.
20
21 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
22 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
23 *2023;*
24 *Emergency Rule Eff. November 14, 2023;*
25 *Temporary Adoption Eff. February 8, 2024;*
26 *Adopted Eff. October 1, 2024.*
27

1 10A NCAC 13S .0330 is proposed for adoption as follows:
2
3 **10A NCAC 13S .0330 CLEANING OF MATERIALS AND EQUIPMENT**
4 (a) All supplies and equipment used in patient care shall be cleaned or sterilized between use for different patients.
5 (b) Methods of cleaning, handling, and storing all supplies and equipment shall be such as to prevent the transmission
6 of infection through their use as determined by the clinic through their governing authority.
7
8 *History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.*
9 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*
10 *2023;*
11 *Emergency Rule Eff. November 14, 2023;*
12 *Temporary Adoption Eff. February 8, 2024;*
13 *Adopted Eff. October 1, 2024.*

1 10A NCAC 13S .0331 is proposed for adoption as follows:

2

3 **10A NCAC 13S .0331 FOOD SERVICE**

4 Nourishments, such as crackers and soft drinks, shall be available and offered to all patients.

5

6 *History Note: Authority G.S. 131E-153;131E-153.2; 131E-153.5; 143B-165.*

7 *Codifier determined that findings of need did not meet criteria for emergency rule on October 30,*

8 *2023;*

9 *Emergency Rule Eff. November 14, 2023;*

10 *Temporary Adoption Eff. February 8, 2024;*

11 *Adopted Eff. October 1, 2024.*

North Carolina Medical Care Commission

Fiscal Impact Analysis

Permanent Rule Adoption without Substantial Economic Impact

Agency:	North Carolina Medical Care Commission ("MCC")	
Agency Contact:	Shanah F. Black, Rule-making Coordinator: 919-855-3481	
	Azzie Conley, DHSR Section Chief, Acute and Home Care Licensure & Certification Section: 919-855-4646	
	Jeff Harms, Acting Section Chief, Construction: 919-855-3915	
Impact Summary:	State Government:	Yes
	Local Government:	No
	Private Entities:	Yes
	Substantial Impact:	No
Authorizing Statutes:	G.S. 131E-153, 131E-153.2, 131E-153.6; Session Law 2023-14	

Titles of Rules and N.C. Administrative Code Citation

10A NCAC 13S .0101 Definitions

10A NCAC 13S .0104 Plans

10A NCAC 13S .0201 Building Code Requirements

10A NCAC 13S .0207 Area Requirements

10A NCAC 13S .0212 Elements and Equipment

10A NCAC 13S .0318 Governing Authority

10A NCAC 13S .0319 Policies and Procedures and Administrative Records

10A NCAC 13S .0320 Admission and Discharge

10A NCAC 13S .0321 Medical Records

10A NCAC 13S .0322 Personnel Records

10A NCAC 13S .0323 Nursing Service

10A NCAC 13S .0324 Quality Assurance

10A NCAC 13S .0325 Laboratory Services

10A NCAC 13S .0326 Emergency Back-Up Services

10A NCAC 13S .0327 Outpatient Procedural Services

10A NCAC 13S .0328 Medications and Sedation

10A NCAC 13S .0329 Post Procedural Care

10A NCAC 13S .0330 Cleaning of Materials and Equipment

10A NCAC 13S .0331 Food Service

(See proposed text of these rules in Appendix 1)[1]

Background

On May 16, 2023, Senate Bill 20 became law as SL 2023-14. This new law entitled "An Act to Make Various Changes to Health Care Laws and to Appropriate Funds for Health Care Programs" revised various state laws governing abortions in North Carolina. In response to Senate Bill 20 the North Carolina Medical Care Commission proposes to adopt the following permanent rules under 10A NCAC 13S – Rules Governing the Licensure of Suitable Facilities for the Performance of Surgical Abortions as permanent rules.

Prior to the passage of Senate Bill 20, abortion clinics were regulated under rules promulgated by the North Carolina Department of Health and Human Services under 10A NCAC 14E – Certifications of Clinics for Abortion. Session Law 2023-14 s2.2, codified at G.S. 131E-153.5, moved authority to promulgate the rules necessary for implementation of the regulation of abortion clinics to the Medical Care Commission. These proposed permanent rules are a continuation of the prior regulatory framework under 10A NCAC 14E but are now proposed for adoption in 10A NCAC 13S under Medical Care Commission authority with updates to comply with S.L. 2023-14.

In addition to updates to comply with the provisions of the session law, numerous technical and formatting revisions have been made to these proposed permanent rules from the former rules in 10A NCAC 14E. Additionally, rule language has been updated to be consistent with current medical terminology, standard best practices, and to align with the requirements in S.L. 2023-14.

Currently, there are 15 abortion clinics licensed by the Division of Health Service Regulation ("Division") to perform abortion procedures. For the purpose of this fiscal note, the Division assumes the number of clinics will stay constant for the timespan covered by the analysis. The Division based this assumption on historically stable numbers of clinics. All 15 clinics are privately owned. For purposes of this fiscal note, the 10A NCAC 14E rules are used as the baseline, as those rules have been in place since February 1, 1976 and were last amended on October 1, 2015.

Session Law 2023-14 s. 2.2, as codified in G.S. 131E-153.5, authorizes the Medical Care Commission to adopt rules necessary to implement Part II of SL 2023-14. The adoption of these

[1] Beginning on Page 37 of this document, the appendix also includes the 2019 version of 10A NCAC Subchapter 14 – Certification of Clinics for Abortion which, together with S.L. 2023-14, was used as the baseline for this fiscal note. Included as Appendix 2.

rules will ensure continuity of care for patients and will protect the health and safety of women in obtaining lawful abortions in a clinic regulated by the Division.

Rule Adoption

10A NCAC 13S .0101 Definitions

The Agency is proposing to adopt this permanent rule. The proposed rule updates definitions from 10A NCAC 14E .0101 to align with S.L. 2023-14. In paragraph:

(1) The term "abortion" has been changed to reference the statutory definition.
(2) The timeframe that a clinic is able to perform abortions has changed from the first 20 weeks of pregnancy to the first 12 weeks.
(6) The rule reference for the term "governing authority" has been updated.
(8) The definition of the term "new clinic" has been updated to mean a clinic that is certified or licensed as of July 1, 2023. There has also been a terminology change in which "licensure" has replaced "certification," which is also applied in all other rules in this package.
(9) The definition of "qualified physician" has been removed and a reference to the statutory definition is added to the rule.

Fiscal Impact

The proposed rule changes should result in incremental improvements to rule clarity and consistency with current practices. This improvement could result in nominal improvements to compliance which, in turn, should help ensure the ongoing health and safety of the public who use the services of the clinics.

10A NCAC 13S .0104 Plans and Specifications

The Agency is proposing to permanently adopt this rule. The proposed rule combines the requirements in Rule 10A NCAC 14E .0104 – Plans, Rule 10A NCAC 14E .0112 – Alterations, and Rule 10A NCAC 14E .0105 – Approval into one rule. Also, the rule title was updated to reflect the combining of these rules, as well as the requirements to submit both construction documents/plans and construction specifications to the Division for review and approval. This new rule title, "Plans and Specifications," and the requirements listed in this rule provides consistency among other rule sets under the Division's authority. The proposed changes do not impose any new requirements.

Fiscal Impact

The proposed rule changes should result in incremental improvements to rule clarity and consistency with current practices. This could result in nominal improvements to compliance which, in turn, should help ensure the ongoing health and safety of the public who use the services of the clinics.

10A NCAC 13S .0201 Building Code Requirements

The Agency is proposing to permanently adopt this rule. The changes to this rule as compared to 10A NCAC 14E .0201 are technical changes, updating information concerning access to current editions of the North Carolina State Building Codes and updating cost information for the North Carolina State Building Codes.

Fiscal Impact

The proposed rule changes should result in incremental improvements to rule clarity and consistency with current practices. This could result in nominal improvements to compliance which, in turn, should help ensure the ongoing health and safety of the public who use the services of the clinics.

10A NCAC 13S .0207 Area Requirements

The Agency is proposing to permanently adopt this rule. This rule contains the minimum spaces and areas required in licensed abortion clinics. The proposed language updates these requirements as compared to 10A NCAC 14E .0207 to reflect current practices and industry standards for outpatient procedures. Proposed updates to Rule 13S .0207 as compared to 14E .0207 are listed below:

Revised patient care spaces to reflect clinical services to be provided, and the anticipated acuity level of the patients being served. The revision combined designation areas and included updated wording for certain areas including personnel areas and lab areas. Patient care spaces include counseling areas, pre- and post- procedure areas, and procedure rooms. Specifically, designated area may be combined for pre- and post- procedure care and several storage areas may be combined for designation purposes.

Revised general space requirements to better reflect design elements that are common to areas designated for outpatient services. These design elements include reception and waiting rooms, areas for charting and other administrative activities, areas for the handling and storage of clean and soiled materials, and janitor's closets.

Revised requirements based on common clinical and support for outpatient services. These changes include clinical and support services include secure storage of medications, compliant requirements where laboratory testing is performed, and handling and storage of medical and surgical supplies.

Fiscal Impact

State

The changes proposed in this rule better reflect the outpatient services to be provided in the clinics. With the adoption of this rule, Construction Section plan review time done by

the Division for the clinics is expected to be slightly reduced due to clarifications on the use of rooms and spaces that the architects and engineers would have to verify on the construction documents. The Construction Section received 3 abortion clinic projects of varying degrees of modifications over the past 5 years. Therefore, the number of these types of projects being reviewed each year is very low; thus, resulting in a negligible impact associated with the permanent adoption of this rule.

Abortion Clinic License Holder/Prospective Applicant

The proposed changes align with current building standards for these outpatient service space and also make the rule slightly more flexible as to how to meet the minimum area requirements. For example, the requirement for a "soiled workroom" is replaced with "separate areas for storage and handling of clean and soiled materials." The rule will achieve the same desired result of keeping soiled materials away from clean materials but without the unnecessary requirement that the soiled materials be in a completely different room. Changes such as these acknowledge that there could be more than one way to achieve the desired result while also allowing the provider to configure their space to achieve an efficient flow of patient care. The proposed rule changes will not require existing facilities to make any changes to their current space configurations. Prospective applicants could benefit from the incrementally increased flexibility if they choose to design their spaces so as to allow them to reduce their square footage, for example. The magnitude of savings would vary greatly depending on the condition and specifications of the existing building being renovated or the construction of a new building as well as individual providers' preferences and needs.

10A NCAC 13S .0212 Elements and Equipment

The Agency is proposing to permanently adopt this rule. This rule contains minimum mechanical, plumbing, and electrical requirements for licensed abortion clinics. Proposed changes to Rule .0212 as compared to 10A NCAC 14E .0206 are listed below:

The proposed changes are formatting changes to the rule to make it easier to read, the removal of requirements that are no longer applicable and updating the rule to reflect current industry practices in outpatient services.

The requirements being removed and the associated impacts are described as follows:

Temperature and humidity in procedure and recovery room were removed. The reason this was removed is because a recovery room is no longer required to be a separate room and the standard of care for outpatient services has been updated for the procedure room.

Item (1)(f) was updated to reflect space/room requirements listed in Rule .0207. The pressure relationships and total air changes are consistent with industry standards for these named spaces/rooms. The remainder of .0212(b)(i)-(vii) was relocated for formatting

purposes and the requirements were added into (1)(a)-(f). This includes the updates to reflect the designated area changes made in Rule .0207.

Item 2(a) updates information concerning online access to NFPA 99, as well as updates the current cost for NFPA 99.

Item (2) (d) that requires floor drains not to be installed and (e) that requires the building drainage avoid installation above the procedure room are proposed to be removed since these requirements are not the standard of care for these outpatient services.

Item (3)(c) is proposed to be removed. Requirements on the location of ground fault protected receptacles are governed by the North Carolina Electrical Code.

Item (3)(d) is proposed to be removed. The requirement for a smoke detector within 15 feet of each procedure or recovery room entrance is not required because inhalation anesthesia is not used for the rooms in a concentration level that would result in a fire. The requirements for fire safety will be regulated by the Building Code.

Fiscal Impact

State

The changes proposed in this rule will result in a negligible impact for the State. Proposed changes better reflect the outpatient services to be provided in these clinics. With the adoption of this rule, Construction Section plan review time for abortion clinics is expected to be reduced due to the reduction in the number of mechanical, plumbing, and electrical requirements. Since only 3 abortion clinic projects were submitted for review and approval over the past 5 years, time saved for the review of these projects will be absorbed within the normal plan reviews for the Construction Section.

Abortion Clinic License Holder/Prospective Applicant

The adoption of this rule would result in a fiscal impact for abortion clinic license holders or prospective applicants. Changes could provide savings to owners of clinics doing renovation/construction in the future, but there would be no impact to existing licensed clinics. The magnitude of savings will vary widely based on desired design features of the clinic, existing conditions and age of the building, whether the building is a new build or renovation, local building and fire codes that are more stringent, population being served by the clinic, and many possible additional factors. It stands to reason that reducing the requirements could result in some amount of cost savings to applicants, but there are too m any variables to estimate. Presumably, renovations would not be undertaken unless it was financially feasible and benefits would outweigh the costs to the owners.

Abortion Clinic Patients

The adoption of this rule would result in no fiscal impact for abortion clinic patients. The mechanical, plumbing, and electrical system requirements are consistent with the industry standard for outpatient services.

10A NCAC 13S .0318 Governing Authority

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0302 provide clarity and consistency with the proposed permanent 13S .0207 rule and authorizes the governing body to determine the utilization of space to accommodate various aspects of patient visits.

Fiscal Impact

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

10A NCAC 13S .0319 Policies and Procedures and Administrative Records

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0303 require a policy and procedure for the governing authority to designate space in compliance with the language that was added into the proposed permanent 13S .0318 rule. The Rule removed item (c)(8), referral of patients, because this is addressed in .0320 Admissions and Discharge.

Fiscal Impact

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

10A NCAC 13S .0320 Admission and Discharge

The Agency is proposing to permanently adopt this rule. This rule requires an employee to be onsite with patients and for patients to only be admitted by a physician licensed in North Carolina. The rule requires that a patient be transferred to a hospital if not discharged 12 hours after the procedure. The rule requires that the patient be provided information in writing including the fee schedule, doctor's name, post procedure instructions, and the number for complaint. This rule is the same as the prior 10A NCAC 14E .0304 rule for admission and discharge.

Fiscal Impact

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

10A NCAC 13S .0321 Medical Records

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0305 clarify medical records requirements by combining listed items and removing duplicative items.

Fiscal Impact

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

10A NCAC 13S .0322 Personnel Records

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0306 remove redundancies and combined items to provide clarification of the personnel record requirements.

Fiscal Impact

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

10A NCAC 13S .0323 Clinic Staffing

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0307 remove the requirements for nursing experience in a postpartum or post-operative care and expand the opportunity for utilization of other qualified health care practitioners to manage the care of patients. The proposed rule replaces the term "Nursing Services" with the term "Clinic Staffing" to be more inclusive and increase the opportunity for RN employment. The postpartum or post-operative care that was previously required is not the skill set necessary for providing nursing services for this outpatient services in a clinic. Additionally, a Registered Nurse, Nurse Practitioner, Physician Assistant, or an additional Physician in the clinic has the knowledge base to provide patient safety necessary for this outpatient procedure to meet the onsite staffing requirement in .0323(d). The regulated community requested this change based on assessment of staffing needs for this outpatient service.

Fiscal Impact

This rule change could benefit both existing licensed clinics as well as future clinics by expanding the potential pool of candidates, making it easier to fill critical nursing positions. It will also allow clinics to determine the most efficient use of their existing staff while ensuring the safety of patients. A larger pool of individuals, especially nurses, will be able to fulfill responsibilities. An unintended potential benefit of this enhanced flexibility is that clinics may save money by not requiring an additional salaried worker on site when unnecessary. Whether or not clinics realize this benefit will vary by clinic depending on

their existing staffing levels and needs and on the future availability of practitioners to fill available positions.

10A NCAC 13S .0324 Quality Assurance

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0308 authorize the governing body to develop guidelines to address the individual needs of the clinic and is consistent with other standards of care for licensed healthcare providers. The responsibilities of the governing body is included in the definition .0101. The changes to the language in the rule allows the governing body to develop systems that fit the individualized facility. The facility is still required to maintain record keeping per the policy of the governing authority. The prior language in 14E .0308(f) is removed because the purpose of (f) is encompassed in .0324(b). The Rule requires the quality improvement committee to evaluate processes and maintain systems to demonstrate compliance with all the regulations. The proposed permanent rule 13S .0318 additionally outlines the responsibilities of the governing authority in policy and procedure to maintain safe treatment. To restate in this rule is redundant.

Fiscal Impact

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

10A NCAC 13S .0325 Laboratory Services

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0309 clarifies that a clinic must comply with the requirements under the Clinical Laboratory Improvement Amendments (CLIA) program and have a CLIA certificate as required by federal law. The different certificates determine the level work that can be performed in the lab. This certification was previously required by federal law so the change from 14E does not create a fiscal impact. The former 14E rule had a list of lab tests. This changes grant decision making based on clinical expertise for medically necessary lab services. The doctor will decide which lab tests are necessary for each patient.

Fiscal Impact

Adoption of this rule will allow increased flexibility for a physician to order only the labs deemed medically necessary for an individual patient. This could result in cost savings for the patient. The most likely savings would come from a patient not having to pay for the Rh factor test when it’s deemed not necessary. There is no way for the Division to predict the likelihood or magnitude of these savings. It is important to note that the decision as to which labs to order will continue to be made by the physician on a patient-by-patient basis.

10A NCAC 13S .0326 Emergency Back-Up Services

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0310 remove the requirement for the clinic to have a transfer agreement signed by a hospital. This requirement has been removed because hospitals are no longer providing signed transfer agreements. Emergency rooms are required to admit patients so a signed agreement is unnecessary for transfer.

This proposed rule also clarifies the minimum requirements for providing treatment in an emergency situation to include defining emergency instructions, staff training, and standard protocols of health care. These additional written instructions were requested by the regulated community.

The equipment was also updated to include the removal of utilization of suction machine as it is not used in this type of facility.

Fiscal Impact

As a result of the rule, some facilities may need to update their existing written emergency protocols to include specific instructions. This could involve minimal time and material costs to the clinics for providing these written instructions. Although emergency protocols are already required, having clear written instructions in place could provide incrementally better outcomes with patient care in the rare case of an emergency.

10A NCAC 13S .0327 Outpatient Procedural Services

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0311 provide clarification and consistency in the oversight of procedure rooms and standards of infection control. The proposed rule replaces the term "Surgical Services" with the term "Outpatient Procedural Services" to be consistent with medical language used by providers to describe the provided services.

Fiscal Impact

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

10A NCAC 13S .0328 Medications and Sedation

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0312 replaces the term "anesthesia" with the term "sedation" to be reflective of standards of care provided within abortion clinics and contrary to the definition of anesthesia. Sedation is a lower-level anesthesia and is the

correct terminology for what is used in the clinic. This is not a change in the procedure but better reflects the correct terminology for what is currently being used in facilities. This terminology change will not result in a change to the service and therefore will not have a fiscal impact.

Fiscal Impact

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

10A NCAC 13S .0329 Post Procedural Care

The Agency is proposing to permanently adopt this rule. The proposed changes to this rule as compared to 10A NCAC 14E .0313 replaces the term "operative" with the term "procedural" to be consistent with medical language used by providers to describe the provided services.

Fiscal Impact

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

10A NCAC 13S .0330 Cleaning of Materials and Equipment

The Agency is proposing to permanently adopt this rule. This rule requires sterilization of equipment and methods for cleaning. This rule is the same as the prior 14E 10A NCAC .0314 rule.

Fiscal Impact

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

10A NCAC 13S .0331 Food Service

The Agency is proposing to permanently adopt this rule. This rules requires snacks and drink to be available for patients. This rule is the same as the prior 14E 10A NCAC .0316 rule.

Fiscal Impact

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

Summary

The content of the nineteen (19) rules is directly supported by the purpose of the S.L. 2023-14, which makes the adoption of these rules necessary to ensure that Part II of SL 2023-14 can be

effectively implemented by the Medical Care Commission and administered by the Department of Health and Human Services. Consistent with Section 2.4 of S.L. 2023-14, the Medical Care Commission has determined that each of the 19 rules are necessary to implement Part 4A of Chapter 131E of the General Statutes. The biggest driving factor behind the proposed rules is the continued protection of the health, safety, and wellbeing of women obtaining lawful abortions in a clinic regulated by the Division, continuing the prior regulatory scheme under 10A NCAC 14E, with limited changes and updates.

As measured from the baseline conditions, there are no quantifiable costs or benefits associated with the proposed rules. Most changes to the proposed Subchapter 13S, as compared to the former Subchapter 14E rules, are for the purpose of providing clarity and consistency with the S.L. 2023-14 and aligning with current industry standards for outpatient services. This could result in nominal improvements to compliance of regulated clinics which, in turn, should help ensure the ongoing health and safety of the public who use their services.

There are several proposed changes that will allow for increased flexibility as to how licensed clinics comply with the minimum requirements. These include configuring their space to maximize efficient flow of patient care (Rule 13S .0207) and updating mechanical, plumbing, and electrical requirements to meet the standard of care for outpatient, rather than surgical, services (Rule 13S .0212). These rule changes could result in potential savings for owners of clinics doing renovation/construction in the future. The magnitude of savings will vary widely based on factors such as desired design features of the clinic, existing condition and age of the building, whether the building is a new build or renovation, and local building and fire codes. Another proposed change will expand the types of practitioners qualified to provide nursing services in an outpatient clinic (Rule 13S .0323). This change could benefit both existing licensed clinics as well as future clinics by expanding the potential pool of candidates to fill critical nursing positions and allowing clinics to determine the most efficient use of their existing staff while ensuring the safety of patients. Lastly, a change to the Laboratory Services requirements (Rule 13S .0325) will allow increased flexibility for a physician to order only the labs deemed medically necessary for an individual patient. The most likely savings would come from a patient not having to pay for the Rh factor test when deemed not necessary. This could result in cost savings for the patient, but there is no way for the Division to predict the likelihood or magnitude of these savings. It is important to note that the decision as to which labs to order will continue to be made by the physician on a patient-by-patient basis.

One proposed change could result in minimal one-time costs for licensed clinics to update their emergency protocols to include specific written emergency instructions. Having clear written instructions in place could result in incremental improvements to patient outcomes in the rare case of an emergency.

The proposed rules will not require any procedural changes nor additional workload or staffing for the State above existing requirements, as compared to the prior requirements under 10A NCAC 14E. There could be minimal time cost savings to the Division from a reduction in the number of requirements for construction plan review. There have been only three abortion clinic projects of

varying degrees of renovation submitted to the Division for review and licensing over the past five years; as such, any time cost savings from these changes are expected to be negligible.

North Carolina currently has 15 clinics in operation, all of which are privately owned. Neither the federal government nor local government owns or operates these clinics, so the rules will have no federal or local government impact. As compared to the baseline, the proposed rules are expected to have minimal, unquantifiable benefits and costs to the regulated community and minimal, unquantifiable benefits to the Division. These costs and benefits will not exceed $1 million in a year; as such, there will not be a substantial economic impact as a result of the proposed rules.

APPENDIX 1 (Rules proposed for permanent adoption)

10A NCAC 13S .0101 is proposed for adoption as follows:

SUBCHAPTER 13S - LICENSURE OF SUITABLE FACILITIES FOR THE PERFORMANCE OF SURGICAL ABORTIONS

SECTION .0100 – LICENSURE PROCEDURE

10A NCAC 13S .0101 DEFINITIONS

The following definitions will apply throughout this Subchapter:

(1) "Abortion" means the termination of a pregnancy as defined in G.S 90-21.81(1c).

(2) "Clinic" means a freestanding facility neither physically attached nor operated by a licensed hospital for the performance of abortions completed during the first 12 weeks of pregnancy.

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

(4) "Gestational age" means the length of pregnancy as indicated by the date of the first day of the last normal monthly menstrual period, if known, or as determined by ultrasound.

(5) "Governing authority" means the individual, agency, group, or corporation appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the abortion clinic is vested pursuant to Rule .0318 of this Subchapter.

(6) "Health Screening" means an evaluation of an employee or contractual employee, including tuberculosis testing, to identify any underlying conditions that may affect the person's ability to work in the clinic.

(7) "New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, 2023, and has not been certified or licensed within the previous six months of the application for licensure.

(8) "Registered Nurse" means a person who holds a valid license issued by the North Carolina Board of Nursing to practice professional nursing in accordance with the Nursing Practice Act, G.S. 90, Article 9A.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0104 is proposed for adoption as follows:

10A NCAC 13S .0104 PLANS AND SPECIFICATIONS

(a) Prior to issuance of a license pursuant to Rule .0107 of this Section, an applicant for a new clinic shall submit one copy of construction documents and specifications to the Division for review and approval.

(b) Any license holder or prospective applicant desiring to make alterations or additions to a clinic or to construct a new clinic, before commencing such alteration, addition or new construction shall submit construction documents and specifications to the Division for review and approval with respect to compliance with this Subchapter.

(c) Approval of construction documents and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.

History Note: Authority G.S. 131E-153.5; 143B-165;
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0201 is proposed for adoption as follows:

SECTION .0200 - MINIMUM STANDARDS FOR CONSTRUCTION AND EQUIPMENT

10A NCAC 13S .0201 BUILDING CODE REQUIREMENTS

(a) The physical plant for a clinic shall meet or exceed minimum requirements of the North Carolina State Building Code for Group B occupancy (business office facilities) which is incorporated herein by reference including subsequent amendments and editions. Copies of the Code can be obtained from the International Code Council online at https://shop.iccsafe.org/catalogsearch/result/?cat=1010&q=+North+Carolina+Building+code for a cost of eight hundred fifty eight dollars ($858.00) or accessed electronically free of charge at https://www.ncosfm.gov/codes/codes-current-and-past.

(b) The requirements contained in this Section shall apply to new clinics and to any alterations, repairs, rehabilitation work, or additions which are made to a previously licensed facility.

History Note: *Authority G.S. 131E-153.5; 143B-165;*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0207 is proposed for adoption as follows:

10A NCAC 13S .0207 AREA REQUIREMENTS

The following areas shall comply with Rule .0212 of this Section, and are minimum requirements for clinics that are licensed by the Division to perform abortions:

(1) reception and waiting room;

(2) designated area or areas for pre-procedure and post-procedure activities;

(3) procedure room;

(4) a clean area for self-contained secure medication storage complying with security requirements of state and federal laws;

(5) area compliant with Clinical Laboratory Improvement Amendments (CLIA) requirements in which laboratory testing can be performed;

(6) separate areas for storage and handling of clean and soiled materials;

(7) patient toilet;

(8) personnel toilet facilities;

(9) janitor's closets;

(10) space and equipment for assembling, sterilizing and storing medical and surgical supplies;

(11) storage space for medical records of all media types used by the facility; and

(12) space for charting, communications, counseling, business functions, and other administrative activities.

History Note: Authority G.S. 131E-153.5; 143B-165;
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0212 is proposed for adoption as follows:

10A NCAC 13S .0212 ELEMENTS AND EQUIPMENT

The physical plant shall provide equipment to carry out the functions of the clinic with the following ~~minimum~~ requirements:

(1) Mechanical requirements.

(a) All fans serving exhaust systems shall be located at the discharge end of the system.

(b) The ventilation system shall be designed and balanced to provide the pressure relationships detailed in Sub-Item (f) of this Rule.

(c) All ventilation or air conditioning systems shall have a minimum of one filter bed with a minimum filter efficiency of a MERV 8.

(d) Ventilation systems serving the procedure rooms shall not be tied in with toilets, soiled holding, or janitors' closets if the air is to be recirculated in any manner.

(e) Air handling duct systems shall not have duct linings.

(f) The following general air pressure relationships to adjacent areas and ventilation rates shall apply:

Area	Pressure Relationship	Minimum Total Air Changes/Hour
Toilets	N	4
Janitor's closet	N	6
Soiled holding	N	6
Clean holding	NR	2

(P = positive pressure N = negative pressure NR = No Requirement)

(2) Plumbing And Other Piping Systems.

(a) Piped-in medical gas and vacuum systems, if installed, shall meet the requirements of NFPA-99, category 2 system, which is hereby incorporated by reference including subsequent amendments and editions. Copies of NFPA-99 may be purchased from the National Fire Protection Association online at https://www.nfpa.org/product/nfpa-99-code/p0099code at a cost of one hundred forty-nine dollars ($149.00) or accessed electronically free of charge at http://www.nfpa.org.

(b) Lavatories and sinks for use by medical personnel shall have the water supply spout mounted so that its discharge point is a minimum distance of ten (10) inches above the bottom of the basin with mixing type fixture valves that can be operated without the use of the hands.

(c) Hot water distribution systems shall provide hot water at hand washing facilities at a minimum temperature of 100 degrees F. and a maximum temperature of 116 degrees F.

(3) Electrical Requirements.

(a) The facility's paths of egress to the outside shall have at a minimum, listed battery backup lighting units of one and one-half hour capability that will automatically provide at least 1 foot candle of illumination at the floor in the event needed for a utility or local lighting circuit failure.

(b) Electrically operated medical equipment necessary for the safety of the patient shall have, at a minimum, battery backup.

(4) Buildings systems and medical equipment shall have preventative maintenance conducted as recommended by the equipment manufacturers' or installers' literature to assure operation in compliance with manufacturer's instructions.

History Note: *Authority G.S. 131E-153.5; 143B-165;*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0318 is proposed for adoption as follows:

10A NCAC 13S .0318 GOVERNING AUTHORITY

(a) The governing authority, as defined in Rule .0101(6) of this Subchapter, shall appoint a chief executive officer or a designee of the clinic to represent the governing authority and shall define his or her authority and duties in writing. This person shall be responsible for the management of the clinic, implementation of the policies of the governing authority and authorized and empowered to carry out the provisions of these Rules.

(b) The chief executive officer or designee shall designate, in writing, a person to act on his or her behalf during his or her absence. In the absence of the chief executive officer or designee, the person on the grounds of the clinic who is designated by the chief executive officer or designee to be in charge of the clinic shall have access to all areas in the clinic related to patient care and to the operation of the physical plant.

(c) When there is a planned change in ownership or in the chief executive officer, the governing authority of the clinic shall notify the Division in writing of the change.

(d) The clinic's governing authority shall adopt operating policies and procedures that shall:

(1) specify the individual to whom responsibility for operation and maintenance of the clinic is delegated and methods established by the governing authority for holding such individuals responsible;

(2) provide for at least annual meetings of the governing authority, for which minutes shall be maintained; and

(3) maintain a policies and procedures manual designed to ensure safe and adequate care for the patients which shall be reviewed, and revised when necessary, at least annually, and shall include provisions for administration and use of the clinic, compliance, personnel quality assurance, procurement of outside services and consultations, patient care policies, and services offered.

(e) When the clinic contracts with outside vendors to provide services such as laundry or therapy services, the governing authority shall be responsible to assure the supplier meets the same local and State standards the clinic would have to meet if it were providing those services itself using its own staff.

(f) The governing authority shall provide for the selection and appointment of the professional staff and the granting of clinical privileges and shall be responsible for the professional conduct of these persons.

(g) The governing authority shall be responsible for ensuring the availability of supporting personnel to meet patient needs and to provide safe and adequate treatment.

(h) The governing authority shall certify that the physical facilities to be used are adequate to safeguard the health and safety of patients; of note one area may accommodate various aspects of the patient's visits.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;

Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0319 is proposed for adoption as follows:

10A NCAC 13S .0319 POLICIES AND PROCEDURES AND ADMINISTRATIVE RECORDS

(a) The following essential documents and references shall be on file in the administrative office of the clinic:

(1) documents evidencing control and ownerships, such as deeds, leases, or incorporation or partnership papers;

(2) policies and procedures of the governing authority, as required by Rule .0318 of this Section;

(3) minutes of the governing authority meetings;

(4) minutes of the clinic's professional and administrative staff meetings;

(5) a current copy of the rules of this Subchapter;

(6) reports of inspections, reviews, and corrective actions taken related to licensure; and

(7) contracts and agreements related to care and services provided by the clinic is a party.

(b) All operating licenses, permits, and certificates shall be displayed on the licensed premises.

(c) The governing authority shall prepare a manual of clinic policies and procedures for use by employees, medical staff, and physicians to assist them in understanding their responsibilities within the organizational framework of the clinic. These shall include:

(1) patient selection and exclusion criteria;

(2) clinical discharge criteria;

(3) emergency protocols as required by Rule .0326;

(4) policy and procedure for validating the full and true name of the patient;

(5) policy and procedure for abortion procedures performed at the clinic;

(6) policy and procedure for the provision of patient privacy in the recovery area of the clinic;

(7) protocol for determining gestational age as defined in Rule .0101(4) of this Subchapter;

(8) protocol for referral of patients for whom services have been declined; and

(9) protocol that defines use of space to include opportunities that one area may accommodate various aspects of patient visits.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0320 is proposed for adoption as follows:

10A NCAC 13S .0320 ADMISSION AND DISCHARGE

(a) There shall be on the premises throughout all hours of operation an employee authorized to receive patients and make administrative decisions regarding patients.

(b) All patients shall be admitted only under the care of a physician who is currently licensed to practice medicine in North Carolina.

(c) Any patient not discharged within 12 hours following the abortion procedure shall be transferred to a hospital licensed pursuant to Chapter 131E, Article 5 of the General Statutes.

(d) Following admission and prior to obtaining the consent for the procedure, representatives of the clinic's management shall provide to each patient the following information:

(1) a fee schedule and any extra charges routinely applied;

(2) the name of the attending physician or physicians and hospital admitting privileges, if any. In the absence of admitting privileges a statement to that effect shall be included;

(3) instructions for post-procedure problems and questions as outlined in Rule .0329(d) of this Section;

(4) grievance procedures a patient may follow if dissatisfied with the care and services rendered; and

(5) the telephone number for Complaint Intake of the Division.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0321 is proposed for adoption as follows:

10A NCAC 13S .0321 MEDICAL RECORDS

(a) The clinic shall maintain a complete and permanent record for all patients including:

(1) the date and time of admission and discharge;

(2) the patient's full and true name;

(3) the patient's address;

(4) the patient's date of birth;

(5) the patient's emergency contact information;

(6) the patient's diagnoses;

(7) the patient's duration of pregnancy;

(8) the patient's condition on admission and discharge;

(9) a voluntarily-signed consent for each procedure and signature of the physician performing the procedure witnessed by a family member, other patient representative, or facility staff member;

(10) a copy of the signed 72 hour consent and physician declaration;

(11) the patient's history and physical examination including identification of pre-existing or current illnesses, drug sensitivities or other idiosyncrasies that may impact the procedure or anesthetic to be administered; and

(12) documentation that indicates all items listed in Rule .0320(d) of this Section were provided to the patient.

(b) The clinic shall record and authenticate by signature, date, and time all other pertinent information such as pre- and post-procedure instructions, laboratory reports, drugs administered, report of abortion procedure, and follow-up instruction, including family planning advice.

(c) If Rh is negative, the clinic shall explain the significance to the patient and shall record the explanation. The patient in writing may reject Rh immunoglobulin. A written record of the patient's decision shall be a permanent part of her medical record.

(d) An ultrasound examination shall be performed by a technician qualified in ultrasonography and the results, including gestational age, placed in the patient's medical record for any patient who is scheduled for an abortion procedure.

(e) The clinic shall maintain a daily procedure log of all patients receiving abortion services. This log shall contain at least the following:

(1) the patient name;

(2) the estimated length of gestation;

(3) the type of procedure;

(4) the name of the physician:

(5) the name of the Registered Nurse on duty; and

(6) the date and time of procedure.

(f) Medical records shall be the property of the clinic and shall be preserved or retained in the State of North Carolina for a period of not less than 10 years from the date of the most recent discharge, unless the client is a minor, in which case the record must be retained until three years after the client's 18th birthday, regardless of change of clinic ownership or administration. Such medical records shall be made available to the Division upon request and shall not be removed from the premises where they are retained except by subpoena or court order.
(g) The clinic shall have a written plan for destruction of medical records to identify information to be retained and the manner of destruction to ensure confidentiality of all material.
(h) Should a clinic cease operation, the clinic shall arrange for preservation of records for at least 10 years. The clinic shall send written notification to the Division of these arrangements.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0322 is proposed for adoption as follows:

10A NCAC 13S .0322 PERSONNEL RECORDS

(a) Personnel Records:

(1) A record of each employee shall be maintained that includes the following:

(A) the employee's identification;

(B) the application or resume for employment that includes education, training, experience and references; and

(C) a copy of a valid license (if required).

(2) Personnel records shall be confidential.

(3) Representatives of the Division conducting an inspection of the clinic shall have the right to inspect personnel records.

(b) Job Descriptions:

(1) The clinic shall have a written description that describes the duties of every position.

(2) Each job description shall include position title, authority, specific responsibilities, and minimum qualifications. Qualifications shall include education, training, experience, special abilities, and valid license or certification required.

(3) The clinic shall review annually and, if needed, update all job descriptions. The clinic shall provide the updated job description to each employee or contractual employee assigned to the position.

(c) All persons having direct responsibility for patient care shall be at least 18 years of age.

(d) The clinic shall provide an orientation program to familiarize each new employee or contractual employee with the clinic, its policies, and the employee's job responsibilities.

(e) The governing authority shall be responsible for implementing health standards for employees, as well as contractual employees, which are consistent with recognized professional practices for the prevention and transmission of communicable diseases.

(f) Employee and contractual employee records for health screening as defined in Rule .0101(6) of this Subchapter, education, training, and verification of professional certification shall be available for review by the Division.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0323 is proposed for adoption as follows:

10A NCAC 13S .0323 CLINIC STAFFING

(a) The clinic shall have an organized clinical staff under the supervision of a nursing supervisor who is currently licensed as a Registered Nurse and who has responsibility for all nursing services.

(b) The nursing supervisor shall report to the chief executive officer or designee and shall be responsible for:

(1) provision of nursing services to patients; and

(2) developing a nursing policy and procedure manual and written job descriptions for nursing personnel.

(c) The clinic shall have the number of licensed and ancillary nursing personnel on duty to assure that staffing levels meet the total nursing needs of patients based on the number of patients in the clinic and their individual nursing care needs.

(d) There shall be at least one Registered Nurse who is currently licensed to practice professional nursing in North Carolina, or other health care practitioner as defined in G.S. 90-640 (a) practicing within the scope of their license or certification who is basic life support (BLS) certified and authorized by state laws to administer medications as required for analgesia, nausea, vomiting, or other indications on duty at all times patients are in the procedure rooms and recovery area.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0324 is proposed for adoption as follows:

10A NCAC 13S .0324 QUALITY ASSURANCE

(a) The governing authority shall establish a quality assurance program for the purpose of providing standards of care for the clinic. The program shall include the establishment of a committee that shall evaluate compliance with clinic procedures and policies.

(b) The committee shall determine corrective action, if necessary to achieve and maintain compliance with clinic procedures and policies.

(c) The committee shall include one physician who is not an owner, the chief executive officer or designee, and other health professionals.

(d) The frequency of meetings and details of data collection shall be defined by the governing authority.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0325 is proposed for adoption as follows:

10A NCAC 13S .0325 LABORATORY SERVICES

(a) Each clinic shall have the capability to provide or obtain laboratory tests required in connection with the procedure to be performed, and will perform laboratory tests appropriate to their Clinical Laboratory Improvement Amendments (CLIA) certification.

(b) The governing authority shall establish written policies regarding which surgical specimens require examination by a pathologist.

(c) Each patient shall have laboratory testing as determined to be clinically necessary by the physician, or as required by law. A record of the results of any tests performed will be included in the patient's medical record.

(d) The clinic shall maintain a manual in a location accessible by employees, that meets requirements for the level of clinic's CLIA certification. This includes the procedures, instructions, and manufacturer's instructions for each test procedure performed including:

(1) sources of reagents, and quality control procedures; and

(2) information concerning the basis for the listed "normal" ranges.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0326 is proposed for adoption as follows:

10A NCAC 13S .0326 EMERGENCY BACK-UP SERVICES

(a) Each clinic shall have a written plan for the transfer of emergency cases from the clinic to the closest hospital when hospitalization becomes necessary. Emergency case is defined as a condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of bodily organs.

(b) The clinic shall have written protocols, personnel, and equipment to handle medical emergencies as defined above which may arise in connection with services provided by the clinic.

(c) All clinics shall have written emergency instructions for clinic staff to carry out in the event of an emergency. All clinic personnel shall be familiar and capable of carrying out written emergency instructions:

(1) Instructions shall be followed in the event of an emergency, any untoward anesthetic, medical or procedural complications, or other conditions making transfer to an emergency department and/or hospitalization of a patient necessary.

(2) The instructions shall include arrangements for immediate contact of emergency medical services when indicated and when advanced cardiac life support is needed.

(3) When emergency medical services are not indicated, the instructions shall include procedures for timely escort of the patient to the hospital or to an appropriate licensed health care professional.

(d) The clinic shall provide intervention for emergency situations. These provisions shall include:

(1) basic cardio-pulmonary life support;

(2) emergency protocols for:

(A) administration of intravenous fluids;

(B) establishing and maintaining airway support;

(C) oxygen administration;

(D) utilizing a bag-valve-mask resuscitator with oxygen reservoir; and

(E) utilizing an automated external defibrillator.

(3) emergency lighting available in the procedure room as set forth in Rule .0212 of this Subchapter; and

(4) ultrasound equipment.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0327 is proposed for adoption as follows:

10A NCAC 13S .0327 OUTPATIENT PROCEDURAL SERVICES

(a) The clinic shall establish procedures for infection control and universal precautions, including cleaning of all patient care areas including procedure rooms.

(b) Tissue Examination:

(1) The physician performing the abortion is responsible for examination of all products of conception (P.O.C.) prior to patient discharge. Such examination shall note specifically the presence or absence of chorionic villi and fetal parts, or the amniotic sac. The results of the examination shall be recorded in the patient's medical record.

(2) If adequate tissue is not obtained based on the gestational age, the physician performing the procedure shall evaluate for ectopic pregnancy, or an incomplete procedure.

(3) The clinic shall establish procedures for obtaining, identifying, storing, and transporting specimens.

History Note: Authority G.S. 131E-153; 131E-153.5; 143B-165.
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0328 is proposed for adoption as follows:

10A NCAC 13S .0328 MEDICATIONS AND SEDATION

(a) No medication or treatment shall be given except on written order of a physician.

(b) Medications, including injections shall be administered by a physician, Registered Nurse, and other health care practitioners as defined in G.S. 90-640 (a) practicing within the scope of their license or certification authorized by state laws to administer medications. All medications shall be recorded in the patient's permanent record.

(c) The sedation shall be administered only under the direct supervision of a licensed physician. Direct supervision means the physician must be present in the clinic and immediately available to furnish assistance and direction throughout the administration of the sedation. It does not mean the physician must be present in the room when the sedation is administered.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0329 is proposed for adoption as follows:

10A NCAC 13S .0329 POST PROCEDURAL CARE

(a) A patient whose pregnancy is terminated shall be observed in the clinic to ensure that no post procedural complications are present. Thereafter, patients may be discharged according to a physician's order and the clinic's protocols.

(b) Any patient having a complication known or suspected to have occurred during or after the performance of the abortion shall be transferred to a hospital for evaluation or admission.

(c) The following criteria shall be documented prior to discharge:

(1) the patient shall be able to move independently with a stable blood pressure and pulse; and

(2) bleeding and pain are assessed to be stable and not a concern for discharge.

(d) Written instructions shall be issued to all patients in accordance with the orders of the physician in charge of the abortion procedure and shall include the following:

(1) symptoms and complications to be looked for; and

(2) a dedicated telephone number to be used by the patients should any complication occur or question arise. This number shall be answered by a person 24 hours a day, seven days a week.

(e) The clinic shall have a defined protocol for triaging post-operative calls and complications. This protocol shall establish a pathway for physician contact to ensure ongoing care of complications that the clinic's physician is incapable of managing.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0330 is proposed for adoption as follows:

10A NCAC 13S .0330 CLEANING OF MATERIALS AND EQUIPMENT

(a) All supplies and equipment used in patient care shall be cleaned or sterilized between use for different patients.

(b) Methods of cleaning, handling, and storing all supplies and equipment shall be such as to prevent the transmission of infection through their use as determined by the clinic through their governing authority.

History Note: *Authority G.S. 131E-153; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

10A NCAC 13S .0331 is proposed for adoption as follows:

10A NCAC 13S .0331 FOOD SERVICE

Nourishments, such as crackers and soft drinks, shall be available and offered to all patients.

History Note: *Authority G.S. 131E-153;131E-153.2; 131E-153.5; 143B-165.*
Codifier determined that findings of need did not meet criteria for emergency rule on October 30, 2023;
Emergency Rule Eff. November 14, 2023;
Temporary Adoption Eff. February 8, 2024;
Adopted Eff. October 1, 2024.

APPENDIX 2 (For REGULATORY BASELINE)

SUBCHAPTER 14E - CERTIFICATIONS OF CLINICS FOR ABORTION

SECTION .0100 - CERTIFICATION PROCEDURE

10A NCAC 14E .0101 DEFINITIONS

The following definitions will apply throughout this Subchapter:

(1) "Abortion" means the termination of a pregnancy as defined in G.S. 90-21.81(1).
(2) "Clinic" means a freestanding facility (a facility neither physically attached nor operated by a licensed hospital) for the performance of abortions completed during the first 20 weeks of pregnancy.
(3) "Complication" includes but is not limited to hemorrhage, infection, uterine perforation, cervical laceration, or retained products of conception.
(4) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
(5) "Gestational age" means the length of pregnancy as indicated by the date of the first day of the last normal monthly menstrual period, if known, or as determined by ultrasound.
(6) "Governing authority" means the individual, agency, group, or corporation appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the abortion clinic is vested pursuant to Rule .0302 of this Subchapter.
(7) "Health Screening" means an evaluation of an employee or contractual employee, including tuberculosis testing, to identify any underlying conditions that may affect the person's ability to work in the clinic.
(8) "New clinic" means one that is not certified as an abortion clinic by the Division as of July 1, 2014, and has not been certified within the previous six months of the application for certification.
(9) "Qualified Physician" means a licensed physician who advises, procures, or causes a miscarriage or abortion as defined in G.S. 14-45.1(g).
(10) "Registered Nurse" means a person who holds a valid license issued by the North Carolina Board of Nursing to practice professional nursing in accordance with the Nursing Practice Act, G.S. 90, Article 9A.

History Note: *Authority G.S. 14-45.1(a); 14-45.1(g); 143B-10; S.L. 2013-366, s. 4(c);*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989; June 30, 1980;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0102 CONFERENCE

Before proceeding with construction and operational plans, a potential sponsor or owner of a freestanding abortion clinic shall discuss with the staff of the Division of Health Service Regulation the scope of the proposed facility. This will provide an opportunity for the owner and the Division's staff to discuss certification requirements.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0103 CHANGES

All stages of the plans from schematics through working drawings shall be reviewed by the Division's staff each time a change is made.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0104 PLANS

Prior to issuance of a certificate pursuant to Rule .0107 of this Section, a clinic shall submit two copies of the building plans to the Division for certification purposes when the clinic requires a review by the Division and the Department of Insurance, according to the North Carolina Administration and Enforcement Requirements Code, 2012 edition, including subsequent amendments and editions. Copies of the North Carolina Administration Code are available from the International Code Council at http://www.ecodes.biz/ecodes_support/Free_Resources/2012NorthCarolina/12NorthCarolina_main.html at no cost. When the local jurisdiction has authority from the North Carolina Building Code Council to review the plans, the clinic shall submit only one copy of the plans to the Division. In that case, the clinic shall submit an additional set of plans directly to the local jurisdiction.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0105 APPROVAL

(a) Approval of construction documents and specifications shall be obtained from the Division of Health Service Regulation, in accordance with the rules in Section .0200 of this Subchapter. The construction documents and specifications require additional approval from the Department of Health and Human Services, Division of Public Health, Environmental Health Section, and the Department of Insurance.

(b) Approval of construction documents and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977; Amended
Eff. December 1, 1989;

Readopted Eff. February 1, 2021.

10A NCAC 14E .0106 APPLICATION

(a) Prior to the admission of patients, an application from the clinic for certification shall be submitted to and approved by the Division.
(b) Application forms may be obtained by contacting the Division.
(c) The application form shall set forth the ownership, staffing patterns, clinical services to be rendered, professional staff in charge of services, and general information that would be helpful to the Division's understanding of the clinic's operating program.
(d) After construction requirements in Section .0200 of this Subchapter have been met and the application for certification has been received and approved, the Division shall conduct an on-site, certification survey.
(e) Each certificate must be renewed at the beginning of each calendar year. The governing authority shall file an application for renewal of certification with the Division at least 30 days prior to the date of expiration on forms furnished by the Division. Failure to file a renewal application shall result in expiration of the certificate to operate.

History Note: Authority G.S. 14-45.1(a);

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0107 ISSUANCE OF CERTIFICATE

(a) The Division shall issue a certificate if it finds the facility can:
  (1) Comply with all requirements described in this Subchapter; and
  (2) Assure that, in the event that complications arise from the abortion procedure, an OB-GYN board certified or board eligible physician shall be available.
(b) Each certificate shall be issued only for the premises and persons or organizations named in the application and shall not be transferable.
(c) The governing authority shall notify the Division in writing, within 10 working days, of any change in the name of the facility or change in the name of the administrator.
(d) The facility shall report to the Division all incidents, within 10 working days, of vandalism to the facility such as fires, explosions or other action causing disruption of services.

History Note: Authority G.S. 14-45.1(a);

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0108 POSTING

Certificates shall be posted in a conspicuous place on the premises.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0109 RENEWAL

Each certificate, unless previously suspended or revoked, pursuant to the applicable rules and statutes shall be renewable annually upon the filing of an application, payment of the non-refundable renewal fee as defined in G.S. 131E-269, and approval by the Division.

History Note: *Authority G.S. 14-45.1(a); 131E-269; 143B-10;*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0110 REVOCATION

The Department shall deny, suspend, or revoke a certificate in any case where it finds that substantial failure to comply with these regulations renders the facility unsuitable for the performance of abortions.

History Note: *Authority G.S. 14-45.1(a); 143B-10; 150B-23;*

Eff. February 1, 1976;

Amended Eff. December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0111 INSPECTIONS

(a) Any clinic certified by the Division to perform abortions shall be inspected by representatives of the Division annually and as it may deem necessary as a condition of holding such license. An inspection shall be conducted whenever the purpose of the inspection is to determine whether the clinic complies with the rules of this Subchapter or whenever there is reason to believe that some condition exists which is not in compliance with the rules of this Subchapter.
(b) The Division shall have authority to investigate any complaint relative to the care, treatment, or complication of any patient.
(c) Representatives of the Division shall make their identities known to the person in charge prior to inspection of the clinic.
(d) Representatives of the Division may review any records in any medium necessary to determine compliance with the rules of this Subchapter, while maintaining the confidentiality of the complainant and the patient, unless otherwise required by law.
(e) The clinic shall allow the Division to have immediate access to its premises and the records necessary to conduct an inspection and determine compliance with the rules of this Subchapter.
(f) A clinic shall file a plan of correction for cited deficiencies within 10 business days of receipt of the report of the survey. The Division shall review and respond to a written plan of correction within 10 business days of receipt of the corrective action plan.

History Note: *Authority G.S. 14-45.1(a); 14-45.1(a1); 143B-10; S.L. 2013-366, s. 4(c);*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0112 ALTERATIONS

Any certificate holder or prospective applicant desiring to make specified types of alteration or addition to a clinic or to construct a new clinic, before commencing such alteration, addition or new construction shall submit plans and specifications therefor to the Division for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0200 - MINIMUM STANDARDS FOR CONSTRUCTION AND EQUIPMENT

10A NCAC 14E .0201 BUILDING CODE REQUIREMENTS

(a) The physical plant for a clinic shall meet or exceed minimum requirements of the North Carolina State Building Code for Group B occupancy (business office facilities) which is incorporated herein by reference including subsequent amendments and editions. Copies of the Code can be obtained from the International Code Council online at http://shop.iccsafe.org/north-carolina-doi.discounts?ref=NC for a cost of five hundred twenty-seven dollars ($527.00), or accessed electronically free of charge at http://www.ecodes.biz.
(b) The requirements contained in this Section shall apply to new clinics and to any alterations, repairs, rehabilitation work, or additions which are made to a previously certified facility.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0202 SANITATION

Clinics that are certified by the Division to perform abortions shall comply with the Rules governing the sanitation of hospitals, nursing homes, adult care homes, and other institutions, contained in 15A NCAC 18A .1300 which is hereby incorporated by reference including subsequent amendments and editions. Copies of 15A NCAC 18A .1300 may be obtained at no charge from the Division of Public Health, Environmental Health Section, 1632 Mail Service Center, Raleigh, NC 27699-1632, or accessed electronically free of charge from the Office of Administrative Hearings at https://www.oah.nc.gov/.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. August 1, 2019; October 1, 2015; July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0203 ELEVATOR

(a) In multi-story buildings, at least one elevator for patient use shall be provided.
(b) At least one dimension of the elevator cab shall be six and one-half feet to accommodate stretcher patients.
(c) The elevator door shall have an opening of no less than three feet in width, which is minimum for stretcher use.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0204 CORRIDORS

The width of corridors shall be sufficient to allow for patient evacuation by stretcher, but in no case shall patient-use corridors be less than 60 inches.

History Note: *Authority G.S. 14-45.1(a);*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0205 DOORS

Minimum width of doors to all rooms needing access for stretchers shall be three feet. No door 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 not subject to occupancy.

History Note: *Authority G.S. 14-45.1(a);*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0206 ELEMENTS AND EQUIPMENT

The physical plant shall provide equipment to carry out the functions of the clinic with the following minimum requirements:

(1) Mechanical requirements.

(a) Temperatures and humidities:

(i) The mechanical systems shall be designed to provide the temperature and humidities shown in this Sub-Item:

Area	Temperature	Relative Humidity

Procedure	70-76 degrees F.	50-60%
Recovery	75-80 degrees F.	30-60%

(b) All air supply and exhaust systems for the procedure suite and recovery area shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown herein shall be considered as minimum acceptable rates.

(i) The ventilation system shall be designed and balanced to provide the pressure relationships detailed in Sub-Item (b)(vii) of this Rule.

(ii) All air supplied to procedure rooms shall be delivered at or near the ceiling of the room and all exhaust or return from the area shall be removed near the floor level at not less than three inches above the floor.

(iii) Corridors shall not be used to supply air to or exhaust air from any procedure or recovery room except to maintain required pressure relationships.

(iv) All ventilation or air conditioning systems serving procedure rooms shall have a minimum of one filter bed with a minimum filter efficiency of 80 percent.

(v) Ventilation systems serving the procedure or recovery rooms shall not be tied in with the soiled holding or work rooms, janitors' closets or locker rooms if the air is to be recirculated in any manner.

(vi) Air handling duct systems shall not have duct linings.

(vii) The following general air pressure relationships to adjacent areas and ventilation rates shall apply:

Area	Pressure Relationship	Minimum Air Changes/Hour
Procedure	P	6
Recovery	P	6
Soiled work, Janitor's closet, Toilets, Soiled holding	N	10
Clean work or Clean holding	P	4

(P = positive pressure N = negative pressure)

(2) Plumbing And Other Piping Systems.

(a) Medical Gas and Vacuum Systems

(i) Piped-in medical gas and vacuum systems, if installed, shall meet the requirements of NFPA-99-2012, type one system, which is hereby incorporated by reference including subsequent amendments and editions. Copies of NFPA99-2012 may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, or accessed electronically free of charge at http://www.nfpa.org.

(ii) If inhalation anesthesia is used in any concentration, the facility must meet the requirements of NFPA 70-2011 and NFPA 99-2012, current editions relating to inhalation anesthesia, which are hereby incorporated by reference including subsequent amendments and editions. Copies of NFPA 70-2011 and NFPA

992012 may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269-9101, or accessed electronically free of charge at http://www.nfpa.org.

(b) Lavatories and sinks for use by medical personnel shall have the water supply spout mounted so that its discharge point is a minimum distance of five inches above the rim of the fixture with mixing type fixture valves that can be operated without the use of the hands.

(c) Hot water distribution systems shall provide hot water at hand washing and bathing facilities at a minimum temperature of 100 degrees F. and a maximum temperature of 116 degrees F.

(d) Floor drains shall not be installed in procedure rooms.

(e) Building drainage and waste systems shall be designed to avoid installations in the ceiling directly above procedure rooms.

(3) Electrical Requirements.

(a) Procedure and recovery rooms, and paths of egress from these rooms to the outside shall have at a minimum, listed battery backup lighting units of one and one-half hour capability that will automatically provide at least five foot candles of illumination at the floor in the event needed for a utility or local lighting circuit failure.

(b) Electrically operated medical equipment necessary for the safety of the patient shall have, at a minimum, battery backup.

(c) Receptacles located within six feet of sinks or lavatories shall be ground-fault protected.

(d) At least one wired-in, ionization-type smoke detector shall be within 15 feet of each procedure or recovery room entrance.

(4) Buildings systems and medical equipment shall have preventative maintenance conducted as recommended by the equipment manufacturers' or installers' literature to assure operation in compliance with manufacturer's instructions.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0207 AREA REQUIREMENTS

The following areas shall comply with Rule .0206 of this Section, and are considered minimum requirements for clinics that are certified by the Division to perform abortions:

(1) receiving area;
(2) examining room;
(3) preoperative preparation and holding room;
(4) individual patient locker facilities or equivalent;
(5) procedure room;
(6) recovery room;
(7) clean workroom;
(8) soiled workroom;
(9) medicine room may be defined as area in the clean workroom if a self-contained secure cabinet complying with security requirements of state and federal laws is provided;
(10) separate and distinct areas for storage and handling clean and soiled linen;
(11) patient toilet;

(12) personnel lockers and toilet facilities;
(13) laboratory;
(14) nourishment station with storage and preparation area for serving meals or in-between meal snacks;
(15) janitor's closets;
(16) adequate space and equipment for assembling, sterilizing and storing medical and surgical supplies;
(17) storage space for medical records; and
(18) office space for nurses' charting, doctors' charting, communications, counseling, and business functions.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; December 24, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0208 SHARED SERVICES

When there is written indication that services are to be shared or purchased, appropriate modifications or deletions in space requirements may be anticipated.

History Note: Authority G.S. 14-45.1(a); 143B-10;

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

SECTION .0300 – GOVERNING AUTHORITY

10A NCAC 14E .0301 OWNERSHIP

The ownership of the abortion clinic shall be fully disclosed to the Division.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0302 GOVERNING AUTHORITY

(a) The governing authority, as defined in Rule .0101(6) of this Subchapter, shall appoint a chief executive officer or a designee of the clinic to represent the governing authority and shall define his or her authority and duties in writing. This person shall be responsible for the management of the clinic, implementation of the policies of the governing authority and authorized and empowered to carry out the provisions of these Rules.

(b) The chief executive officer or designee shall designate, in writing, a person to act on his or her behalf during his or her absence. In the absence of the chief executive officer or designee, the person on the grounds of the clinic who is designated by the chief executive officer or designee to be in charge of the clinic shall have access to all areas in the clinic related to patient care and to the operation of the physical plant.

(c) When there is a planned change in ownership or in the chief executive officer, the governing authority of the clinic shall notify the Division in writing of the change.

(d) The clinic's governing authority shall adopt operating policies and procedures that shall:

(1) specify the individual to whom responsibility for operation and maintenance of the clinic is delegated and methods established by the governing authority for holding such individuals responsible;

(2) provide for at least annual meetings of the governing authority, for which minutes shall be maintained; and

(3) maintain a policies and procedures manual designed to ensure professional and safe care for the patients which shall be reviewed, and revised when necessary, at least annually, and shall include provisions for administration and use of the clinic, compliance, personnel quality assurance, procurement of outside services and consultations, patient care policies, and services offered. (e) When the clinic contracts with outside vendors to provide services such as laundry, or therapy services, the governing authority shall be responsible to assure the supplier meets the same local and state standards the clinic would have to meet if it were providing those services itself using its own staff.

(f) The governing authority shall provide for the selection and appointment of the professional staff and the granting of clinical privileges and shall be responsible for the professional conduct of these persons.

(g) The governing authority shall be responsible for ensuring the availability of supporting personnel to meet patient needs and to provide safe patient care.

History Note: *Authority G.S. 14-45.1(a); 143B-10; S.L. 2013-366, s. 4(c);*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0303 POLICIES AND PROCEDURES AND ADMINISTRATIVE RECORDS

(a) The following essential documents and references shall be on file in the administrative office of the clinic:

(1) documents evidencing control and ownerships, such as deeds, leases, or incorporation or partnership papers;
(2) policies and procedures of the governing authority, as required by Rule .0302 of this Section;
(3) minutes of the governing authority meetings;
(4) minutes of the clinic's professional and administrative staff meetings;
(5) a current copy of the rules of this Subchapter;
(6) reports of inspections, reviews, and corrective actions taken related to licensure; and (7) contracts and agreements related to licensure to which the clinic is a party.

(b) All operating licenses, permits, and certificates shall be displayed on the licensed premises.

(c) The governing authority shall prepare a manual of clinic policies and procedures for use by employees, medical staff, and contractual physicians to assist them in understanding their responsibilities within the organizational framework of the clinic. These shall include:

(1) patient selection and exclusion criteria; and clinical discharge criteria;
(2) policy and procedure for validating the full and true name of the patient;
(3) policy and procedure for each type of abortion procedure performed at the clinic;
(4) policy and procedure for the provision of patient privacy in the recovery area of the clinic;
(5) protocol for determining gestational age as defined in Rule .0101(5) of this Subchapter;
(6) protocol for referral of patients for whom services have been declined; and
(7) protocol for discharge instructions that informs patients who to contact for post-procedural problems and questions.

History Note: *Authority G.S. 14-45.1(a); 143B-10; S.L. 2013-366 s. 4(c);*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0304 ADMISSION AND DISCHARGE

(a) There shall be on the premises throughout all hours of operation an employee authorized to receive patients and to make administrative decisions on their disposition.

(b) All patients shall be admitted only under the care of a physician who is currently licensed to practice medicine in North Carolina.

(c) Any patient not discharged within 12 hours following the abortion procedure shall be transferred to a general hospital.

(d) Following admission and prior to obtaining the consent for the procedure, representatives of the clinic's management shall provide to each patient the following information:

(1) a fee schedule and any extra charges routinely applied;
(2) the name of the attending physician(s) and hospital admitting privileges, if any. In the absence of admitting privileges a statement to that effect shall be included;

(3) instructions for post-procedure problems and questions as outlined in Rule .0313(d) of this Section;
(4) grievance procedures a patient may follow if dissatisfied with the care and services rendered; and
(5) the telephone number for Complaint Intake of the Division.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1995; July 1, 1994; December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0305 MEDICAL RECORDS

(a) A complete and permanent record shall be maintained for all patients including:
(1) the date and time of admission and discharge;
(2) the patient's full and true name;
(3) the patient's address;
(4) the patient's date of birth;
(5) the patient's emergency contact information;
(6) the patient's diagnoses;
(7) the patient's duration of pregnancy;
(8) the patient's condition on admission and discharge;
(9) a voluntarily-signed consent for each surgery or procedure and signature of the physician performing the procedure witnessed by a family member, other patient representative, or facility staff member;
(10) the patient's history and physical examination including identification of pre-existing or current illnesses, drug sensitivities or other idiosyncrasies having a bearing on the procedure or anesthetic to be administered; and
(11) documentation that indicates all items listed in Rule .0304(d) of this Section were provided to the patient.

(b) All other pertinent information such as pre- and post-procedure instructions, laboratory report, drugs administered, report of abortion procedure, and follow-up instruction, including family planning advice, shall be recorded and authenticated by signature, date, and time.

(c) If Rh is negative, the significance shall be explained to the patient and so recorded. The patient in writing may reject Rh immunoglobulin. A written record of the patient's decision shall be a permanent part of her medical record. (d) An ultrasound examination shall be performed and the results, including gestational age, placed in the patient's medical record for any patient who is scheduled for an abortion procedure.

(e) The clinic shall maintain a daily procedure log of all patients receiving abortion services. This log shall contain at least the following:
(1) the patient name;
(2) the estimated length of gestation;
(3) the type of procedure; (4) the name of physician:
(5) the name of Registered Nurse on duty; and
(6) the date and time of procedure.

(f) Medical records shall be the property of the clinic and shall be preserved or retained in the State of North Carolina for a period of not less than 10 years from the date of the most recent discharge, unless the client is a minor, in which case the record must be retained until three years after the client's 18th birthday, regardless of change of clinic ownership or administration. Such medical records shall be made available to the Division upon request and shall not be removed from the premises where they are retained except by subpoena or court order. (g) The clinic shall have a written plan for destruction of medical records to identify information to be retained and the manner of destruction to ensure confidentiality of all material.

(h) Should a clinic cease operation, arrangements shall be made for preservation of records for at least 10 years. The clinic shall send written notification to the Division of these arrangements.

History Note: Authority G.S. 14-45.1(a); 143B-10; S.L. 2013-366, s. 4(c);

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0306 PERSONNEL RECORDS

(a) Personnel Records:
- (1) A record of each employee shall be maintained that includes the following:
  - (A) employee's identification;
  - (B) application for employment that includes education, training, experience and references;
  - (C) resume of education and work experience;
  - (D) verification of valid license (if required), education, training, and prior employment experience; and
  - (E) verification of references.
- (2) Personnel records shall be confidential.
- (3) Notwithstanding the requirement found in Subparagraph (b)(2) of this Rule, representatives of the Division conducting an inspection of the clinic shall have the right to inspect personnel records.

(b) Job Descriptions:
- (1) The clinic shall have a written description that describes the duties of every position.
- (2) Each job description shall include position title, authority, specific responsibilities, and minimum qualifications. Qualifications shall include education, training, experience, special abilities, and valid license or certification required.
- (3) The clinic shall review annually and, if needed, update all job descriptions. The clinic shall provide the updated job description to each employee or contractual employee assigned to the position.

(c) All persons having direct responsibility for patient care shall be at least 18 years of age.

(d) The clinic shall provide an orientation program to familiarize each new employee or contractual employee with the clinic, its policies, and the employee's job responsibilities.

(e) The governing authority shall be responsible for implementing health standards for employees, as well as contractual employees, which are consistent with recognized professional practices for the prevention and transmission of communicable diseases.

(f) Employee and contractual employee records for health screening as defined in Rule .0101(7) of this Subchapter, education, training, and verification of professional certification shall be available for review by the Division.

History Note: Authority G.S. 14-45.1(a); 14-45.1(a1); 143B-10; S.L. 2013-366, s. 4(c);

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0307 NURSING SERVICE

(a) The clinic shall have an organized nursing staff under the supervision of a nursing supervisor who is currently licensed as a Registered Nurse and who has responsibility and accountability for all nursing services. (b) The nursing supervisor shall be responsible and accountable to the chief executive officer or designee for:

(1) provision of nursing services to patients; and
(2) developing a nursing policy and procedure manual and written job descriptions for nursing personnel.

(c) The clinic shall have the number of licensed and ancillary nursing personnel on duty to assure that staffing levels meet the total nursing needs of patients based on the number of patients in the clinic and their individual nursing care needs.

(d) There shall be at least one Registered Nurse with experience in post-operative or post-partum care who is currently licensed to practice professional nursing in North Carolina on duty in the clinic at all times patients are in the clinic.

History Note: *Authority G.S. 14-45.1(a); 143B-10; S.L. 2013-366, s. 4(c);*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0308 QUALITY ASSURANCE

(a) The governing authority shall establish a quality assurance program for the purpose of providing standards of care for the clinic. The program shall include the establishment of a committee that shall evaluate compliance with clinic procedures and policies.
(b) The committee shall determine corrective action, if necessary.
(c) The committee shall consist of at least one physician who is not an owner, the chief executive officer or designee, and other health professionals. The committee shall meet at least once per quarter.
(d) The functions of the committee shall include development of policies for selection of patients, approval for adoption of policies, review of credentials for staff privileges, peer review, tissue inspection, establishment of infection control procedures, and approval of additional procedures to be performed in the clinic.
(e) Records shall be kept of the activities of the committee for a period not less than 10 years. These records shall include:
   (1) reports made to the governing authority;
   (2) minutes of committee meetings including date, time, persons attending, description and results of cases reviewed, and recommendations made by the committee; and
   (3) information on any corrective action taken.
(f) Orientation, training, or education programs shall be conducted to correct deficiencies that are uncovered as a result of the quality assurance program.

History Note: *Authority G.S. 14-45.1(a); 143B-10; S.L. 2013-366, s. 4(c);*
Eff. October 1, 2015.

10A NCAC 14E .0309 LABORATORY SERVICES

(a) Each clinic shall have the capability to provide or obtain laboratory tests required in connection with the procedure to be performed.
(b) The governing authority shall establish written policies requiring examination by a pathologist of all surgical specimens except for those types of specimens that the governing authority has determined do not require examination.
(c) Each patient shall have the following performed and a record of the results placed in the patient's medical record prior to the abortion:

(1) pregnancy testing, except when a positive diagnosis of pregnancy has been established by ultrasound;
(2) anemia testing (hemoglobin or hematocrit); and
(3) Rh factor testing.

(d) Patients requiring the administration of blood shall be transferred to a local hospital having blood bank facilities. (e) The clinic shall maintain a manual in a location accessible by employees, that includes the procedures, instructions, and manufacturer's instructions for each test procedure performed, including:

(1) sources of reagents, standard and calibration procedures, and quality control procedures; and
(2) information concerning the basis for the listed "normal" ranges.

(f) The clinic shall perform and document, at least quarterly, calibration of equipment and validation of test results.

History Note: *Authority G.S. 14-45.1(a); 143B-10; S.L. 2013-366, s. 4(c);*

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989; October 28, 1981;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0310 EMERGENCY BACK-UP SERVICES

(a) Each clinic shall have a written plan for the transfer of emergency cases from the clinic to a nearby hospital when hospitalization becomes necessary.
(b) The clinic shall have procedures, personnel, and suitable equipment to handle medical emergencies which may arise in connection with services provided by the clinic.
(c) The clinic shall have a written agreement between the clinic and a hospital to facilitate the transfer of patients who are in need of emergency care. A clinic that has documentation of its efforts to establish such a transfer agreement with a hospital that provides emergency services and has been unable to secure such an agreement shall be considered to be in compliance with this Rule.
(d) The clinic shall provide intervention for emergency situations. These provisions shall include: (1) basic cardio-pulmonary life support;

(2) emergency protocols for:
    (A) administration of intravenous fluids;
    (B) establishing and maintaining airway support;
    (C) oxygen administration;
    (D) utilizing a bag-valve-mask resuscitator with oxygen reservoir;
    (E) utilizing a suction machine; and
    (F) utilizing an automated external defibrillator;
(3) emergency lighting available in the procedure room as set forth in Rule .0206 of this Subchapter; and
(4) ultrasound equipment.

History Note: Authority G.S. 14-45.1(a); 143B-10; S.L. 2013-366, s. 4(c);

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994; December 24, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0311 SURGICAL SERVICES

(a) The procedure room shall be maintained exclusively for surgical procedures and shall be so designed and maintained to provide an atmosphere free of contamination by pathogenic organisms. The clinic shall establish procedures for infection control and universal precautions.

(b) Tissue Examination:

(1) The physician performing the abortion is responsible for examination of all products of conception (P.O.C.) prior to patient discharge. Such examination shall note specifically the presence or absence of chorionic villi and fetal parts, or the amniotic sac. The results of the examination shall be recorded in the patient's medical record.

(2) If adequate tissue is not obtained based on the gestational age, ectopic pregnancy or an incomplete procedure shall be considered and evaluated by the physician performing the procedure.

(3) The clinic shall establish procedures for obtaining, identifying, storing, and transporting specimens.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; July 1, 1994; December 1, 1989; November 1, 1984; September 1, 1984;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0312 MEDICATIONS AND ANESTHESIA

(a) No medication or treatment shall be given except on written order of a physician.

(b) Any medications shall be administered by a Registered Nurse licensed in accordance with G.S. 90-171.30 or G.S. 90-171.32 and must be recorded in the patient's permanent record.

(c) The anesthesia shall be administered only under the direct supervision of a licensed physician.

History Note: Authority G.S. 14-45.1(a); 14-45.1(g); 143B-10;

Eff. February 1, 1976;

Readopted Eff. December 19, 1977;
Readopted Eff. February 1, 2021.

10A NCAC 14E .0313 POST-OPERATIVE CARE

(a) A patient whose pregnancy is terminated on an ambulatory basis shall be observed in the clinic to ensure that no post-operative complications are present. Thereafter, patients may be discharged according to a physician's order and the clinic's protocols.
(b) Any patient having an adverse condition or complication known or suspected to have occurred during or after the performance of the abortion shall be transferred to a hospital for evaluation or admission.
(c) The following criteria shall be documented prior to discharge:
(1) the patient shall be ambulatory with a stable blood pressure and pulse; and
(2) bleeding and pain shall be controlled.
(d) Written instructions shall be issued to all patients in accordance with the orders of the physician in charge of the abortion procedure and shall include the following:
(1) symptoms and complications to be looked for; and
(2) a dedicated telephone number to be used by the patients should any complication occur or question arise. This number shall be answered by a person 24 hours a day, seven days a week. (e) The clinic shall have a defined protocol for triaging post-operative calls and complications. This protocol shall establish a pathway for physician contact to ensure ongoing care of complications that the operating physician is incapable of managing.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. October 1, 2015; December 24, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0314 CLEANING OF MATERIALS AND EQUIPMENT

(a) All supplies and equipment used in patient care shall be properly cleaned or sterilized between use for different patients.
(b) Methods of cleaning, handling, and storing all supplies and equipment shall be such as to prevent the transmission of infection through their use.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0315 HOUSEKEEPING

Clinics that are certified by the Division to perform abortions shall meet the standards for sanitation as required by the Division of Public Health, Environmental Health Section, in the rules and regulations governing the sanitation of hospitals, nursing homes, adult care homes, and other institutions, set forth in 15A NCAC 18A .1300, including subsequent amendments and editions, with special emphasis on the following:

(1) the floors, walls, woodwork and windows must be cleaned, and accumulated waste material must be removed at least daily;
(2) the premises must be kept free from rodents and insect infestation;
(3) bath and toilet facilities must be maintained in a clean and sanitary condition at all times; and
(4) linen that comes directly in contact with the patient shall be provided for each individual patient. No such linen shall be interchangeable from one patient to another before being cleaned, sterilized, or laundered.

Copies of 15A NCAC 18A .1300 may be obtained at no charge from the Division of Public Health, Environmental Health Section, 1632 Mail Service Center, Raleigh, NC, 27699-1632, or accessed electronically free of charge from the Office of Administrative Hearings at https://www.oah.nc.gov/.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Amended Eff. August 1, 2019; October 1, 2015; December 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0316 FOOD SERVICE

Nourishments, such as crackers and soft drinks, shall be available and offered to all patients.

History Note: *Authority G.S. 14-45.1(a); 143B-10;*
Eff. February 1, 1976;

Readopted Eff. December 19, 1977; Amended
Eff. January 1, 1990;

Readopted Eff. February 1, 2021.

SECTION .0400 - MEDICAL STAFF

10A NCAC 14E .0401 QUALIFICATIONS

Every person admitted to practice in the clinic shall qualify by submitting a signed application in writing which shall contain the following data: age, year and school of graduation, date of licensure, statement of postgraduate work, and experience.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

10A NCAC 14E .0402 FILE

An individual file for each physician practicing in the clinic shall be maintained. Each file shall contain the information outlined in Rule .0401 of this Section.

History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;

Readopted Eff. December 19, 1977;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 24, 2019.

CHAPTER 13 – NC MEDICAL CARE COMMISSION

SUBCHAPTER 13A – EXECUTIVE COMMITTEE

SECTION .0100 – EXECUTIVE COMMITTEE

10A NCAC 13A .0101 EXECUTIVE COMMITTEE

(a) There shall be an executive committee of the North Carolina Medical Care Commission composed of five members of the commission in addition to the chairman and vice-chairman of the commission. Three members shall be appointed by a vote of the commission at the December meeting of each odd year and two members shall be appointed by the chairman of the commission at the December meeting of each even year. No member of the executive committee, except the chairman and vice-chairman, shall serve more than two two-year terms in succession. The chairman and vice-chairman of the commission shall also be chairman and vice-chairman of the executive committee.

(b) The functions of the executive committee shall be to:

(1) transact business in behalf of the commission, consistent with established policy, which in the opinion of the chairman is of such urgency that action is required before the next regularly scheduled commission meeting and the impact of the action would not justify the convening of a special meeting of the commission;

(2) transact business in behalf of the commission when a quorum is not obtained at any commission meeting for which prior notice of at least ten days has been given;

(3) review periodically the activities of the commission and the assignments and recommendations of the various committees for the purpose of developing policy recommendations for commission consideration.

(c) All actions of the executive committee shall be reviewed at the next commission meeting and if disagreement is expressed by a simple majority of the members present and voting at any commission meeting in which a quorum is present, the functions of the executive committee shall be suspended until resolved by later action of the commission.

(d) The initial approval of all projects under the Health Care Facilities Finance Act must be given by a quorum of the full commission.

(e) A quorum of the executive committee shall consist of at least four members of the executive committee.

History Note: *Authority G.S. 131A-4; 143B-165; 143B-166;*
Eff. January 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .0200 - RULEMAKING

10A NCAC 13A .0201 PETITIONS

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule or rules by the North Carolina Medical Care Commission shall submit the petition addressed to: Office of the Director, Division of Health Service Regulation, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

(b) The petition shall contain the following information:

(1) the text of the proposed rule or rules for adoption or amendment, the rule number of the proposed rule or rules for repeal, and the statutory authority for the agency to promulgate the rule or rules;

(2) a statement of the effect on existing rules;

(3) a statement of the effect of the proposed rule or rules on existing practices in the area involved, if known; and

(4) the name(s) and address(es) of petitioner(s).

(c) The petitioner may include the following information within the request:

(1) documents and any data supporting the petition;

(2) a statement of the reasons for adoption of the proposed rule or rules, amendment or the repeal of an existing rule or rules;

(3) a statement explaining the costs and computation of the cost factors, if known; and

(4) a description, including the names and addresses, if known, of those individuals or entities most likely to be affected by the proposed rule or rules.

(d) The North Carolina Medical Care Commission, based on a review of the facts stated in the petition, shall consider the following in the determination to grant the petition:

(1) whether the North Carolina Medical Care Commission has authority to adopt the rule or rules;
(2) the effect of the proposed rule(s) on existing rules, programs, and practices;
(3) probable costs and cost factors of the proposed rule or rules;
(4) the impact of the rule on the public and the regulated entities; and
(5) whether the public interest will be served by granting the petition.

(e) Petitions that do not contain the information required by Paragraph (b) of this Rule shall be returned to the petitioner by the Chairman of the North Carolina Medical Care Commission.

History Note: Authority G.S. 143B-165; 150B-20;
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. November 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015;
Amended Eff. October 1, 2023.

10A NCAC 13A .0202 RULEMAKING PROCEDURES

(a) The rulemaking procedures for the Secretary of the Department of Health and Human Services codified in 10A NCAC 01 are hereby adopted by reference pursuant to G.S. 150B-14(c) to apply to the actions of the Commission, with the following modifications:

(1) Correspondence related to the Commission's rulemaking actions shall be submitted to:

APA/Rule-making Coordinator
Office of the Director
Division of Health Service Regulation
2701 Mail Service Center
Raleigh, North Carolina 27699-2701

(2) The Secretary's designee shall mean the Director of the Division of Health Service Regulation (hereinafter referred to as the Division).
(3) The "Division" shall be substituted for the "Office of General Counsel" in 10A NCAC 01.
(4) "Hearing officer" shall mean the Chairman of the Medical Care Commission or his designee.

(b) Copies of 10A NCAC 01 may be inspected in the Division at the address shown in (a)(1) of this Rule. Copies may be obtained from the Office of Administrative Hearings, 424 North Blount Street, Raleigh, North Carolina, 27601.

History Note: Authority G.S. 143B-165; 150B-11; 150B-14;
Eff. November 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13A .0203 DECLARATORY RULINGS

(a) The Commission shall have the power to make declaratory rulings. All requests for declaratory rulings shall be written and submitted to: Chairman, Medical Care Commission, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

(b) All requests for a declaratory ruling must include the following information:

(1) name and address of the petitioner;
(2) statute or rule to which petition relates;
(3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;
(4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the Commission believes for good cause that the issuance of a declaratory ruling will not serve the public interest, it may refuse to issue one. When good cause is deemed to exist, the Commission will notify the petitioner of the decision in writing stating reasons for the denial of a declaratory ruling.
(d) The Commission may refuse to consider the validity of a rule and therefore refuse to issue a declaratory ruling:

(1) unless the petitioner shows that the circumstances are so changed since adoption of the rule that such a ruling would be warranted;
(2) unless the rulemaking record evidences a failure by the agency to consider specified relevant factors;
(3) if there has been similar controlling factual determination in a contested case, or if the factual context being raised for a declaratory ruling was specifically considered upon adoption of the rule being questioned as evidence by the rulemaking record;
(4) if circumstances stated in the request or otherwise known to the agency show that a contested case hearing would presently be appropriate.

(e) Where a declaratory ruling is deemed to be in the public interest, the Commission will issue the ruling within 60 days of receipt of the petition.
(f) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be appropriate in a particular case.
(g) The Commission may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.
(h) A record of all declaratory ruling procedures will be maintained for as long as the ruling has validity. This record will contain:

(1) the original request,
(2) reasons for refusing to issue a ruling,
(3) all written memoranda and information submitted,
(4) any written minutes or audio tape or other record of the oral hearing, and
(5) a statement of the ruling.

This record will be maintained in a file at the Director's office at Division of Health Service Regulation, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701 and will be available for public inspection during regular office hours.

History Note: *Authority G.S. 143B-165; 150B-4;*
Eff. November 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

G.S. 150B-21.3A Report for 10A NCAC 13A, EXECUTIVE COMMITTEE

Agency - Medical Care Commission

Comment Period -

Date Submitted to APO - Filled in by RRC staff

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]
SUBCHAPTER 13A – EXECUTIVE COMMITTEE	**SECTION .0100 – EXECUTIVE COMMITTEE**	10A NCAC 13A .0101	EXECUTIVE COMMITTEE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .0200 - RULEMAKING	10A NCAC 13A .0201	PETITIONS	Amended Eff. October 1, 2023	Necessary	No
		10A NCAC 13A .0202	RULEMAKING PROCEDURES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13A .0203	DECLARATORY RULINGS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No

SECTION .2000 – GENERAL INFORMATION

10A NCAC 13D .2001 DEFINITIONS

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

(1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish.
(2) "Accident" means an unplanned event resulting in the injury or wounding of a patient or other individual.
(3) "Addition" means an extension or increase in floor area or height of a building.
(4) "Administrator" as defined in G.S. 90-276(4).
(5) "Alteration" means any construction or renovation to an existing structure other than repair, maintenance, or addition.
(6) "Brain injury long term care" means an interdisciplinary, intensive maintenance program for patients who have incurred brain damage caused by external physical trauma and who have completed a primary course of rehabilitative treatment and have reached a point of no gain or progress for more than three consecutive months. Brain injury long term care is provided through a medically supervised interdisciplinary process and is directed toward maintaining the individual at the optimal level of physical, cognitive, and behavioral functions.
(7) "Capacity" means the maximum number of patient or resident beds for which the facility is licensed to maintain at any given time.
(8) "Combination facility" means a combination home as defined in G.S. 131E-101.
(9) "Comprehensive, inpatient rehabilitation program" means a program for the treatment of persons with functional limitations or chronic disabling conditions who have the potential to achieve a significant improvement in activities of daily living, including bathing, dressing, grooming, transferring, eating, and using speech, language, or other communication systems. A comprehensive, inpatient rehabilitation program utilizes a coordinated and integrated, interdisciplinary approach, directed by a physician, to assess patient needs and to provide treatment and evaluation of physical, psychosocial, and cognitive deficits.
(10) "Department" means the North Carolina Department of Health and Human Services.
(11) "Director of nursing" means a registered nurse who has authority and responsibility for all nursing services and nursing care.
(12) "Discharge" means a physical relocation of a patient to another health care setting; the discharge of a patient to his or her home; or the relocation of a patient from a nursing bed to an adult care home bed, or from an adult care home bed to a nursing bed.
(13) "Existing facility" means a facility currently licensed and built prior to the effective date of this Rule.
(14) "Facility" means a nursing facility or combination facility as defined in this Rule.
(15) "Incident" means any accident, event, or occurrence that is unplanned, or unusual, and has caused harm to a patient, or has the potential for harm.
(16) "Inpatient rehabilitation facility or unit" means a free-standing facility or a unit (unit pertains to contiguous dedicated beds and spaces) within an existing licensed health service facility approved in accordance with G.S. 131E, Article 9 to establish inpatient, rehabilitation beds and to provide a comprehensive, inpatient rehabilitation program.
(17) "Interdisciplinary" means an integrated process involving representatives from disciplines of the health care team.
(18) "Licensee" means the person, firm, partnership, association, corporation, or organization to whom a license to operate the facility has been issued. The licensee is the legal entity that is responsible for the operation of the business.
(19) "Medication error rate" means the measure of discrepancies between medication that was ordered for a patient by the health care provider and medication that is administered to the patient. The medication error rate is calculated by dividing the number of errors observed by the surveyor by the opportunities for error, multiplied times 100.
(20) "Misappropriation of property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a patient's belongings or money without the patient's consent.

(21) "Neglect" means a failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.
(22) "New facility" means a facility for which an initial license is sought, a proposed addition to an existing facility, or a proposed remodeled portion of an existing facility that will be built according to construction documents and specifications approved by the Department for compliance with the standards established in Sections .3100, .3200, and .3400 of this Subchapter.
(23) "Nurse Aide" means a person who is listed on the N.C. Nurse Aide Registry and provides nursing or nursing-related services to patients in a nursing home. A nurse aide is not a licensed health professional. Nursing homes that participate in Medicare or Medicaid shall comply with 42 CFR 483.35, which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at https://www.ecfr.gov.
(24) "Nursing facility" means a nursing home as defined in G.S. 131E-101.
(25) "Patient" means any person admitted for nursing care.
(26) "Remodeling" means alterations, renovations, rehabilitation work, repairs to structural systems, and replacement of building systems at a nursing or combination facility.
(27) "Repair" means reconstruction or renewal of any part of an existing building for the purpose of its maintenance.
(28) "Resident" means any person admitted for care to an adult care home part of a combination facility.
(29) "Respite care" means services provided for a patient on a temporary basis, not to exceed 30 days.
(30) "Surveyor" means a representative of the Department who inspects nursing facilities and combination facilities to determine compliance with rules, laws, and regulations as set forth in G.S. 131E-117; Subchapters 13D and 13F of this Chapter; and 42 CFR Part 483, Requirements for States and Long Term Care Facilities.
(31) "Violation" means a failure to comply with rules, laws, and regulations as set forth in G.S. 131E-117 and 131D–21; Subchapters 13D and 13F of this Chapter; or 42 CFR Part 483, Requirements for States and Long Term Care Facilities, that relates to a patient's or resident's health, safety, or welfare, or that creates a risk that death, or physical harm may occur.

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

SECTION .2100 - LICENSURE

10A NCAC 13D .2101 APPLICATION REQUIREMENTS

(a) A legal entity shall submit an application for licensure for a new facility to the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation at least 30 days prior to a license being issued or patients admitted.

(b) The application shall contain the following:

(1) legal identity of applicant (licensee) and mailing address;
(2) name or names under which the facility is presented to the public;
(3) location and mailing address of facility;
(4) ownership disclosure;
(5) bed complement;
(6) magnitude and scope of services offered;
(7) name and current license number of the administrator;
(8) name and current license number of the director of nursing; and
(9) name and current license number of the medical director.

History Note: *Authority G.S. 131E-104; 131E-102;*
Eff. January 1, 1996;
Amended Eff. July 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2102 ISSUANCE OF LICENSE

(a) Only one license shall be issued to each facility. The Department shall issue a license to the licensee of the facility following review of operational policies and procedures and verification of compliance with applicable laws and rules.

(b) Licenses are not transferable.

(c) The bed capacity and services provided in a facility shall be in compliance with G.S. 131E, Article 9 regarding Certificate of Need.

(d) The license shall be posted in a prominent location, accessible to public view, within the licensed premises.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2103 LENGTH OF LICENSURE

Licenses shall remain in effect up to 12 months, unless any of the following occurs:

(1) Department imposes an administrative sanction which specifies license expiration;
(2) closure;
(3) change of ownership;
(4) change of site;
(5) change in bed complement; or
(6) failure to comply with Rule .2104 of this Section.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2104 REQUIREMENTS FOR LICENSURE RENEWAL OR CHANGES

(a) The Department shall renew the facility's license at the end of each calendar year, if the following occur:

(1) The licensee maintains and submits to the Department, at least 30 days prior to the licensure expiration date, statistical data for the State's medical facilities plan and review for certificate of need determination. The Department shall provide forms annually to the facility for this purpose.

(2) The facility is in conformance with G.S. 131E-102(c).

(3) The combination facility shall specify on the annual license renewal application with which rules for the adult care home beds it plans to comply for the upcoming calendar year. The rule selection shall be effective for the duration of the renewed licensed year. The facility may choose one of the following:

(A) nursing home licensure rules under this Subchapter;

(B) adult care home licensure rules under 10A NCAC 13F; or

(C) a combination of nursing home and adult care home licensure rules. The facility shall identify in writing the specific rule governing compliance with the adult care home rules and shall identify in writing the specific requirements governing compliance with the nursing home rules.

(b) The facility shall notify the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation in writing and make changes in the licensure application at least 30 days prior to the occurrence of the following:

(1) a change in the name or names under which the facility is presented to the public;

(2) a change in the legal identity (licensee) which has ownership responsibility and liability (such information shall be submitted by the proposed new owner);

(3) a change in the licensed bed capacity; or

(4) a change in the location of the facility.

The Department shall issue a new license following notification and verification of data submitted.

(c) The facility shall notify the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation within one working day following the occurrence of:

(1) change in administration;

(2) change in the director of nursing;

(3) change in facility mailing address or telephone number;

(4) changes in magnitude or scope of services; or

(5) emergencies or situations requiring relocation of patients to a temporary location away from the facility.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Amended Eff. September 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2105 TEMPORARY CHANGE IN BED CAPACITY

(a) A continuing care retirement community, having an agreement to care for all residents regardless of level of care needs, may temporarily increase bed capacity by 10 percent or 10 beds, whichever is less, over the licensed bed capacity for a period up to 60 days following notification to and approval by the Division of Health Service Regulation.

(b) In an emergency situation, such as a natural disaster, a facility may exceed its licensed capacity as determined by its disaster plan and as authorized by the Division of Health Service Regulation. Emergency authorizations shall not exceed 60 days.

(c) The Division shall authorize, in writing, a temporary increase in licensed beds in accordance with Paragraphs (a) and (b) of this Rule, if it is determined that:

(1) the increase is not associated with a capital expenditure; and

(2) the increase would not jeopardize the health, safety and welfare of the patients.

History Note: Authority G.S. 131E-104; 131E-112;
Eff. January 1, 1996;
Amended Eff. March 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2106 DENIAL, AMENDMENT, OR REVOCATION OF LICENSE

(a) The Department shall deny any licensure application upon becoming aware that the applicant is not in compliance with G.S. 131E, Article 9 and the rules adopted under that law.

(b) The Department may amend a license by reducing it from a full license to a provisional license whenever the Department finds that:

(1) the licensee has substantially failed to comply with the provisions of G.S. 131E, Article 6 and the rules promulgated under that article; and

(2) there is continued non-compliance after the third revisit.

(c) The Department shall give the licensee written notice of the amendment to the license. This notice shall be given personally or by certified mail and shall set forth:

(1) the length of the provisional license;

(2) a reference to the statement of deficiencies that contains the facts;

(3) the statutes or rules alleged to be violated; and

(4) notice of the facility's right to a contested case hearing on the amendment of the license.

(d) The provisional license shall be effective as specified in the notice and shall be posted in a location within the facility, accessible to public view, in lieu of the full license. The provisional license shall remain in effect until:

(1) the Department restores the licensee to full licensure status; or

(2) the Department revokes the licensee's license.

(e) The Department may revoke a license whenever:

(1) The Department finds that:

(A) the licensee has substantially failed to comply with the provisions of G.S. 131E, Article 6 and the rules promulgated under that article; and

(B) there continues to be non-compliance at the third revisit; or

(2) The Department finds that there has been any failure to comply with the provisions of G.S. 131E, Article 6 and the rules promulgated under that article that endanger the health, safety or welfare of the patients in the facility.

(f) The issuance of a provisional license is not a procedural prerequisite to the revocation of a license pursuant to Paragraph (e) of this Rule.

(g) The Department may, in accordance with G.S. 131E-232, petition to have a temporary manager appointed to operate a facility.

History Note: Authority G.S. 131E-104;
Eff. January 1, 1996;
Amended Eff. January 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2107 SUSPENSION OF ADMISSIONS

(a) The Department may suspend the admission of new patients to a facility when warranted under the provisions of G.S. 131E-109(c).

(b) The Department shall notify the facility personally or by certified mail of the decision to suspend admissions. Such notice shall include:

(1) a reference to the statement of deficiencies that contains the facts;
(2) citation of statutes and rules alleged to be violated; and
(3) notice of the facility's right to a contested case hearing on the suspension.

(c) The suspension is effective on the date specified in the notice of suspension. The suspension shall remain effective until the facility demonstrates to the Department that conditions are no longer detrimental to the health and safety of the patients.

(d) The facility shall not admit new patients during the effective period of the suspension.

(e) Patients requiring hospitalization during the period of suspension of admissions shall be readmitted after hospitalization or on return from temporary care to the facility based on the availability of a bed and the ability of the facility to provide necessary care. Upon return from the hospital, the requirements of G.S. 131E-130 apply.

History Note: Authority G.S. 131E-104;
Eff. January 1, 1996;
Amended Eff. January 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2108 PROCEDURE FOR APPEAL

(a) The facility may appeal any decision of the Department to deny, revoke or alter a license or any decision to suspend admissions by making such an appeal in accordance with G.S. 150B and 10A NCAC 01.

(b) A decision to issue a provisional license is stayed during the pendency of an administrative appeal and the licensee may continue to display full license during the appeal.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2109 INSPECTIONS

(a) The facility shall allow inspection by an authorized representative of the Department at any time.
(b) At the time of inspection, any authorized representative of the Department shall make his or her presence known to the administrator or other person in charge who shall cooperate with the representative and facilitate the inspection.
(c) Inspections of medical records will be carried out in accordance with G.S. 131E-105.
(d) The administrator shall provide and make available to representatives of the Department financial and statistical records required to verify compliance with all rules contained in this Subchapter.
(e) The Department shall mail a written report to the facility within 10 working days from the date of the licensure survey or complaint investigation exit conference. The report shall include statements of any deficiencies or violations cited during the survey or investigation.
(f) The administrator shall prepare a written plan of correction and mail it to the Department within 10 working days following receipt of any statement of deficiencies or violations. The Department shall review and accept or reject the plan of correction, with written notice given to the administrator within 10 working days following receipt of the plan.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .2200 - GENERAL STANDARDS OF ADMINISTRATION

10A NCAC 13D .2201 ADMINISTRATOR

(a) A facility shall be under the control of an administrator licensed by the North Carolina State Board of Examiners for Nursing Home Administrators.
(b) If an administrator is not the sole owner of a facility, his or her authority and responsibility shall be defined in a written agreement or in the facility's governing bylaws.
(c) The administrator shall be responsible for the operation of a facility.
(d) The administrator shall comply with the rules of this Subchapter.
(e) The administrator shall be responsible for developing and implementing policies for the management and operation of the facility as set forth in 21 NCAC 37B .0204, which is incorporated herein by reference including subsequent amendments and editions. These rules may be accessed free of charge at http://reports.oah.state.nc.us/ncac.asp.
(f) In the physical absence of the administrator, a person shall be on-site who is designated to be in charge of the facility operation.

History Note: *Authority G.S. 131E-104; 131E-116;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015;
Amended Eff. January 1, 2018.

10A NCAC 13D .2202 ADMISSIONS

(a) No patient shall be admitted except by a physician. Admission shall be in accordance with facility policies and procedures.

(b) The facility shall acquire, prior to or at the time of admission, orders for the immediate care of the patient from the admitting physician.

(c) Within 48 hours of admission, the facility shall acquire medical information which shall include current medical findings, diagnoses, and other information necessary to formalize the initial plan of care.

(d) Only persons who are 18 years of age or older shall be admitted to the adult care home portion of a combination facility.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Amended Eff. January 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2203 PATIENTS NOT TO BE ADMITTED

(a) Patients who require health, habilitative or rehabilitative care beyond those for which the facility is licensed and is capable of providing shall not be admitted to the licensed nursing home.

(b) No person requiring continuous nursing care shall be admitted to an adult care home bed in a combination facility, except under emergency situations as described in Rule .2105 of this Subchapter. Should an existing resident of an adult care home bed require continuous nursing care, the facility shall either discharge the resident or provide the next available nursing facility bed (that is not needed to comply with G.S. 131E-130) to the resident to ensure continuity of care and to prevent unnecessary discharge from the facility.

(c) During the resident's stay in the adult care section of the combination facility, the facility shall ensure that necessary nursing services are provided. Should the facility be unable to provide necessary services the resident requires, whether in the adult care or nursing section, the facility shall follow discharge procedures according to Rule .2205 of this Subchapter.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Amended Eff. January 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2204 RESPITE CARE

(a) Respite care is not required as a condition of licensure. Facilities providing respite care, however, shall meet the requirements of this Subchapter with the following exceptions: Rules .2205, .2301, and .2501(b) and (c) of this Subchapter.

(b) Facilities providing respite care shall meet the following additional requirements:

(1) A patient's descriptive record of stay shall include the preadmission or admission assessment, interdisciplinary notes as warranted by episodic events, medication administration records and a summary of the stay upon discharge.

(2) The facility shall complete a preadmission or admission assessment which allows for the development of a short-term plan of care and is based on the patient's customary routine. The assessment shall address needs, including but not limited to identifying information, customary routines, hearing, vision, cognitive ability, functional limitations, continence, special procedures and treatments, skin conditions, behavior and mood, oral and nutritional status and medication regimen. The plan shall be developed to meet the respite care patient's needs.

(3) The attending physician of the respite care patient will be notified of any acute changes or acute episode which warrant medical involvement. Medical orders and progress notes shall be written following the physician's visits.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2205 DISCHARGE OF PATIENTS

(a) The facility shall ensure a medical order for discharge is obtained for all patients except when a patient leaves against medical advice or is discharged for non-payment.

(b) The facility shall ensure discharge planning is accomplished according to each patient's needs when a discharge is anticipated.

(c) The facility shall ensure the patient or the legal representative is informed and included in the discharge planning process.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2206 MEDICAL DIRECTOR
(a) The facility shall designate a physician to serve as medical director.
(b) The medical director shall be responsible for implementation of patient care policies and coordination of medical care in the facility.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2207 PATIENT RIGHTS

(a) The facility shall enforce the Nursing Facility Patient's Bill of Rights as described in G.S. 131E-115 through G.S. 131E-127.

(b) In matters of patient abuse, neglect or misappropriation the definitions shall have the meaning defined in Rule .2001 of this Subchapter.

History Note: *Authority G.S. 131E-104; 131E-131;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2208 SAFETY

(a) The facility shall have detailed written plans and procedures to meet potential emergencies and disasters, including but not limited to fire, severe weather and missing patients or residents.

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

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

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

(e) The facility shall ensure that:

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

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

History Note: Authority G.S. 131E-104;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2209 INFECTION CONTROL

(a) A facility shall establish and maintain an infection control program for the purpose of providing a safe, clean and comfortable environment and preventing the transmission of diseases and infection.

(b) Under the infection control program, the facility shall decide what procedures, such as isolation techniques, are needed for individual patients, investigate episodes of infection and attempt to control and prevent infections in the facility.

(c) The facility shall maintain records of infections and of the corrective actions taken.

(d) The facility shall ensure communicable disease testing as required by 10A NCAC 41A, "Communicable Disease Control" which is incorporated by reference, including subsequent amendments. Copies of these Rules may be obtained at no charge by contacting the N.C. Department of Health and Human Services, Division of Public Health, Tuberculosis Control Branch, 1902 Mail Service Center, Raleigh, North Carolina 27699-1902. Screening shall be done upon admission of all patients being admitted from settings other than hospitals, nursing facilities or combination facilities. Staff shall be screened within seven days of the hire date. The facility shall ensure tuberculosis screening annually thereafter for patients and staff.

(e) All cases of reportable disease as defined by 10A NCAC 41A "Communicable Disease Control" and outbreaks consisting of two or more linked cases of disease transmission shall be reported to the local health department.

(f) The facility shall use isolation precautions for any patient deemed appropriate by its infection control program and as recommended by the following Centers for Disease Control guidelines, Management of Multidrug-Resistant Organisms In Healthcare Settings, 2006, http://www.cdc.gov/ncidod/dhqp/pdf/ar/MDROGuideline2006.pdf and 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, http://www.cdc.gov/hicpac/2007ip/2007isolationprecautions.html.

(g) The facility shall prohibit any employee with a communicable disease or infected skin lesion from direct contact with patients or their food, if direct contact is the mode of transmission of the disease.

(h) The facility shall require all staff to use hand washing technique as indicated in the Centers for Disease Control, "Guideline for Hand Hygiene in Health-Care Settings, Recommendations of the Healthcare Infection Control Practices Advisory Committee and the HICPAC/SHEA/APIC/IDSA Hand Hygiene Task Force". This information can be accessed at http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5116a1.htm.

(i) All linen shall be handled, store, processed and transported so as to prevent the spread of infection.

History Note: *Authority G.S. 131E-104; 131E-113;*
Eff. January 1, 1996;
Amended Eff. July 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2210 REPORTING AND INVESTIGATING ABUSE, NEGLECT OR MISAPPROPRIATION

(a) A facility shall take measures to prevent patient abuse, patient neglect, or misappropriation of patient property, including orientation and instruction of facility staff on patients' rights and the screening of and requesting of references for all prospective employees.
(b) A facility shall ensure that the Division of Health Service Regulation is notified within 24 hours of the facility's becoming aware of any allegation against health care personnel of any act listed in G.S. 131E-256(a)(1).
(c) A facility shall investigate allegations of any act listed in G.S. 131E-256(a)(1), shall document all information pertaining to such investigation, and shall take the necessary steps to prevent further incidents while the investigation is in progress.
(d) A facility shall ensure that the report of investigation is printed or typed and sent to the Division of Health Service Regulation within five working days of the allegation. The report shall include:

(1) the date and time of the alleged incident;
(2) the patient's full name and room number;
(3) details of the allegation and any injury;
(4) names of the accused and any witnesses;
(5) names of the facility staff who investigated the allegation;
(6) results of the investigation; and
(7) any corrective action that was taken by the facility.

History Note: *Authority G.S. 131E-104; 131E-131; 131E-255; 131E-256;*
Eff. January 1, 1996;
Amended Eff. July 1, 2014; February 1, 2013; August 1, 2008; October 1, 1998;
Readopted Eff. July 1, 2016.

10A NCAC 13D .2211 PERSONNEL STANDARDS

(a) The facility shall employ the types and numbers of qualified staff, professional and non-professional, necessary to provide for the health, safety and proper care of patients.

(b) Each employee shall be assigned duties consistent with his or her job description and with his or her level of education and training.

(c) Professional staff shall be licensed, certified or registered in accordance with applicable state laws.

(d) The facility shall provide orientation regarding facility policies and procedures for all staff upon employment.

(e) The facility shall train all staff periodically in accordance with their job duties.

(f) The facility shall maintain an individual personnel record for each employee, including verification of credentials.

(g) The facility shall have a written agreement with any nursing personnel agency providing staff to the facility and shall orient agency staff as to facility policies and procedures.

History Note: *Authority G.S.131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2212 QUALITY ASSURANCE COMMITTEE

(a) The administrator shall establish a quality assessment and assurance committee that consists of the director of nursing, a physician designated by the facility, a pharmacist and at least three other staff members.
(b) The committee shall meet at least quarterly.
(c) The committee shall develop and implement appropriate plans of action which will correct identified quality care problems.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .2300 - PATIENT AND RESIDENT CARE AND SERVICES

10A NCAC 13D .2301 PATIENT ASSESSMENT AND PLAN OF CARE

(a) At the time each patient is admitted, the facility shall ensure medical orders are available for the patient's immediate care and that, within 24 hours, a nursing assessment of immediate needs is completed by a registered nurse and measures implemented as appropriate.

(b) The facility shall perform, within 14 days of admission and at least annually, a comprehensive, accurate, documented assessment of each patient's capability to perform daily life functions. This comprehensive assessment shall be coordinated by a registered nurse and shall include at least the following:

- (1) current medical diagnoses;
- (2) medical status measurements, including current cognitive status, stability of current conditions and diseases, vital signs, and abnormal lab values and diagnostic tests that are a part of the medical history;
- (3) the patient's ability to perform activities of daily living, including the need for staff assistance and assistive devices, and the patient's ability to make decisions;
- (4) presence of neurological or muscular deficits;
- (5) nutritional status measurements and requirements, including but not limited to height, weight, lab work, eating habits and preferences, and any dietary restrictions;
- (6) special care needs, including but not limited to pressure sores, enteral feedings, specialized rehabilitation services or respiratory care;
- (7) indicators of special needs related to patient behavior or mood, interpersonal relationships and other psychosocial needs;
- (8) facility's expectation of discharging the patient within the three months following admission;
- (9) condition of teeth and gums, and need and use of dentures or other dental appliances;
- (10) patient's ability and desire to take part in activities, including an assessment of the patient's normal routine and lifetime preferences;
- (11) patient's ability to improve in functional abilities through restorative care;
- (12) presence of visual, hearing or other sensory deficits; and
- (13) drug therapy.

(c) The facility shall develop a comprehensive plan of care for each patient and shall include measurable objectives and timetables to meet needs identified in the comprehensive assessment. The facility shall ensure the comprehensive plan of care is developed within seven days of completion of the comprehensive assessment by an interdisciplinary team. To the extent practicable, preparation of the comprehensive plan of care shall include the participation of the patient and the patient's family or legal representative. The physician may participate by alternative methods, including, but not limited to, telephone or face-to-face discussion, or written notice.

(d) The facility shall review comprehensive assessments and plans of care no less frequently than once every 90 days and make necessary revisions to ensure accuracy.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Amended Eff. February 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2302 NURSING SERVICES

(a) The facility shall designate a registered nurse to serve as the director of nursing on a full-time basis.
(b) The director of nursing shall be responsible for the administering of nursing services.
(c) The director of nursing may serve also as nurse-in-charge, only if the average daily occupancy is less than 60.
(d) The director of nursing shall not serve as administrator, assistant administrator or acting administrator during an employment vacancy in the administrator position.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2303 NURSE STAFFING REQUIREMENTS

(a) A facility shall provide licensed nursing staff sufficient to accomplish the following:

(1) patient needs assessment;

(2) patient care planning; and

(3) supervisory functions in accordance with the levels of patient care advertised or offered by the facility.

(b) A facility must have sufficient nursing staff to provide nursing and related services to attain or maintain the physical, mental, and psychosocial well-being of each patient, as determined by patient assessments and individual plans of care.

(c) A multi-storied facility shall have at least one nurse aide on duty on each patient care floor at all times.

(d) Except for designated units with higher staffing requirements noted elsewhere in this Subchapter, daily direct patient care nursing staff, licensed and unlicensed, shall include:

(1) at least one licensed nurse on duty for direct patient care at all times; and

(2) a registered nurse for at least eight consecutive hours a day, seven days a week. This coverage may be spread over more than one shift if such a need exists. The director of nursing may be counted as meeting the requirements for both the director of nursing and patient staffing for facilities with a total census of 60 nursing beds or less.

History Note: *Authority G.S. 131E-104; 131E-114.1;*
Eff. January 1, 1996;
Amended Eff. January 1, 2013;
Readopted Eff. July 1, 2016.

10A NCAC 13D .2304 NURSE AIDES

(a) A facility shall employ or contract individuals as nurse aides in compliance with N.C. General Statute 131E, Article 15 and facilities certified for Medicare or Medicaid participation shall also comply with 42 CFR Part 483 which is incorporated by reference, including subsequent amendments. The Code of Federal Regulations may be accessed at http://www.access.gpo.gov/nara/cfr/waisidx_08/42cfr483_08.

(b) A facility shall provide to the Department, upon request, verification of in-service training and of past or present employment of any nurse aide employed by the facility.

History Note: Authority G.S. 131E-104; 131E-255; 143B-165; 42 U.S.C. 1395; 42 U.S.C. 1396;
Eff. January 1, 1996;
Amended Eff. July 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2305 QUALITY OF CARE

(a) The facility shall provide necessary care and services in accordance with medical orders, the patient's comprehensive assessment and on-going plan of care.

(b) Acute changes in the patient's physical, mental or psychosocial status shall be evaluated and reported to the physician or other persons legally authorized to perform medical acts.

(c) The facility shall not utilize any chemical or physical restraints for the purpose of discipline or convenience, and that are not required to treat the patient's medical condition. An evaluation shall be done to ensure that the least restrictive means of restraint have been initiated on patients requiring restraints.

(d) The facility shall ensure that all patients who are unable to perform activities of daily living receive the necessary assistance to maintain good grooming, and oral and personal hygiene. The facility shall ensure appropriate measures are taken to restore the patient's ability to bathe, dress, groom, transfer and ambulate, toilet and eat.

(e) The facility shall ensure measures are taken to prevent the formation of pressure sores and to promote healing of existing pressure sores. The facility shall ensure that patients with limited mobility receive appropriate care to promote comfort and maintain skin integrity.

(f) The facility shall ensure that in-dwelling catheters are not used unless the patient's clinical condition necessitates their use. The facility shall ensure incontinent patients receive appropriate treatment to prevent infections and to regain continence to the degree possible.

(g) The facility shall ensure that patients with limited range of motion, or who are at risk for loss of range of motion, receive treatment services to prevent development of contractures or deformities, and to obtain and maintain their optimal level of functioning.

(h) The facility shall ensure that patients who are unable to feed themselves receive the appropriate assistance, retraining and assistive devices when needed.

(i) The facility shall ensure that enteral feeding tubes are used only when the patient's condition indicates the use of an enteral feeding tube is unavoidable.

(j) The facility shall ensure that patients fed by enteral feeding tubes receive the proper treatment to avoid aspiration pneumonia, metabolic and gastrointestinal problems, and to restore the patient to the highest practicable level of normal feeding function. The facility shall ensure appropriate care and services are provided to address needs related to hydration and nutrition.

(k) The facility shall ensure that patients requiring special respiratory care receive appropriate services.

(l) The facility shall ensure that patients are assisted to utilize personal visual lenses, hearing aids and dentures.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2306 MEDICATION ADMINISTRATION

(a) The facility shall ensure that medications are administered in accordance with applicable occupational licensure regulations and manufacturer's recommendations.

(b) The facility shall ensure that each patient's drug regimen is free from drugs used in excessive dose or duplicative therapy, for excessive duration or without indications for the prescription of the drug. Drugs shall not be used without monitoring or in the presence of adverse conditions that indicate the drugs' usage should be modified or discontinued. As used in this Paragraph:

- (1) "Excessive dose" means the total amount of any medication (including duplicate therapy) given at one time or over a period of time that is greater than the amount recommended by the manufacturer for a resident's age and condition.
- (2) "Excessive Duration" means the medication is administered beyond the manufacturer's recommended time frames or facility-established stop order policies or without either evidence of additional therapeutic benefit for the resident or clinical evidence that would warrant the continued use of the medication.
- (3) "Duplicative Therapy" means multiple medications of the same pharmacological class or category or any medication therapy that replicates a particular effect of another medication that the individual is taking.
- (4) "Indications for the prescription" means a documented clinical rationale for administering a medication that is based upon an assessment of the resident's condition and therapeutic goals and is consistent with manufacturer's recommendations.
- (5) "Monitoring" means ongoing collection and analysis of information (such as observations and diagnostic test results) and comparison to baseline data in order to:
  - (A) Ascertain the individual's response to treatment and care, including progress or lack of progress toward a therapeutic goal;
  - (B) Detect any complications or adverse consequences of the condition or of the treatments; and
  - (C) Support decisions about modifying, discontinuing, or continuing any interventions.

(c) Antipsychotic therapy shall not be initiated on any patient unless necessary to treat a clinically diagnosed and clinically documented condition. When antipsychotic therapy is prescribed, unless clinically contraindicated, gradual dose reductions and behavioral interventions shall be employed in an effort to discontinue these drugs. "Gradual dose reduction" means the stepwise tapering of a dose to determine if symptoms, conditions or risks can be managed by a lower dose or if the dose or the medication can be discontinued.

(d) The facility shall ensure that procedures aimed at minimizing medication error rates include the following:

- (1) All medications or drugs and treatments shall be administered and discontinued in accordance with signed medical orders which are recorded in the patient's medical record. Such orders shall be complete and include drug name, strength, quantity to be administered, route of administration, frequency and, if ordered on an as-needed basis, a stated indication for use.
- (2) The requirements for self-administration of medication shall include the following:
  - (A) determination by the interdisciplinary team that this practice is safe;
  - (B) administration ordered by the physician or other person legally authorized to prescribe medications;
  - (C) instructions for administration printed on the medication label; and
  - (D) administration of medication monitored by the nursing staff and consultant pharmacist.
- (3) The administration of one patient's medications to another patient is prohibited except in the case of an emergency. In the event of such emergency, the facility shall ensure that the borrowed medications are replaced and so documented.
- (4) Omission of medications and the reason for omission shall be indicated in the patient's medical record.
- (5) Medication administration records shall provide time of administration, identification of the drug and strength of drug, quantity of drug administered, route of administration, frequency, documentation sufficient to determine the staff who administered the drugs. Medication administration records shall indicate documentation of injection sites and topical medication sites requiring rotation of transdermal medication.
- (6) The pharmacy shall receive an exact copy of each physician's order for medications and treatments.

(7) When medication orders do not state the number of doses or days to administer the medication, the facility shall implement automatic stop orders according to manufacturer's recommendations.

(8) The facility shall maintain an accountability of controlled substances as defined by the North Carolina Controlled Substances Act, G.S. 90, Article 5.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Amended Eff. January 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2307 DENTAL CARE AND SERVICES

(a) The facility shall ensure that routine and emergency dental services are available for all patients.

(b) The facility shall, if necessary, assist the patient in making appointments and obtaining transportation to the dentist's office.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2308 ADULT CARE HOME PERSONNEL REQUIREMENTS

(a) The administrator of a combination home shall designate a person to be in charge of the adult care home residents at all times. The nurse-in-charge of the nursing facility may also serve as supervisor-in-charge of the domiciliary beds.

(b) If adult care home beds are located in a separate building or a separate level of the same building, there shall be a person on duty in the adult care home portion of the facility at all times.

History Note: *Authority G.S. 131E-104;*
RRC Objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Amended Eff. July 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2309 CARDIO-PULMONARY RESUSCITATION

(a) Each facility shall develop and implement a Cardio-Pulmonary Resuscitation (CPR) policy.
(b) The policy shall be communicated to all residents or their responsible party prior to admission.
(c) Upon admission each resident or his or her responsible party must acknowledge in writing having received a copy of the policy.
(d) The policy shall designate an outside emergency medical service provider to be immediately notified whenever an emergency occurs.
(e) The policy shall designate the level of CPR that is available using terminology defined by the American Heart Association. American Heart Association terminology is as follows:

(1) Heartsaver CPR;
(2) Heartsaver Automatic External Defibrillator (AED);
(3) Basic Life Support (BLS); or
(4) Advanced Cardiac Life Support (ACLS).

(f) The facility shall maintain staff on duty 24 hours a day trained by someone with valid certification from the American Heart Association or American Red Cross capable of providing CPR at the level stated in the policy. The facility shall maintain a record in the personnel file of each staff person who has received CPR training.
(g) The facility shall have equipment readily available as required to deliver services stated in the policy.
(h) The facility shall provide training for staff members who are responsible for providing CPR with regards to the location of resources and measures for self- protection while administering CPR.

History Note: *Authority G.S. 131E-104;*
Eff. October 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .2400 - MEDICAL RECORDS

10A NCAC 13D .2401 MAINTENANCE OF MEDICAL RECORDS

(a) The facility shall establish a medical records service. It shall be directed, staffed and equipped to ensure:

(1) records are processed, indexed and filed accurately;

(2) records are stored in such a manner as to provide protection from loss, damage or unauthorized use;

(3) records contain sufficient information to identify the patient plus a record of all assessments; plan of care; pre-admission screening, if applicable; records of implementation of plan of care; progress notes; and record of discharge, including a discharge summary signed by the physician; and

(4) records are readily accessible by authorized personnel.

(b) The facility shall ensure that a master patient index is maintained, listing patients alphabetically by name, dates of admission, dates of discharge and case number.

(c) The administrator shall designate an employee who works full-time to be the medical records manager. The manager shall advise, administer, supervise and perform work involved in the development, analysis, maintenance and use of medical records and reports. If that employee is not qualified by training or experience in medical record science, he or she shall receive consultation from a registered records administrator or an accredited medical record technician to ensure compliance with rules contained in this Subchapter. The facility shall provide orientation, on-the-job training and in-service programs for all medical records personnel.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2402 PRESERVATION OF MEDICAL RECORDS

(a) A facility shall keep medical records on file for five years following the discharge of an adult patient.
(b) Not withstanding Paragraph (c) of this Rule, if the patient is a minor when discharged from the nursing facility, the records shall be kept on file until his or her 19th birthday and for the additional time specified in G.S. 1-17(b) for commencement of an action on behalf of a minor.
(c) If a facility discontinues operation, the licensee shall inform the Division of Health Service Regulation where its records are stored. For five years after a facility discontinues operations, records shall be stored with a business offering medical record storage and retrieval services.
(d) All medical records are confidential. A facility shall comply with 42 CFR Parts 160, 162 and 164 of the Health Insurance Portability and Accountability Act.
(e) At the time of the inspection, a facility shall inform the surveyor of the name of any patient who has denied the Department access to his or her medical record pursuant to G.S. 131E-105.

History Note: *Authority G.S. 131E-104; 131E-105;*
Eff. January 1, 1996.
Amended Eff. November 1, 2014;
Readopted Eff. July 1, 2016.

SECTION .2500 - PHYSICIAN'S SERVICES

10A NCAC 13D .2501 AVAILABILITY OF PHYSICIAN'S SERVICES

(a) The facility shall ensure each patient's care is supervised by a physician and that provisions are made for emergency physicians when attending physicians are unavailable. The names and telephone numbers of the designated physicians shall be posted at each nurse's station.

(b) Patients shall be seen by a physician at least once every 30 days for the first 90 days and at least every 60 days thereafter. Following the initial visit, the physician may delegate this responsibility to a physician assistant or nurse practitioner every other visit. A physician's visit is considered timely if the visit occurs not later than 10 days after the visit was required.

(c) Physicians shall review the patient's medical plan of care, write or dictate and sign progress notes; and sign and date all current orders at each visit.

(d) Medical orders, given orally by the physician, nurse practitioner or physician assistant, shall be given only to a licensed nurse or other licensed professional who by law is allowed to accept physician's orders, except orders for therapeutic diets which shall be given either to a dietitian or licensed nurse. The record of each telephone order shall include the name of physician giving the order, or other person legally authorized to prescribe, date and time of order, content of order and name of person receiving the order. The physician, or other person legally authorized to prescribe, who gives oral orders shall sign the orders within five days.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority and ambiguity Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2502 PRIVATE PHYSICIAN

(a) Each patient or legal representative shall be allowed to select his or her private physician except in those facilities affiliated with medical teaching programs and having written policies requiring all patients to participate in the medical teaching program.

(b) The private physician shall fulfill given requirements as determined by applicable state and federal regulations, and the facility's policies and procedures pertaining to physician services.

(c) The facility shall have the right, after informing the patient, to seek an alternative physician, when requirements are not being met and to ensure that the patient is provided with appropriate, adequate care and treatment.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2503 USE OF NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS

(a) Any facility that employs nurse practitioners or physician assistants shall maintain the following information for each nurse practitioner and physician assistant:

(1) verification of current approval to practice as a nurse practitioner by the Medical Board and Board of Nursing for each practitioner, or verification of current approval to practice as a physician assistant by the Medical Board for each physician assistant; and

(2) a copy of the job description or contract signed by the nurse practitioner or physician assistant and the supervising physicians.

(b) The privileges of the nurse practitioner or physician assistant shall be defined by the facility's policies and procedures, and shall be limited to those privileges authorized in 21 NCAC 36 .0802 and .0809 for the nurse practitioner or 21 NCAC 32S .0212 for the physician assistant.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Amended Eff. November 1, 2014;
Readopted Eff. July 1, 2016.

10A NCAC 13D .2504 LABORATORY AND RADIOLOGY SERVICES

The facility shall provide or obtain clinical laboratory and radiology services to ensure that each patient's needs are met. Such services shall include the following:

(1) provision of laboratory and radiology services within the facility or by contractual agreement;
(2) diagnostic testing to be done only in accordance with a medical order;
(3) reports to be dated once filed in the patient's medical record;
(4) notification of the physician, nurse practitioner or physician assistant regarding findings; and
(5) assistance in arranging transportation for the patient when testing must be done other than in the facility.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2505 BRAIN INJURY LONG-TERM CARE PHYSICIAN SERVICES

(a) For facility patients located in designated brain injury long-term care units, there shall be an attending physician who is responsible for the patient's specialized care program. The intensity of the program requires that there shall be direct patient contact by a physician at least once per week and more often as the patient's condition warrants. Each patient's interdisciplinary, rehabilitation program shall be developed and implemented under the supervision of a physiatrist (a physician trained in physical medicine and rehabilitation) or a physician of equivalent training and experience.

(b) If a physiatrist or physician of equivalent training or experience is not available on a weekly basis to the facility, the facility shall provide for weekly medical management of the patient by another physician. In addition, oversight for the patient's interdisciplinary, long-term care program shall be provided by a qualified consultant physician who visits patients monthly, makes recommendations for and approves the interdisciplinary care plan, and provides consultation as requested to the physician who is managing the patient on a weekly basis.

(c) The attending physician shall actively participate in individual case conference or care planning sessions and shall review and sign discharge summaries and records within 15 days of a patient discharge. When patients are to be discharged to either another health care facility or a residential setting, the attending physician shall ensure that the patient has been provided with a discharge plan which incorporates optimum utilization of community resources and post discharge continuity of care and services.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .2600 - PHARMACEUTICAL SERVICES

10A NCAC 13D .2601 AVAILABILITY OF PHARMACEUTICAL SERVICES

(a) The facility shall provide pharmaceutical services under the supervision of a pharmacist, including procedures that ensure the accurate acquiring, receiving and administering of all drugs and biologicals.

(b) The facility shall be responsible for obtaining drugs, therapeutic nutrients and related products prescribed or ordered by a physician for patients in the facility.

(c) To ensure that drug therapy is rational, safe and effective, a pharmaceutical care assessment shall be conducted in the facility at least every 31 days for each patient. All new admissions shall receive a pharmaceutical care assessment at the time of the pharmacist's next visit or within 31 days, whichever comes first. This assessment shall include at least:

(1) a review of the patient's diagnoses, history and physical, discharge summary, diet, vital signs, current physician's orders, laboratory values, progress notes, interdisciplinary care plans and medication administration records; and

(2) the pharmacist's progress notes in the patient's medical record which reflect the results of this assessment and, if necessary, recommendations for change based on desired drug outcomes.

History Note: *Authority G.S. 131E-104; 131E-117;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2602 PHARMACY PERSONNEL

(a) If the pharmacist is an employee of the facility and performs vending or clinical services, an up-to-date job description and personnel file shall be maintained.

(b) If pharmaceutical vending or clinical services are contracted, there shall be a current written agreement for each service which includes a statement of responsibilities for each party.

(c) The facility shall keep, or be able to make available, a copy of the current license of the pharmacists.

History Note: *Authority G.S. 131E-104; 131E-117;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2603 ADMINISTRATIVE RESPONSIBILITIES

(a) The pharmacist shall report any potential drug therapy irregularities or discrepancies in drug accountability and administration with recommendations for change to the director of nursing and the attending physician. Recommendations shall be communicated to the health care professionals in the facility who have the authority to effect a change. These reports shall be submitted monthly following the pharmacist's pharmaceutical care assessments.

(b) The administrator shall ensure documentation of action taken relative to the pharmacist's reports.

History Note: Authority G.S. 131E-104; 131E-117;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2604 DRUG PROCUREMENT

(a) The facility shall not possess a stock of prescription drugs for general or common use except as permitted by the North Carolina Board of Pharmacy and as follows:

(1) for all intravenous and irrigation solutions in single unit quantities exceeding 49 ml. and related equipment for the use and administration of such;
(2) diagnostic agents;
(3) vaccines;
(4) drugs designated for inclusion in an emergency kit approved by the facility's Quality Assurance Committee;
(5) water for injection; and
(6) normal saline for injection.

(b) Patient Drugs:

(1) The contents of all prescriptions shall be kept in the original container bearing the original label as described in Subparagraph (b)(2) of this Rule.
(2) Except in a 72-hour or less unit dose system, each individual patient's prescription drugs shall be labeled with the following information:
    (A) the name of the patient for whom the drug is intended;
    (B) the most recent date of issue;
    (C) the name of the prescriber;
    (D) the name and concentration of the drug, quantity dispensed, and prescription serial number;
    (E) a statement of generic equivalency which shall be indicated if a brand other than the brand prescribed is dispensed;
    (F) the expiration date, unless dispensed in a single unit or unit dose package;
    (G) auxiliary statements as required of the drug;
    (H) the name, address and telephone number of the dispensing pharmacy; and
    (I) the name of the dispensing pharmacist.

(c) Non-prescription drugs shall be kept in the original container as received from the supplier and shall be labeled with at least:

(1) the name and concentration of the drug, and quantity packaged;
(2) the name of the manufacturer, lot number and expiration date.

History Note: *Authority G.S. 131E-104; 131E-117;*
Eff. January 1, 1996;
Amended Eff. January 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2605 DRUG STORAGE AND DISPOSITION

(a) A facility shall ensure that drug storage areas are clean, secure, well lighted and well ventilated; that room temperature is maintained between 59 degrees F. and 86 degrees F.; and that the following conditions are met:

(1) All drugs shall be maintained under locked security except when under the direct physical supervision of a nurse or pharmacist.

(2) Drugs requiring refrigeration shall be stored in a refrigerator containing a thermometer and capable of maintaining a temperature range of 2 degrees C. to 8 degrees C. (36 degrees F. to 46 degrees F.) Drug containers must be placed in another container separate from non-drug items when stored in a refrigerator.

(3) Drugs intended for topical use, except for ophthalmic, otic and transdermal medications, shall be stored in an area separate from the drugs intended for oral and injectable use.

(4) Drugs that are outdated, discontinued or deteriorated shall be removed from the facility within five days.

(b) Upon discontinuation of a drug or upon discharge of a patient, the remainder of the drug supply shall be disposed of according to the facility's policy. If it is reasonably expected that the patient will return to the facility and that the drug therapy will be resumed, the remaining drug supply may be held for not more than 30 calendar days after the date of discharge or discontinuation.

(c) The disposition of drugs shall be in accordance with written policies and procedures established by the Quality Assurance Committee.

(d) Destruction of controlled substances shall be in compliance with Disposal of Unused Controlled Substances From Nursing Home as described in 10A NCAC 26E .0406, which is hereby incorporated by reference including subsequent amendments. These Rules can be accessed online at http://reports.oah.state.nc.us/ncac.asp.

History Note: *Authority G.S. 131E-104; 131E-117;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Amended Eff. July 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2606 PHARMACEUTICAL RECORDS

(a) A facility shall ensure that accurate records of the receipt, use and disposition of drugs are maintained and readily available.

(b) A facility shall ensure accountability of controlled substances as defined by the Disposal of Unused Controlled Substances From Nursing Home as described in 10A NCAC 26E .0406, which is hereby incorporated by reference including subsequent amendments. These Rules can be accessed online at http://reports.oah.state.nc.us/ncac.asp.

History Note: *Authority G.S. 131E-104; 131E-117;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Amended Eff. July 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2607 EMERGENCY DRUGS

(a) A facility shall maintain a supply of emergency drugs in compliance with 10A NCAC 26E .0408 which is hereby incorporated by reference including subsequent amendments. This Rule can be accessed online at http://reports.oah.state.nc.us/ncac.asp.

(b) Emergency drugs shall be stored in a portable container sealed with an easily breakable closure which cannot be resealed or reused and shall be readily accessible for use.

(c) Emergency drug kits shall be stored in a locked storage cabinet or room out of sight of patients and the general public. If stored in a locked area the kits shall be accessible to all licensed nursing personnel.

(d) All emergency drugs and quantity to be maintained shall be approved by the Quality Assurance Committee as defined in 10A NCAC 13D .2212.

(e) If emergency drug items require refrigerated storage, they shall be stored in a separate sealed container within the medication refrigerator. The container shall be labeled to indicate the emergency status of the enclosed drug and sealed as indicated in Paragraph (b) of this Rule.

(f) An accurate inventory of emergency drugs and supplies shall be maintained with each emergency drug kit.

(g) A facility shall examine the refrigerated and non-refrigerated emergency drug supply at least every 90 days and make any necessary changes at that time.

(h) The facility shall have written policies and procedures which are enforced to ensure that in the event the sealed emergency drug container is opened and contents utilized, steps are taken to replace the items used.

(i) The availability of a controlled substance in an emergency kit shall be in compliance with the North Carolina Controlled Substances Act and Regulations (10A NCAC 26E) which is hereby incorporated by reference including subsequent amendments. These Rules can be accessed online at http://reports.oah.state.nc.us/ncac.asp.

History Note: *Authority G.S. 131E-104; 131E-117;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Amended Eff. July 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .2700 - DIETARY SERVICES

10A NCAC 13D .2701 PROVISION OF NUTRITION AND DIETETIC SERVICES

(a) A facility shall ensure that each patient is provided with a palatable diet that meets his or her daily nutritional and specialized nutritional needs.
(b) The facility shall designate a person to be known as the director of food service who shall be responsible for the facility's dietetic service and for supervision of dietetic service personnel.
(c) Based on a resident's assessment, the nursing home must ensure that a patient maintains nutritional status, such as body weight and protein levels, unless the patient's clinical condition demonstrates that it is not possible.
(d) There shall be sufficient personnel employed to meet the nutritional needs of all patients in the areas of therapeutic diets, food preparation and service, principles of sanitation, and resident's preferences as related to food services.
(e) The facility shall ensure that menus are followed which meet the nutritional needs of patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences which are incorporated by reference, including subsequent amendments. Copies of this publication may be obtained by contacting The National Academy Press, 500 Fifth St. N.W., Washington, D.C. 20001 or accessing it at http://www.nap.edu/catalog.php?record_id=1349. Menus shall:

(1) be planned at least 14 days in advance,
(2) provide for substitutes of similar nutritive value for patients who refuse food that is served, and
(3) be provided to patients orally or written through such methods as posting and daily announcements.

(f) Food must be prepared to conserve its nutritive value and appearance.
(g) Food shall be served at the preferred temperature as discerned by the resident and customary practice, in a form to meet the patient's individual needs and with assistive devices as dictated by the patient's needs. Hot foods shall leave the kitchen (or steam table) above 135 degrees F; and cold foods below 41 degrees F. The freezer must keep frozen foods frozen solid.
(h) If patients require assistance in eating, food shall be maintained at the appropriate temperature until assistance is provided.
(i) All diets, including enteral and parenteral nutrition therapy, shall be as ordered by the physician or other legally authorized person, and served as ordered.
(j) At least three meals shall be served daily to all patients in accordance with medical orders.
(k) No more than 14 hours shall elapse between an evening meal containing a protein food and a morning meal containing a protein food.
(l) Hour-of-sleep (hs) nourishment shall be available to patients upon request or in accordance with nutritional plans.
(m) Between-meal fluids for hydration shall be available and offered to all patients in accordance with medical orders.
(n) The facility shall have a current online or hard copy nutrition care manual or handbook approved by the dietitian, medical staff and the Administrator which shall be used in the planning of the regular and therapeutic diets and be accessible to all staff.
(o) Food services shall comply with Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments (15A NCAC 18A .1300) as promulgated by the Commission for Public Health which are incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving of food under sanitary conditions. Copies of these Rules can be accessed online at http://www.deh.enr.state.nc.us/rules.htm.

History Note: *Authority G.S. 90-368(4); 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Amended Eff. August 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .2800 - ACTIVITIES, RECREATION AND SOCIAL SERVICES

10A NCAC 13D .2801 ACTIVITY SERVICES

(a) The facility shall provide a program of activities that is on-going and in accordance with the comprehensive assessment, and that promotes the interests, as well as physical, mental and psychosocial well-being, of each patient.

(b) The administrator shall designate an activities director who shall be responsible for activity and recreational services for all patients and who shall have appropriate management authority. The director shall:

(1) be a recreation therapist or be eligible for certification as a therapeutic recreation specialist by a recognized accrediting body; or

(2) have two years of experience in a social or recreation program within the last five years, one of which was full-time in a patient activities program in a health care setting; or

(3) be an occupational therapist or occupational therapy assistant; or

(4) be certified by the National Certification Council for Activity Professionals; or

(5) have completed an activities training course approved by the State.

History Note: *Authority G.S. 131E-104; 143B-165(10); 42 C.F.R. 483.15(f);*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2802 SOCIAL SERVICES

(a) The facility shall provide medically-related social services to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident.

(b) The administrator shall designate an employee to be responsible full-time for social services.

(c) A facility with more than 120 nursing beds shall employ on a full time basis, a social worker who has:

(1) a Bachelors' degree in social work or a Bachelors' degree in human services field, including but not limited to sociology special education, rehabilitation counseling and psychology; and

(2) one year of supervised social work experience in a health care setting working directly with patients.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .2900 - SPECIAL REQUIREMENTS

10A NCAC 13D .2901 REPORT OF DEATH

The facility shall have a written plan to be followed in case of patient death. The plan shall provide for the following:

(1) collection of data needed for the death certificate as required by G.S. 130A-117;
(2) recording time of death;
(3) pronouncement of death in accordance with facility policy;
(4) notification of the attending physician responsible for signing the death certificate;
(5) documented notification of next of kin or legal guardian;
(6) authorization and release of the body to a funeral home.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .2902 PETS

When facility policies permit pets in the facility, the following conditions shall be met:

(1) The facility policy shall not be in violation of any local health ordinances regarding pet health and control.

(2) Pets shall not be permitted to enter areas where food is being prepared.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3003 VENTILATOR ASSISTED CARE

(a) For the purpose of this Rule, ventilator assisted individuals, means as defined in the federal State Operations Manual, Appendix PP – Guidance to Surveyors for Long Term Care Facilities, herein incorporated by reference including subsequent amendments and editions. Copies of the State Operations Manual may be accessed free of charge online at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf.

(b) Facilities having patients who are ventilator assisted individuals shall:

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

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

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

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

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

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

(D) participate in individual care planning.

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

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015;
Amended Eff. January 1, 2021.

10A NCAC 13D .3004 BRAIN INJURY LONG-TERM CARE

(a) The general requirements in this Subchapter shall apply when applicable, but brain injury long term care units shall meet the supplement requirements in Rules .3004 and .3005 of this Section. The facility shall provide services through a medically supervised interdisciplinary process as provided in Rule .2505 of this Subchapter and that are directed toward maintaining the individual at the optimal level of physical, cognitive and behavioral functioning. Following are the minimum requirements for specific services that may be necessary to maintain the individual at optimum level:

(1) Overall supervisory responsibility for brain injury long term care services shall be assigned to a registered nurse with one year experience in caring for brain injured patients.

(2) Physical therapy shall be provided by a physical therapist with a current valid North Carolina license. Occupational therapy shall be provided by an occupational therapist with a current valid North Carolina License. The services of a physical therapist and occupational therapist shall be combined to provide one full-time equivalent position for each 20 patients. The assistance of a physical therapy aide and occupational therapy aide, with appropriate supervision, shall be combined to provide one full-time equivalent position for each 20 patients. A proportionate number of hours shall be provided for a census less than 20 patients.

(3) Clinical nutrition services shall be provided by a dietitian with two years clinical training and experience in nutrition. The number of hours of clinical nutrition services on either a full-time or part-time employment or contract basis shall be adequate to meet the needs of the patients. Each patient's nutrition needs shall be reviewed at least monthly. Clinical nutrition services shall include:

(A) Assessing the appropriateness of the ordered diet for conformance with each patient's physiological and pharmacological condition.

(B) Evaluating each patient's laboratory data in relation to nutritional status and hydration.

(C) Applying technical knowledge of feeding tubes, pumps and equipment to each patient's specialized needs.

(4) Clinical social work shall be provided by a social worker meeting the requirements of Rule .2802 of this Subchapter.

(5) Recreation therapy, when required, shall be provided on either a full-time or part-time employment or contract basis by a clinician eligible for certification as a therapeutic recreation specialist by the State of North Carolina Therapeutic Recreational Certification Board. The number of hours of therapeutic recreation services shall be adequate to meet the needs of the patients. In event that a qualified specialist is not locally available, alternate treatment modalities shall be developed by the occupational therapist and reviewed by the attending physician. The program designed shall be adequate to meet the needs of this specialized population and shall be administered in accordance with Section .3000 of this Subchapter.

(6) Speech therapy, when required, shall be provided by a clinician with a current valid license in speech pathology issued by the State Board of Speech and Language Pathologists and Audiologists.

(7) Respiratory therapy, when required, shall be provided by an individual meeting the same qualifications for providing respiratory therapy under Rule .3003 of this Section.

(b) Each patient's program shall be governed by an interdisciplinary treatment plan incorporating and expanding upon the health plan required under Section .2300 of this Subchapter. The plan is to be initiated on the first day of admission. Upon completion of baseline data development and an integrated interdisciplinary assessment, the initial treatment plan is to be expanded and finalized within 14 days of admission. Through an interdisciplinary process the treatment plan shall be reviewed at least monthly and revised as appropriate. In executing the treatment plan, the interdisciplinary team shall be the major decision making body and shall determine the goals, process, and time frames for accomplishment of each patient's program. Disciplines to be represented on the team shall be medicine, nursing, clinical pharmacy and all other disciplines directly involved in the patient's treatment or treatment plan.

(c) Each patient's overall program shall be assigned to an individually designated case manager. The case manager acts as the coordinator for assigned patients. Any professional staff member involved in a patient's care may be assigned this responsibility for one or more patients. Professional staff may divide this responsibility for all patients on the unit in the best manner to meet all patients' needs for a coordinated, interdisciplinary approach to care. This case manager shall be responsible for:

(1) coordinating the development, implementation and periodic review of the patient's treatment plan;

(2) preparing a monthly summary of the patient's progress;

(3) cultivating the patient's participation in the program;
(4) general supervision of the patient during the course of treatment;
(5) evaluating appropriateness of the treatment plan in relation to the attainment of stated goals; and
(6) assuring that discharge decisions and arrangements for post discharge follow-up are properly made.

(d) For each 20 patients or fraction thereof, dedicated treatment facilities and equipment shall be provided as follows:

(1) a combined therapy space equal to or exceeding 600 square feet, adequately equipped and arranged to support each of the therapies;
(2) access to one full reclining wheel chair per patient;
(3) special physical therapy and occupational therapy equipment for use in fabricating positioning devices for beds and wheelchairs including splints, casts, cushions, wedges, and bolsters; and
(4) roll-in bath facilities with a dressing area available to all patients, providing maximum privacy to the patient.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3005 SPECIAL NURSING REQUIREMENTS FOR BRAIN INJURY LONG-TERM CARE

Direct care nursing personnel staffing ratios established in Rule .2303 of this Subchapter shall not be applied to nursing services for patients who require brain injury long-term care. The minimum direct care nursing staff shall be 5.5 hours per patient day, allocated on a per shift basis as the facility chooses, to appropriately meet the patients' needs. It is also required that regardless of how low the patient census, the direct care nursing staff shall not fall below a registered nurse and a nurse aide I at any time during a 24-hour period.

History Note: Authority G.S. 131E-104;
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3031 ADDITIONAL REQUIREMENTS FOR SPINAL CORD INJURY PATIENTS

Inpatient rehabilitation facilities providing services to persons with spinal cord injuries shall meet the requirements in this Rule in addition to those identified in this Section.

(1) Direct-care nursing personnel staffing ratios established in Rule .3027 of this Section shall not be applied to nursing services for spinal cord injury patients in the inpatient rehabilitation facility or unit. The minimum nursing hours per spinal cord injury patient in the unit shall be 6.0 nursing hours per patient day. At no time shall direct care nursing staff be less than two full-time equivalents, one of which shall be a registered nurse.

(2) The inpatient rehabilitation facility or unit shall employ or provide by contractual agreements physical, occupational or speech therapists in order to provide a minimum of 4.0 hours of specific or combined rehabilitation therapy services per spinal cord injury patient day.

(3) The facility shall provide special facility or special equipment needs of patients with spinal cord injury, including specially designed wheelchairs, tilt tables and standing tables.

(4) The medical director of an inpatient spinal cord injury program shall have either two years experience in the medical care of persons with spinal cord injuries or six months minimum in a spinal cord injury fellowship.

(5) The facility shall provide continuing education in the care and treatment of spinal cord injury patients for all staff.

(6) The facility shall provide specific staff training and education in the care and treatment of spinal cord injury.

(7) The size of the spinal cord injury program shall be adequate to support a comprehensive, dedicated ongoing spinal cord injury program.

History Note: *Authority G.S. 131E-104;*
RRC objection due to lack of statutory authority Eff. July 13, 1995;
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .3100 - DESIGN AND CONSTRUCTION

10A NCAC 13D .3101 GENERAL RULES

(a) Each facility shall be planned, constructed, equipped, and maintained to provide the services offered in the facility.

(b) A new facility or remodeling of an existing facility shall meet the requirements of the North Carolina State Building Codes which are incorporated by reference, including all subsequent amendments. Copies of these codes may be purchased from the International Code Council online at http://www.iccsafe.org/Store/Pages/default.aspx at a cost of five hundred twenty-seven dollars ($527.00) or accessed electronically free of charge at http://www.ecodes.biz/ecodes_support/Free_Resources/2012NorthCarolina/12NorthCarolina_main.html. Existing licensed facilities shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction or remodeling.

(c) Any existing building converted from another use to a nursing facility shall meet all requirements of a new facility.

(d) The sanitation, water supply, sewage disposal, and dietary facilities shall comply with the rules of the North Carolina Division of Public Health, Environmental Health Services Section, which are incorporated by reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions", 15A NCAC 18A .1300 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section 5605 Six Forks Road, Raleigh, North Carolina 27509.
Copies may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no. cost, or can accessed electronically free of charge at http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 15A - Environment and Natural Resources\Chapter 18 - Environmental Health.

(e) The adult care home portion of a combination facility shall meet the rules for a nursing facility contained in Sections .3100, .3200, and .3400 of this Subchapter, except when separated by two-hour fire resistive construction. When separated by two-hour fire-resistive construction, the adult care home portion of the facility shall meet the rules for adult care homes in 10A NCAC 13F, Licensing of Adult Care Homes, which are incorporated by reference, including all subsequent amendments; and adult care home resident areas must be located in the adult care home section of the facility. Copies of 10A NCAC 13F can be obtained free of charge from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708, or accessed electronically free of charge at http://reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2013%20-%20nc%20medical%20care%20commission/subchapter%20d/subchapter%20d%20rules.html.

(f) An addition to an existing facility shall meet the same requirements as a new facility.

History Note: *Authority G.S. 131E-102; 131E-104;*
Eff. January 1, 1996;
Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3102 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

The physical plant requirements for each facility shall be applied as follows:

(1) New construction shall comply with the requirements of Sections .3100-.3400 of this Subchapter.

(2) Except where otherwise specified, existing buildings shall meet licensure and code requirements in effect at the time of construction, alteration or modification.

(3) New additions, alterations, modifications and repairs shall meet the technical requirements of Sections .3100-.3400 of this Subchapter; however, where strict conformance with current requirements would be impractical, the Division may approve alternative measures where the facility can demonstrate to the Division's satisfaction that the alternative measures do not reduce the safety or operating effectiveness of the facility.

(4) Rules contained in Sections .3100-.3400 of this Subchapter are minimum requirements and are not intended to prohibit buildings, systems or operational conditions that exceed minimum requirements.

(5) Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements, because of extraordinary circumstances, new programs or unusual conditions, may be approved by the Division when the facility can effectively demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility.

(6) Where rules, codes or standards have any conflict, the most stringent requirement shall apply.

History Note: *Authority G.S. 131E-104;*
Eff. January 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3103 SITE

The site of a proposed facility must be approved by the Department prior to construction as:

(1) accessible by public roads;
(2) accessible to fire fighting services;
(3) having a water supply, sewage disposal system, garbage disposal system, and trash disposal system approved by the local health department having jurisdiction;
(4) meeting all local ordinances and zoning laws; and
(5) being free from exposure to hazards and pollutants.

History Note: *Authority G.S. 131E-102; 131E-104;*
Eff. January 1, 1996;
Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3104 PLANS AND SPECIFICATIONS

(a) When construction or remodeling of a facility is planned, one copy of construction documents and specifications shall be submitted by the owner or owner's appointed representative to the Department for review and approval. As a preliminary step to avoid last minute difficulty with construction documents approval, schematic design drawings and design development drawings may be submitted for approval prior to the required submission of construction documents.

(b) Approval of construction documents and specifications shall be obtained from the Department prior to licensure. Approval of construction documents and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.

(c) If an approval expires, renewed approval shall be issued by the Department, provided revised construction documents and specifications meeting the standards established in Sections .3100, .3200, and .3400 of this Subchapter are submitted by the owner or owner's appointed representative and reviewed by the Department.

(d) Any changes made during construction shall require the approval of the Department in order to maintain compliance with the standards established in Sections .3100, .3200, and .3400 of this Subchapter.

(e) Completed construction or remodeling shall conform to the standards established in Sections .3100, .3200, and .3400 of this Subchapter. Construction documents and building construction including the operation of all building systems shall be approved in writing by the Department prior to licensure or patient and resident occupancy.

(f) The owner or owner's appointed representative shall notify the Department in writing either by U.S. Mail or e-mail when actual construction or remodeling is complete.

History Note: *Authority G.S. 131E-102; 131E-104;*
Eff. January 1, 1996;
Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

SECTION .3200 - FUNCTIONAL REQUIREMENTS

10A NCAC 13D .3201 REQUIRED SPACES

(a) A facility shall meet the following requirements for bedrooms:

- (1) single bedrooms shall be provided with not less than 100 square feet of floor area;
- (2) bedrooms with more than one bed shall be provided with not less than 80 square feet of floor area per bed;
- (3) bedrooms shall have windows with views to the outdoors. The gross window area shall not be less than eight percent of the bedroom floor area required by Subparagraphs (1) and (2) of this Paragraph;
- (4) each bedroom shall be provided with one closet or wardrobe per bed. In nursing facilities and the nursing home portion of combination facilities, the closet or wardrobe shall have clothing storage space of not less than 36 cubic feet per bed with one-half of this space for hanging clothes. In the adult care home portion of a combination facility, the closet or wardrobe shall have clothing storage space of not less than 48 cubic feet per bed with one-half of this space for hanging clothes; and
- (5) floor space for closets, toilet rooms, vestibules, or wardrobes shall not be included in the areas required by this Subparagraph.

(b) A facility shall meet the following requirements for dining, activity, and common use areas:

- (1) nursing facilities and the nursing home portion of combination facilities shall have:
  - (A) a separate area or areas set aside for dining, measuring not less than 10 square feet per bed;
  - (B) a separate area or areas set aside for activities, measuring not less than 10 square feet per bed; and
  - (C) an additional dining, activity and common use area or areas, measuring not less than five square feet per bed. This area may be in a separate area or combined with the separate dining and activity areas required by Part (A) and (B) of this Subparagraph.
- (2) the adult care home portion of combination facilities shall have:
  - (A) a separate area or areas set aside for dining, measuring not less than 14 square feet per bed; and
  - (B) a separate area or areas set aside for activities, measuring not less than 16 square feet per bed.
- (3) the dining room area or areas required by this Paragraph may be combined.
- (4) the activity area or areas in nursing facilities and the nursing home portion of combination facilities shall not be combined with the activity area or areas in the adult care home portion of combination facilities.
- (5) floor space for physical, occupational, and rehabilitation therapy shall not be included in the areas required by this Paragraph. Closets and storage units for equipment and supplies shall not be included in the areas required by this Paragraph.
- (6) dining, activity, and common use areas shall be designed and equipped to provide accessibility to both patients and residents confined to wheelchairs and ambulatory patients or residents.
- (7) dining, activity, and common use areas required by this Paragraph shall have windows with views to the outdoors. The gross window area shall not be less than eight percent of the required floor area required by Subparagraphs (1) and (2) of this Paragraph.
- (8) for facilities designed with household units for 30 or fewer patients or residents, the dining and activity areas may be combined.

(c) Outdoor areas for individual and group activities shall be provided and shall be accessible to patients and residents with physical disabilities. In the adult care portion of a combination facility, a nursing unit with a control mechanism and staff procedures as required by Rule .3404(f) of this Subchapter shall have direct access to an outdoor area.

(d) Some means for patients and residents to lock personal articles within the facility shall be provided.

(e) A facility shall meet the following requirements for toilet rooms, tubs, showers, and central bathing areas:

- (1) a toilet room shall contain a toilet and lavatory. If a lavatory is provided in each bedroom, the toilet room is not required to have a lavatory.
- (2) a toilet room shall be accessible from each bedroom without going through the general corridor.
- (3) one toilet room may serve two bedrooms, but not more than eight beds.

(4) one tub or shower shall be provided for each 15 beds not individually served by a tub or shower.

(5) for each 120 beds or fraction thereof, a central bathing area shall be provided with the following:

(A) a bathtub or a manufactured walk-in bathtub or a similar manufactured bathtub designed for easy transfer of patients and residents into the tub. Bathtubs shall be accessible on three sides. Manufactured walk-in bathtubs or a similar manufactured bathtubs shall be accessible on two sides;

(B) a roll-in shower designed and equipped for unobstructed ease of shower chair entry and use. If a bathroom with a roll-in shower designed and equipped for unobstructed ease of shower chair entry adjoins each bedroom in the facility, the central bathing area is not required to have a roll-in shower;

(C) a toilet and lavatory; and

(D) a cubicle curtain enclosing the toilet, tub, and shower. A closed cubicle curtain at one of these plumbing fixtures shall not restrict access to the other plumbing fixtures.

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

(1) a medication preparation area with:

(A) a counter;

(B) a double locked narcotic storage area under the visual control of nursing staff;

(C) a medication refrigerator;

(D) eye-level medication storage;

(E) cabinet storage; and

(F) a sink. The sink shall be trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. The sink water spout shall be mounted so that its discharge point is a minimum of 10 inches above the bottom of the sink basin;

(2) a clean utility room with:

(A) a counter;

(B) storage; and

(C) a sink. The sink shall be trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. The sink water spout shall be mounted so that its discharge point is a minimum of 10 inches above the bottom of the sink basin;

(3) a soiled utility room with:

(A) a counter;

(B) storage; and

(C) a sink. The sink shall be trimmed with valves that can be operated without hands. If the sink is equipped with blade handles, the blade handles shall not be less than four and one half inches in length. The sink water spout shall be mounted so that its discharge point is a minimum of 10 inches above the bottom of the sink basin. The soiled utility room shall be equipped for the cleaning and sanitizing of bedpans as required by 15A NCAC 18A .1312 Toilet: Handwashing: Laundry: And Bathing Facilities;

(4) a nurses' toilet and locker space for personal belongings;

(5) a soiled linen storage room. If the soiled linen storage room is combined with the soiled utility room, a separate soiled linen storage room is not required;

(6) clean linen storage provided in one or more of the following:

(A) a separate linen storage room;

(B) cabinets in the clean utility room; or

(C) a linen closet;

(7) a nourishment station in an area enclosed with walls and doors with:

(A) work space;

(B) cabinets;

(C) refrigerated storage; and

(D) a small stove, microwave, or hot plate;

(8) an audio-visual nurse-patient call system arranged to ensure that a patient's or resident's call in the facility notifies and directs staff to the location where the call was activated;

(9) a control point located no more than 150 feet from the furthest patient or resident bedroom door with:

(A) an area for charting patient and resident records;
(B) space for storage of emergency equipment and supplies; and
(C) nurse patient call and alarm annunciation systems; and

(10) a janitor's closet.

(g) If a facility is designed with patient or resident household units, a patient and resident dietary area located within the patient or resident household unit may substitute for the nourishment station. The patient or resident dietary area shall be for the use of staff, patients, residents, and families. The patient or resident dietary area shall contain:

(1) cooking equipment;
(2) a kitchen sink;
(3) refrigerated storage; and
(4) storage areas.

(h) Clean linen storage shall be provided in a separate room from bulk supplies.

(i) The kitchen area and laundry area each shall have a janitor's closet. Administration, occupational and physical therapy, recreation, personal care, and employee areas shall be provided janitor's closets and may share one as a group.

(j) Stretcher and wheelchair storage shall be provided.

(k) The facility shall provide patient and resident storage at the rate of not less than five square feet of floor area per licensed bed. This storage space shall:

(1) be used by patients and residents to store out-of-season clothing and suitcases;
(2) be either in the facility or within 500 feet of the facility on the same site; and
(3) be in addition to the other storage space required by this Rule.

(l) Office space shall be provided for business transactions. Office space shall be provided for persons holding the following positions:

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

(m) Each combination facility shall provide a minimum of one residential washer and residential dryer in a location accessible by adult care home staff, residents, and residents' families.

History Note: Authority G.S. 131E-104; 42 CFR 483.70;
Eff. January 1, 1996;
Amended Eff. August 1, 2014; October 1, 2008;
Readopted Eff. July 1, 2016;
Amended Eff. October 1, 2016.

SECTION .3400 - MECHANICAL: ELECTRICAL: PLUMBING

10A NCAC 13D .3401 HEATING AND AIR CONDITIONING

(a) A facility shall provide heating and cooling systems complying with the following:

(1) The American National Standards Institute and American Society of Heating, Refrigerating, and Air Conditioning Engineers Standard 170: Ventilation of Health Care Facilities, which is incorporated by reference, including all subsequent amendments and editions, and may be purchased for a cost of fifty-four dollars ($54.00) online at http://www.techstreet.com/ashrae/lists/ashrae_standards.tmpl.
This incorporation does not apply to Section 7.1, Table 7-1 Design Temperature for Skilled Nursing Facility. The environmental temperature control systems shall be capable of maintaining temperatures in the facility at 71 degrees F. minimum in the heating season and a maximum of 81 degrees F. during the non-heating season; and

(2) The National Fire Protection Association 90A: Standard for the Installation of Air-Conditioning and Ventilating Systems, which is incorporated by reference, including all subsequent amendments and editions, and may be purchased at a cost of thirty-nine dollars ($39.00) from the National Fire Protection Association online at http://www.nfpa.org/catalog/ or accessed electronically free of charge at http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=90A.

(b) In a facility, the windows in dining, activity and living spaces, and bedrooms shall be openable from the inside. To inhibit patient and resident elopement from any window, the facility may restrict the window opening to a six-inch opening.

History Note: *Authority G.S. 131E-102; 131E-104;*
Eff. January 1, 1996;
Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3402 EMERGENCY ELECTRICAL SERVICE

A facility shall provide an emergency electrical service for use in the event of failure of the normal electrical service. This emergency electrical service shall consist of the following:

(1) In any existing facility:
   (a) type 1 or 2 emergency lights as required by the North Carolina State Building Codes: Electrical Code;
   (b) additional emergency lights for all control points required by Rule .3201(l)(9) of this Subchapter, medication preparation areas required by Rule .3201(l)(1) of this Subchapter and storage areas, and for the telephone switchboard, if applicable;
   (c) one or more portable battery-powered lamps at each control point required by Rule .3201(l)(9) of this Subchapter; and
   (d) a source of emergency power for life-sustaining equipment, if the facility admits or cares for occupants needing such equipment, to ensure continuous operation with on-site fuel storage for a minimum of 72 hours.

(2) An emergency power generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the essential electrical system. For the purposes of this Rule, the "essential electrical system" means a system comprised of alternate sources of power and all connected distribution systems and ancillary equipment, designed to ensure continuity of electrical power to designated areas and functions of a facility during disruption of normal power sources, and also to minimize disruption within the internal wiring system as defined by the North Carolina State Building Codes: Electrical Code.

(3) Emergency electrical services shall be provided as required by Rule .3101(b) of this Subchapter with the following modification: Section 517.10(B)(2) of the North Carolina State Building Codes: Electrical Code shall not apply to new facilities.

(4) The following equipment, devices, and systems which are essential to life safety and the protection of important equipment or vital materials shall be connected to the critical branch of the essential electrical system as follows:
   (a) nurses' calling system;
   (b) fire pump, if installed;
   (c) one elevator, where elevators are used for the transportation of patients;
   (d) equipment such as burners and pumps necessary for operation of one or more boilers and their necessary auxiliaries and controls, required for heating and sterilization, if installed;
   (e) equipment necessary for maintaining telephone service; and
   (f) task illumination of boiler rooms, if applicable.

(5) A dedicated critical branch circuit per bed for ventilator-dependent patients is required. This critical branch circuit shall be provided with two duplex receptacles identified for emergency use. When staff determines that the electrical life support needs of the patient exceed the requirements stated in this Item, additional critical branch circuits and receptacles shall be provided. For the purposes of this Rule, a "critical branch circuit" is a circuit of the critical branch subsystem of the essential electrical system which supplies energy to task lighting, selected receptacles and special power circuits serving patient care areas as defined by the North Carolina State Building Codes: Electrical Code. This Item applies to both new and existing facilities.

(6) Heating equipment provided for ventilator dependent patient bedrooms shall be connected to the critical branch of the essential electrical system and arranged for delayed automatic or manual connection to the emergency power source if the heating equipment depends upon electricity for proper operation. This Item applies to both new and existing facilities.

(7) Task lighting connected to the automatically transferred critical branch of the essential electrical system shall be provided for each ventilator dependent patient bedroom. For the purposes of this Item, task lighting is defined as lighting needed to carry out necessary tasks for the care of a ventilator dependent patient. This Item applies to both new and existing facilities.

(8) Where electricity is the only source of power normally used for the heating of space, an essential electrical system shall provide for heating of patient rooms. Emergency heating of patient rooms shall not be required in areas where the facility is supplied by at least two separate generating sources or a network distribution system with the facility feeders so routed, connected, and protected that a fault any place between the generating sources and the facility will not cause an interruption of more than one of the facility service feeders.

(9) An essential electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and connected within 10 seconds through one or more primary automatic transfer switches to all emergency lighting, alarms, nurses' call, and equipment necessary for maintaining telephone service. All other lighting and equipment required to be connected to the essential electrical system shall either be connected through the 10 second primary automatic transfer switching or shall be connected through delayed automatic or manual transfer switching. If manual transfer switching is provided, staff of the facility shall operate the manual transfer switch.

(10) Sufficient fuel shall be stored for the operation of the emergency power generator for a period not less than 72 hours, on a 24-hour per day operational basis with on-site fuel storage. The generator system shall be tested and maintained per National Fire Protection Association Health Care Facilities Code, NFPA 99, which is incorporated by reference, including all subsequent amendments and editions. Copies of this code may be obtained from the National Fire Protection Association - online at http://www.nfpa.org/catalog/ or accessed electronically free of charge at http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=99. The facility shall maintain records of the generator system tests and shall make these records available to the Department for inspection upon request.

(11) The electrical emergency service at existing facilities shall comply with the requirements established in Sections .3100, and .3400 of this Subchapter in effect at the time a license is first issued. Any remodeling of an existing facility that results in changes to the emergency electrical service shall comply with the requirements established in Sections .3100, and .3400 of this Subchapter in effect at the time of remodeling.

History Note: *Authority G.S. 131E-102; 131E-104;*
Eff. January 1, 1996;
Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3403 GENERAL ELECTRICAL

(a) In a facility, all main water supply shut off valves in the sprinkler system shall be electronically supervised so that if any valve is closed an alarm will sound at a central station manned 24 hours per day, seven days per week.
(b) No two adjacent emergency lighting fixtures shall be on the same circuit.
(c) Receptacles in bathrooms shall have ground fault protection.
(d) Each patient bed location shall be provided with a minimum of four single or two duplex receptacles. Two single receptacles or one duplex receptacle shall be connected to the critical branch of the emergency power system at each bed location. Each patient bed location shall also be provided with a minimum of two single receptacles or one duplex receptacle connected to the normal electrical system.
(e) Each patient bed location shall be supplied by at least two branch circuits.
(f) The fire alarm system shall be installed to transmit an alarm automatically to the fire department that is legally committed to serve the area in which the facility is located. The alarm shall be transmitted either to a fire department or to a third-party service that shall transmit the alarm to the fire department. The method used to transmit the alarm shall be approved by local ordinances.
(g) In patient areas, fire alarms shall be gongs or chimes rather than horns or bells.

History Note: Authority G.S. 131E-102; 131E-104;
Eff. January 1, 1996;
Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

10A NCAC 13D .3404 OTHER

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

(b) A facility shall provide:

(1) at least one telephone located to be accessible by patients, residents, and families for making local phone calls; and

(2) cordless telephones or telephone jacks in patient and resident rooms to allow access to a telephone by patients and residents when needed.

(c) Outdoor lighting shall be provided to illuminate walkways and drives.

(d) A flow of hot water shall be within safety ranges specified as follows:

(1) Patient Areas - 6 1/2 gallons per hour per bed and at a temperature of 100 to 116 degrees F;

(2) Dietary Services - 4 gallons per hour per bed and at a minimum temperature of 140 degrees F; and

(3) Laundry Area - 4 1/2 gallons per hour per bed and at a minimum temperature of 140 degrees F.

(e) If provided in a facility, medical gas and vacuum systems shall be installed, tested, and maintained in accordance with the National Fire Protection Association Health Care Facilities Code, NFPA 99, which is incorporated by reference, including all subsequent amendments and editions. Copies of this code may be purchased for a cost of sixty-one dollars ($61.50) from the National Fire Protection Association online at http://www.nfpa.org/catalog/ or accessed electronically free of charge at http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=99.

(f) Each facility shall have a control mechanism and staff procedures for monitoring and managing patients who wander or are disoriented. The control mechanism shall include egress alarms and any of the following:

(1) an electronic locking system;

(2) manual locks; and

(3) staff supervision.

This requirement applies to new and existing facilities.

(g) Sections of the National Fire Protection Association Life Safety Code, NFPA 101, 2012 edition listed in this Paragraph are adopted by reference.

(1) 18.2.3.4 with requirements for projections into the means of egress corridor width of wheeled equipment and fixed furniture;

(2) 18.3.2.5 with requirements for the installation of cook tops, ovens and ranges in rooms and areas open to the corridors;

(3) 18.5.2.3(2), (3) and (4) with requirements for the installation of direct-vent gas and solid fuel-burning fireplaces in smoke compartments; and

(4) 18.7.5.6 with requirements for the installation of combustible decorations on walls, doors and ceilings.

Smoke compartments where the requirements of these Sections are applied must be protected throughout by an approved automatic sprinkler system. For the purposes of this Rule, "smoke compartments" are spaces within a building enclosed by smoke barriers on all sides, including the top and bottom as indicated in NFPA 101, 2012 edition. Where these Sections are less stringent than requirements of the North Carolina State Building Codes, the requirements of the North Carolina State Building Codes shall apply. Where these Sections are more stringent than the North Carolina State Building Codes, the requirements of these Sections shall apply. Copies of this code may be purchased for a cost of ninety-three dollars ($93.00) from the National Fire Protection Association online at http://www.nfpa.org/catalog/ or accessed electronically free of charge at http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=101.

(h) Ovens, ranges, cook tops, and hot plates located in rooms or areas accessible by patients or residents shall not be used by patients or residents except under facility staff supervision. The degree of staff supervision shall be based on the facility's assessment of the capabilities of each patient and resident.

History Note: *Authority G.S. 131E-102; 131E-104;*
Eff. January 1, 1996;

Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.

Exhibit E/1

G.S. 150B-21.3A Report for 10A NCAC 13D, RULES FOR THE LICENSING OF NURSING HOMES						
Agency - Medical Care Commssion						
Comment Period -						
Date Submitted to APO - Filled in by RRC staff						
Subchapter	**Rule Section**	**Rule Citation**	**Rule Name**	**Date and Last Agency Action on the Rule**	**Agency Determination [150B-21.3A(c)(1)a]**	**Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]**
SUBCHAPTER 13D – RULES FOR THE LICENSING OF NURSING HOMES	**SECTION .2000 – GENERAL INFORMATION**	10A NCAC 13D .2001	DEFINITIONS	Amended Eff. October 1, 2021	Necessary	No
	SECTION .2100 - LICENSURE	10A NCAC 13D .2101	APPLICATION REQUIREMENTS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2102	ISSUANCE OF LICENSE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2103	LENGTH OF LICENSURE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2104	REQUIREMENTS FOR LICENSURE RENEWAL OR CHANGES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2105	TEMPORARY CHANGE IN BED CAPACITY	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2106	DENIAL, AMENDMENT, OR REVOCATION OF LICENSE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2107	SUSPENSION OF ADMISSIONS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2108	PROCEDURE FOR APPEAL	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2109	INSPECTIONS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .2200 - GENERAL STANDARDS OF ADMINISTRATION	10A NCAC 13D .2201	ADMINISTRATOR	Amended Eff. January 1, 2018	Necessary	No
		10A NCAC 13D .2202	ADMISSIONS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2203	PATIENTS NOT TO BE ADMITTED	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2204	RESPITE CARE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2205	DISCHARGE OF PATIENTS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2206	MEDICAL DIRECTOR	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2207	PATIENT RIGHTS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2208	SAFETY	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2209	INFECTION CONTROL	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No

G.S. 150B-21.3A Report for 10A NCAC 13D, RULES FOR THE LICENSING OF NURSING HOMES

Agency - Medical Care Commssion

Comment Period -

Date Submitted to APO - Filled in by RRC staff

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]
		10A NCAC 13D .2210	REPORTING AND INVESTIGATING ABUSE, NEGLECT OR MISAPPROPRIATION	Readopted Eff. July 1, 2016	Necessary	No
		10A NCAC 13D .2211	PERSONNEL STANDARDS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2212	QUALITY ASSURANCE COMMITTEE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .2300 - PATIENT AND RESIDENT CARE AND SERVICES	10A NCAC 13D .2301	PATIENT ASSESSMENT AND PLAN OF CARE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2302	NURSING SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2303	NURSE STAFFING REQUIREMENTS	Readopted Eff. July 1, 2016	Necessary	No
		10A NCAC 13D .2304	NURSE AIDES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2305	QUALITY OF CARE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2306	MEDICATION ADMINISTRATION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2307	DENTAL CARE AND SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2308	ADULT CARE HOME PERSONNEL REQUIREMENTS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2309	CARDIO-PULMONARY RESUSCITATION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .2400 - MEDICAL RECORDS	10A NCAC 13D .2401	MAINTENANCE OF MEDICAL RECORDS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2402	PRESERVATION OF MEDICAL RECORDS	Readopted Eff. July 1, 2016	Necessary	No
	SECTION .2500 - PHYSICIAN'S SERVICES	10A NCAC 13D .2501	AVAILABILITY OF PHYSICIAN'S SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2502	PRIVATE PHYSICIAN	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2503	USE OF NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS	Readopted Eff. July 1, 2016	Necessary	No
		10A NCAC 13D .2504	LABORATORY AND RADIOLOGY SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2505	BRAIN INJURY LONG-TERM CARE PHYSICIAN SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Unnecessary	No
	SECTION .2600 - PHARMACEUTICAL SERVICES	10A NCAC 13D .2601	AVAILABILITY OF PHARMACEUTICAL SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No

G.S. 150B-21.3A Report for 10A NCAC 13D, RULES FOR THE LICENSING OF NURSING HOMES						
Agency - Medical Care Commssion						
Comment Period -						
Date Submitted to APO - Filled in by RRC staff						
Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]
		10A NCAC 13D .2602	PHARMACY PERSONNEL	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2603	ADMINISTRATIVE RESPONSIBILITIES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2604	DRUG PROCUREMENT	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2605	DRUG STORAGE AND DISPOSITION	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2606	PHARMACEUTICAL RECORDS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2607	EMERGENCY DRUGS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .2700 - DIETARY SERVICES	10A NCAC 13D .2701	PROVISION OF NUTRITION AND DIETETIC SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .2800 - ACTIVITIES, RECREATION AND SOCIAL SERVICES	10A NCAC 13D .2801	ACTIVITY SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2802	SOCIAL SERVICES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .2900 - SPECIAL REQUIREMENTS	10A NCAC 13D .2901	REPORT OF DEATH	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .2902	PETS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .3000 - SPECIALLY DESIGNATED UNITS	10A NCAC 13D .3003	VENTILATOR ASSISTED CARE	Amended Eff. January 1, 2021	Necessary	No
		10A NCAC 13D .3004	BRAIN INJURY LONG-TERM CARE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Unnecessary	No
		10A NCAC 13D .3005	SPECIAL NURSING REQUIREMENTS FOR BRAIN INJURY LONG-TERM CARE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Unnecessary	No
		10A NCAC 13D .3031	ADDITIONAL REQUIREMENTS FOR SPINAL CORD INJURY PATIENTS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Unnecessary	No
	SECTION .3100 - DESIGN AND CONSTRUCTION	10A NCAC 13D .3101	GENERAL RULES	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .3102	APPLICATION OF PHYSICAL PLANT REQUIREMENTS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .3103	SITE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .3104	PLANS AND SPECIFICATIONS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No

G.S. 150B-21.3A Report for 10A NCAC 13D, RULES FOR THE LICENSING OF NURSING HOMES

Agency - Medical Care Commssion

Comment Period -

Date Submitted to APO - Filled in by RRC staff

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]
	SECTION .3200 - FUNCTIONAL REQUIREMENTS	10A NCAC 13D .3201	REQUIRED SPACES	Amended Eff. October 1, 2016	Necessary	No
		10A NCAC 13D .3202	FURNISHINGS	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
	SECTION .3400 - MECHANICAL: ELECTRICAL: PLUMBING	10A NCAC 13D .3401	HEATING AND AIR CONDITIONING	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .3402	EMERGENCY ELECTRICAL SERVICE	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .3403	GENERAL ELECTRICAL	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No
		10A NCAC 13D .3404	OTHER	Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015	Necessary	No

EXHIBIT F

Compliance Summary:

- **Compliant with NCMCC Compliance Policy**

1) Does Organization have a formal post tax issuance compliance policy?

   No- while we don't have a formal written policy in our policy manual for this, it is our practice to regularly review with bond counsel all of the required post issuance requirements and applicable covenant compliance and reporting.

2) Who in the Organization will be designated to ensure appropriate compliance with the issuance?

   Tammy Jones – CFO

3) What is the Organization's compliance monitoring plan?

   Quarterly review by CFO and CEO with Finance Committee

4) How will the Organization report compliance deficiencies to leadership and the Board?

   Our compliance officer, along with CEO and CFO provide quarterly reporting to the Board of Directors as well as reporting any interim concerns that may arise.

Selected Application Information:

1) **Information from FYE 2023 (9/30 Year End) Audit of EveryAge**

Net Income (Loss)	$ 10,834,028
Operating Revenue	$ 80,312,141
Operating Expenses	$ 80,107,719
Net Cash provided by Operating Activities	$ 11,181,617
Unrestricted Cash	$ 3,838,684
Change in Cash	$ (914,489)

2) **Ratings:**

   None

3) **Community Benefits (FYE 2022):**

   Per N.C.G.S § 105 – 11.2% (Eligible for 100% property tax exclusion)

   - Total Community Benefits and Charity Care - $5,061,067

4) Long-Term Debt Service Coverage Ratios (EveryAge):

Actual FYE 2023	2.56
Forecasted FYE 2024	2.80
Forecasted FYE 2025	1.98
Forecasted FYE 2026	2.24
Forecasted FYE 2027	1.94
Forecasted FYE 2028	2.03

5) Transaction Participants:

Bond Counsel:	Robinson, Bradshaw & Hinson PA
Underwriter/Placement Agent:	B.C. Ziegler and Company
Underwriter Counsel:	McGuire Woods LLP
Trustee:	TBD
Accountant (AUP Forecast):	FORVIS

6) Other Information:

(a) Board diversity

Male:	13
Female:	4
Total:	17

Caucasian:	13
African American:	4
	17

(b) Diversity of residents

Male:	192
Female:	434
Total:	626

Caucasian:	617
Other:	4
African American:	5
	626

(c) Fee Schedule – Attached (Page F3)
(d) MCC Bond Sale Approval Policy Form – Attached (Page F6)

Abernethy Laurels Unit Mix and Pricing (Newton, NC)

	Number of Units/Beds	Square Footage	Monthly Fees	Entrance Fees Fully Declining (1)
ILU - Apartments				
Pavilion				
Studio A	18	240	$6,144	-
Studio B	4	240	$6,600	-
Efficiency Apartment	13	400	$3,470	$33,500
Efficiency Deluxe Apt.	2	410	$3,857	$33,500
One-Bedroom	17	500	$4,479	$48,000
One-Bedroom Deluxe	4	805	$4,687	$74,500
Village				
One-Bedroom	2	800	$1,802	$126,000
One-Bedroom	8	900	$1,802	$113,000 - $121,000
Two-Bedroom	17	1,100	$1,942	$121,500 - $124,000
Two-Bedroom	14	1,100	$1,858	$138,000 - $146,000
Sub-Total Apartments	**99**			
Cottage	26	1,341 - 2,916	$2,265	$199,000 - $335,000
Villa	62	960 - 2,724	$2,077	$128,000 - $262,000
Sub-Total Villas/Cottages	**88**			
Total Independent Living	**187**			
Assisted Living - Private	**18**	**240**	**$6,144**	
			Daily Fee	
Nursing - Private	98	247 - 260	$346 - $435	
Nursing - Semi-Private	76	224 - 256	$312	
Total Nursing	**174**			

Pricing is effective as of 10/01/23.

(1) Entrance fee for 50% Refundable Plan is 50% higher than the Fully Declining Entrance Fees noted above.

Piedmont Crossing Unit Mix and Pricing (Thomasville, NC)

	Number of Units/Beds	Square Footage	Monthly Fees	Entrance Fees Fully Declining [(1)]
ILU - Apartments				
Pavilion				
Studio	10	500	$2,806	$57,000
One-Bedroom	26	640	$3,377	$73,000
Two-Bedroom	8	950	$3,824	$89,500
Gallery Apartments				
One-Bedroom Corner	4	650	$2,463	$78,500
One-Bedroom	8	675	$2,560	$78,500
Two-Bedroom	23	975	$2,756	$113,000
Veranda B				
One-Bedroom	4	800	$1,843	$89,000
Two-Bedroom	24	1,100	$1,964	$123,500
Sub-Total Apartments	**107**			
Patio Homes	20	780 - 1,152	$1,893 - $2,038	$101,500 - $141,000
Villa	24	1,288 - 1,478	$1,996	$212,000 - $308,500
Cottage	18	1,339 - 1,622	$2,161	$243,500 - $336,000
Sub-Total Villas/Cottages	**62**			
Total Independent Living	**169**			
Assisted Living - Private	14	350	$6,692	
Assisted Living - Semi-Private	6	350	$4,988	
Total Assisted Living	**20**			
			Daily Fee	
Nursing - Private	96	280	$331 - $437	
Nursing - Semi-Private	8	280	$313	
Total Nursing	**104**			

Pricing is effective as of 02/01/24.

(1) Entrance fee for 50% Refundable Plan is 50% higher than the Fully Declining Entrance Fees noted above.

BellaAge Hickory Unit Mix and Pricing (Hickory, NC)

Note: BellaAge Hickory is under construction and expected to open in the 1st quarter of 2025. Below is the current unit mix and pricing that is expected when the units open for occupancy.

Beds/ Baths	Number of Units	Square Footage	Monthly Rents (1)
1	12	817	$2,043
1	3	966	$2,512
1	19	899	$2,337
1	3	962	$2,501
1	2	899	$2,337
1	4	1,115	$2,899
1	1	892	$2,319
2	29	1,186	$3,084
2	3	1,247	$3,242
2	3	1,186	$3,084
2	4	1,337	$3,476
2	8	1,397	$3,632
2	4	1,189	$3,091
Total	**95**	**1,082**	**$2,812**

(1) Monthly rent is preliminary and subject to change. Units on the 5th floor expected to have a 6% monthly rent premium due to higher ceilings.

NC MCC Bond Sale Approval Form	
Facility Name: EveryAge (Project Flight Acquisiton)	
	Time of Preliminary Approval
SERIES: 2024B	
PAR Amount	$26,420,000.00
Estimated Interest Rate	5.75%
All-in True Interest Cost	6.00%
Maturity Schedule (Interest) - Date	Beginning 03/01/25
Maturity Schedule (Principal) - Date	Beginning 09/01/25
Bank Holding Period (if applicable) - Date	NA
Estimated NPV Savings ($) (if refunded bonds)	NA
Estimated NPV Savings (%) (if refunded bonds)	NA
NOTES:	Public Fixed Rate Bonds
	Time of Preliminary Approval
SERIES: 2024C Taxable (Non-NCMCC Debt)	
PAR Amount	$26,420,000.00
Estimated Interest Rate	
All-in True Interest Cost	
Maturity Schedule (Interest) - Date	
Maturity Schedule (Principal) - Date	
Bank Holding Period (if applicable) - Date	
Estimated NPV Savings ($) (if refunded bonds)	
Estimated NPV Savings (%) (if refunded bonds)	
NOTES:	To fund taxable requirements of
	acquisition and financed directly with
	a taxable bank loan with Huntington
	that will not be issued through the
	NCMCC and is not subject to our approval
	request.

EXHIBIT G

Compliance Summary:

- **<u>No Violation of MCC Compliance policy</u>**

1) Does Organization have a formal post tax issuance compliance policy?

   Yes

2) Who in the Organization will be designated to ensure appropriate compliance with the issuance?

   Chief Financial Officer (Brent Conklin)

3) What is the Organization's compliance monitoring plan?

   Twin Lakes has a compliance monitoring plan in place on the current outstanding bonds. The plan consists of the CFO (Brent Conklin) completing and compiling all compliance documents for the CEO's (Pam Fox) review whether it be monthly, quarterly or yearly. Once reviewed and approved by CEO, the CFO will submit all documents in a timely manner to ensure proper compliance on a monthly, quarterly and yearly basis. The CFO also communicates the submission of compliance documents during monthly (except December – no board meeting) board meetings as well.

4) How will the Organization report compliance deficiencies to leadership and the Board?

   Compliance deficiencies are reported immediately to the CEO and the NCMCC. Deficiencies are also reported to Bond Counsel and while remedial action is taking place reports would be given to the Board at regularly scheduled meetings.

Selected Application Information:

1) **Information from FYE 2023 (9/30 Year End) Audit of Twin Lakes:**

Net Income	$ 6,509,969
Operating Revenue	$ 38,795,185
Operating Expenses	($ 42,201,168)
Net Cash provided by Operating Activities	$ 7,891,760
Unrestricted Cash	$ 18,831,441
Change in Cash	$ 1,678,847

2) **Ratings:**

Fitch – 'BBB'

3) **Community Benefits (FYE 2021):**

Per N.C.G.S § 105 – 5.38% (Eligible for 100% property tax exclusion)

- Total Community Benefits and Charity Care - $2,072,016

4) **Long-Term Debt Service Coverage Ratios:**

Actual FYE 2023	2.61
Forecasted FYE 2024	2.44
Forecasted FYE 2025	2.38
Forecasted FYE 2026	1.69
Forecasted FYE 2027	1.65
Forecasted FYE 2028	1.70

5) **Transaction Participants:**

Bond Counsel:	Hawkins Delafield & Wood LLP.
Underwriter:	B.C. Ziegler and Company
Underwriter Counsel:	Robinson, Bradshaw, & Hinson PA
Accountant (AUP Forecast):	Forvis
Trustee:	Bank of New York Mellon
Trustee Counsel:	TBD

6) **Board Diversity:**

Male:	10
Female:	10
Total:	**20**

Caucasian:	15
African American:	5
Total:	**20**

7) **Diversity of Residents (747 Residents):**

Male:	268

Female:	479
Total:	**747**

Caucasian:	729
African American:	6
Hispanic	4
Asian	6
Other:	2
Total:	**747**

8) **Fee Schedule:** See Page G-4

9) **Bond Sale Approval Form:** See Page G-6

A Division of Lutheran Retirement Ministries of Alamance County, North Carolina

ENTRANCE AND MONTHLY FEES
2023-2024

		ENTRANCE FEES*		MONTHLY FEES	
		STANDARD REFUND	50% REFUND	SINGLE	DOUBLE
ALDERSGATE & BRANDENBURG APARTMENTS:					
Heather; 1BR/1BA	600 SF	$61,000	$91,000	$1852	$2577
Laurel; 2BR/1BA	800 SF	$71,000	$108,000	$2092	$2817
WITTENBERG APARTMENTS:					
Edelweiss; 1BR/1BA	819 SF	$87,000	$131,000	$2321	$3046
Iris; 2BR/2BA	969 SF	$105,000	$156,000	$2422	$3147
Valerian; 2BR/2BA	1007 SF	$105,000	$156,000	$2422	$3147

There is a $6,000 second person Entrance Fee for Apartments and Wittenberg.

		STANDARD REFUND	50% REFUND	SINGLE	DOUBLE
VILLAS: 2BR/2BA					
Acacia	1311 SF	$145,000	$217,000	$2629	$3354
Chestnut	1311 SF	$154,000	$232,000	$2629	$3354
Aspen	1311 SF	$161,000	$242,000	$2629	$3354
Birch	1602 SF	$201,000	$301,000	$2732	$3457
Dogwood	1677 SF	$214,000	$322,000	$2732	$3457

There is a $12,000 second person Entrance Fee for Villas.

		STANDARD REFUND	50% REFUND	SINGLE	DOUBLE
GARDEN HOMES: 3BR/2BA					
Juniper	1750 SF	$271,000	$406,000	$2923	$3669
Evergreen	1888 SF	$293,000	$439,000	$3125	$3871
Forsythia	1960 SF	$309,000	$464,000	$3125	$3871
Gardenia	2000 SF	$321,000	$481,000	$3324	$4070
Holly	2200 SF	$353,000	$530,000	$3518	$4264

There is a $17,000 second person Entrance Fee for Garden Homes.

**Standard contracts have a 30-month declining refund; 50% contracts have no time limitations.*

Deacon Pointe, Assisted Living Apartments:

Small apartment	$5960 monthly
Large apartment	$6341 monthly

Coble Healthcare, Skilled Nursing Rooms:

Private	$358 a day
Market Rate	$380 a day (Non Community Members)

Memory Care Rooms:

Semi-private	$332 a day
Private	$342 a day

These fees are effective March 1, 2024 until future changes deemed appropriate by the Board of Lutheran Retirement Ministries of Alamance County.

Lutheran Retirement Ministries Of Alamance County, Nc
Approved Rate Schedule
Fiscal Year Beginning October 1, 2023

	Single Occupancy		Double Occupancy	
	Fiscal Year 2022-2023	Fiscal Year 2023-2024	Fiscal Year 2022-2023	Fiscal Year 2023-2024
Coble Creek Healthcare Daily Rates:				
Private Room	$ 338.00	$ 358.00		
Market Rate (Non Community Members)	$ -	$ 380.00		
Moneta Springs Memory Care Daily Rates:				
Assisted Living - Private Room	$ 323.00	$ 342.00		
Assisted Living - Companion Room	$ 313.00	$ 332.00		
Deacon Pointe Assisted Living Monthly Rates:				
Small Unit	$5,649.00	$5,960.00	$ 8,272.00	$ 8,727.00
Large Unit	$6,010.00	$6,341.00	$ 8,633.00	$ 9,108.00
2nd Person Fee	$2,623.00	$2,767.00		
The Lakes Independent Living Monthly Rates:				
(Residents Prior to 10-01-03):				
Apartments - Heather & Edelweiss	$1,671.00	$1,763.00	$ 2,289.00	$ 2,415.00
Apartments - Laurel, Iris & Valerian	$1,959.00	$2,067.00	$ 2,577.00	$ 2,719.00
Villas - Acacia, Aspen & Chestnut	$1,959.00	$2,067.00	$ 2,577.00	$ 2,719.00
Villas - Birch & Dogwood	$2,136.00	$2,253.00	$ 2,754.00	$ 2,905.00
2nd Person Fee	$ 618.00	$ 652.00		
(Residents Subsequent to 09-30-03):				
Apartments - Heather	$ 1,755.00	$ 1,852.00	$ 2,442.00	$ 2,577.00
Apartments - Laurel	$ 1,983.00	$ 2,092.00	$ 2,670.00	$ 2,817.00
Apartments - Edelweiss	$ 2,200.00	$ 2,321.00	$ 2,887.00	$ 3,046.00
Apartments - Iris & Valerian	$ 2,296.00	$ 2,422.00	$ 2,983.00	$ 3,147.00
Villas - Acacia, Aspen & Chestnut	$ 2,492.00	$ 2,629.00	$ 3,179.00	$ 3,354.00
Villas - Birch & Dogwood	$ 2,590.00	$ 2,732.00	$ 3,277.00	$ 3,457.00
2nd Person Fee	$ 687.00	$ 725.00		
Stockton Apartments - Magnolia	$ 2,532.00	$ 2,671.00	$ 3,239.00	$ 3,417.00
Stockton Apartments - Oak	$ 2,587.00	$ 2,729.00	$ 3,294.00	$ 3,475.00
Stockton Apartments - Poplar	$ 2,660.00	$ 2,806.00	$ 3,367.00	$ 3,552.00
Stockton Apartments - Redbud	$ 2,746.00	$ 2,897.00	$ 3,453.00	$ 3,643.00
Stockton Apartments - Sycamore	$ 2,875.00	$ 3,033.00	$ 3,582.00	$ 3,779.00
Stockton Apartments - Tupelo	$ 3,085.00	$ 3,255.00	$ 3,792.00	$ 4,001.00
Stockton Apartments - Willow	$ 3,102.00	$ 3,273.00	$ 3,809.00	$ 4,019.00
Garden Homes - Evergreen & Forsythia	$ 2,962.00	$ 3,125.00	$ 3,669.00	$ 3,871.00
Garden Homes - Gardenia	$ 3,151.00	$ 3,324.00	$ 3,858.00	$ 4,070.00
Garden Homes - Holly & Ivy	$ 3,335.00	$ 3,518.00	$ 4,042.00	$ 4,264.00
Garden Homes - Juniper	$ 2,771.00	$ 2,923.00	$ 3,478.00	$ 3,669.00
Garden Home 2nd Person Fee	$ 707.00	$ 746.00		
The Harbor Adult Day Care (Per Day):				
One or Two Days per Week	$ 77.00	$ 81.00		
Three or More Days per Week	$ 71.00	$ 75.00		
Other Rates (Per Hour):				
Home Care Services	$ 25.00	$ 26.00		
Housekeeping	$ 25.00	$ 26.00		

NC MCC Bond Sale Approval Form	
Facility Name: Twin Lakes Community	
	Time of Preliminary Approval
SERIES: 2024A	
PAR Amount	$32,320,000.00
Estimated Interest Rate	5.25%
All-in True Interest Cost	5.50%
Maturity Schedule (Interest) - Date	Beginning 07/01/25
Maturity Schedule (Principal) - Date	Beginning 01/01/28
Bank Holding Period (if applicable) - Date	NA
Estimated NPV Savings ($) (if refunded bonds)	NA
Estimated NPV Savings (%) (if refunded bonds)	NA
NOTES:	Public Fixed Rate Bonds
	Time of Preliminary Approval
SERIES: 2024B	
PAR Amount	$8,000,000.00
Estimated Interest Rate	4.75%
All-in True Interest Cost	5.25%
Maturity Schedule (Interest) - Date	Beginning 07/01/25
Maturity Schedule (Principal) - Date	Beginning 01/01/26 (Subject to Change)
Bank Holding Period (if applicable) - Date	NA
Estimated NPV Savings ($) (if refunded bonds)	NA
Estimated NPV Savings (%) (if refunded bonds)	NA
NOTES:	To be repaid with initial entrance fees
	from the newly constructed ILUs

EXHIBIT H

Compliance Summary:

- **<u>No Violation of MCC Compliance policy</u>**

1) Does Organization have a formal post tax issuance compliance policy?

   Yes

2) Who in the Organization will be designated to ensure appropriate compliance with the issuance?

   Chief Financial Officer

3) What is the Organization's compliance monitoring plan?

   Penick Village will use a detailed checklist of requirements and timing to ensure that things are comprehensive and submitted on time.

4) How will the Organization report compliance deficiencies to leadership and the Board?

   Compliance deficiencies are reported immediately to the CEO and then the Board.

Selected Application Information:

1) **Information from FYE 2023 (9/30 Year End) Audit of Penick Village:**

Net Income	$ 1,301,249
Operating Revenue	$ 21,068,036
Operating Expenses	($ 20,909,069)
Net Cash provided by Operating Activities	$ 2,956,210
Unrestricted Cash	$ 5,382,588
Change in Cash	($ 2,360,051)

Note: Decrease in cash largely due to purchases of property and equipment

2) **Ratings:**

   NONE

3) Community Benefits (FYE 2021):

Per N.C.G.S § 105 – 5.02% (Eligible for 100% property tax exclusion)
- Total Community Benefits and Charity Care - $958,127

4) Long-Term Debt Service Coverage Ratios:

Forecasted FYE 2025	2.25
Forecasted FYE 2026	2.24
Forecasted FYE 2027	3.82
Forecasted FYE 2028	1.54
Forecasted FYE 2029	1.64

5) Transaction Participants:

Bond Counsel:	Hawkins Delafield & Wood LLP.
Underwriter:	B.C. Ziegler and Company
Underwriter Counsel:	TBD
Accountant (AUP Forecast):	Dixon Hughes Goodman LLP
Trustee:	TBD
Trustee Counsel:	TBD

6) Board Diversity:

Male:	16
Female:	5
Total:	**21**

Caucasian:	19
African American:	2
Total:	**21**

7) Diversity of Residents:

Male:	73
Female:	163
Total:	**236**

Caucasian:	235
African American:	1
Total:	**236**

8) Fee Schedule: See Page H-3

9) Bond Sale Approval Form: See Page H-6

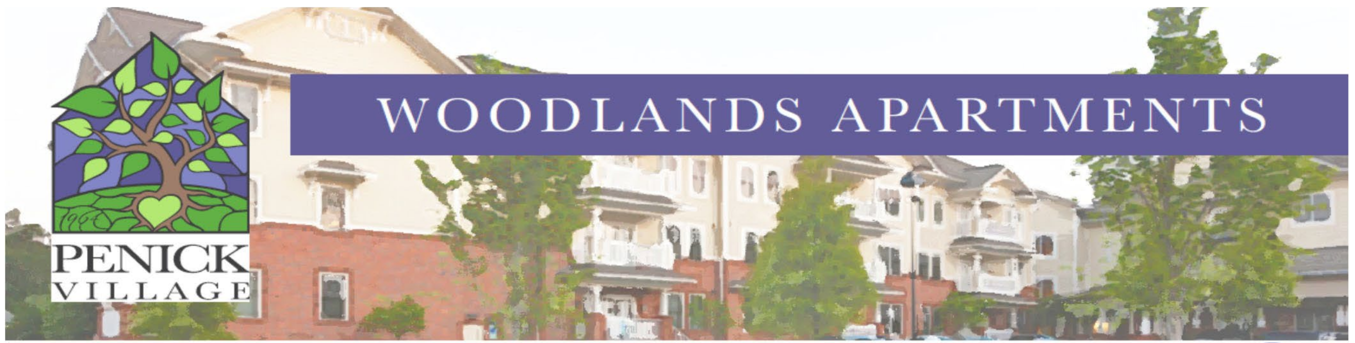
RATE SCHEDULE

Effective January 01, 2024

Apartments	Square Footage	Basic Entrance Fee	Monthly Service Fee	
			1st person	w/ 2nd person
Topanga *1 Bedroom*	600	$116,270	$2,369	$3,687
Acadia *1 Bedroom*	650	$125,960	$2,567	$3,885
*Boyd *1 Bedroom*	800	$165,871	$2,845	$4,163
Lincoln *1 Bedroom with den*	1,050	$230,146	$3,485	$4,803
*Sierra *1 Bedroom with den*	1,095	$252,348	$3,635	$4,953
*Umstead *1 Bedroom with den*	1,130	$260,415	$3,751	$5,069
Griffith *2 Bedroom*	1,300	$292,645	$3,853	$5,171
Franklin *2 Bedroom*	1,500	$364,365	$4,446	$5,764
Aurora *2 Bedroom with den*	1,500	$364,365	$4,446	$5,764
Hyde *2 Bedroom with den*	1,600	$388,654	$4,741	$6,059

- 2nd person Monthly Service Fee is $1,318
- All square footage and pricing are approximate
- Price includes one covered parking space per apartment
- Prices are subject to change, and may be higher due to personalizations

*Only available in Wharton. **Second Floor Premium $5,000. Excludes Franklin Floor plan.



RATE SCHEDULE

Effective January 01, 2024

Apartments	Square Footage	Basic Entrance Fee	Monthly Service Fee 1st person	Monthly Service Fee w/ 2nd person
Crape Myrtle *1 Bedroom*	700	$112,386	$2,366	$3,684
Linden *1 Bedroom*	850	$146,021	$2,872	$4,190
Periwinkle *1 Bedroom*	1,000	$177,714	$3,320	$4,638
Redbud *1 Bedroom with den*	1,000	$186,848	$3,320	$4,638
Birch *2 Bedroom*	1,250	$241,346	$3,704	$5,022
Pin Oak *2 Bedroom*	1,500	$257,436	$4,268	$5,586
Poplar *2 Bedroom with den*	1,700	$312,184	$4,635	$5,953
Chestnut *2 Bedroom with den*	1,900	$348,911	$5,181	$6,499

- 2nd person Monthly Service Fee is $1,318
- Prices are subject to change, and may be higher due to personalizations
- Covered parking available for purchase, based on availability
- All square footage and pricing are approximate

Room Type	Continuum Daily Rate	External Daily Rate	External Entrance Fee
ASSISTED LIVING			
CAMELIA Studio	$203	$208	$10,000
DOGWOOD Extended Studio	$252	$270	$10,000
FORSYTHIA 1-Bedroom	$289	$315	$10,000
HYDRANGEA 2-Bedroom *(Single)*	$334	$365	$10,000
2nd Person *(where applicable)*	$184	$200	N/A
GARDEN COTTAGE	$278	$289	$10,000
SKILLED NURSING			
SKILLED NURSING	$389	$389	Long Term Only $10,000

NOTE: External rates are for direct admissions to Assisted Living, Garden Cottage & Skilled Nursing.

- Prices are subject to change each year.

NC MCC Bond Sale Approval Form	
Facility Name: Penick Village	
	Time of Preliminary Approval
SERIES: 2024A	
PAR Amount	$57,285,000.00
Estimated Interest Rate	6.00%
All-in True Interest Cost	6.25%
Maturity Schedule (Interest) - Date	Beginning 03/01/25
Maturity Schedule (Principal) - Date	Beginning 09/01/29
Bank Holding Period (if applicable) - Date	NA
Estimated NPV Savings ($) (if refunded bonds)	NA
Estimated NPV Savings (%) (if refunded bonds)	NA
NOTES:	Public Fixed Rate Bonds
	Time of Preliminary Approval
SERIES: 2024B	
PAR Amount	$17,500,000.00
Estimated Interest Rate	5.50%
All-in True Interest Cost	6.25%
Maturity Schedule (Interest) - Date	Beginning 03/01/25
Maturity Schedule (Principal) - Date	Beginning 08/01/26 (Subject to Change)
Bank Holding Period (if applicable) - Date	NA
Estimated NPV Savings ($) (if refunded bonds)	NA
Estimated NPV Savings (%) (if refunded bonds)	NA
NOTES:	To be repaid with initial entrance fees
	from the newly constructed ILUs