

1 10A NCAC 13E .0303 is proposed for adoption as follows:

2
3 **10A NCAC 13E .0303 DESIGN AND CONSTRUCTION**

4 (a) For the purposes of this Rule the following definitions apply:

5 (1) “facility” means a building or portion of a building housing an overnight respite services program
6 as defined in G.S. 131D-6.1(a);

7 (2) “proposed facility” means the new construction of a building for a facility, an addition or alteration
8 to an existing building for a facility, or the change in use of a building for a facility.

9 (3) “existing facility” means a currently licensed facility and a proposed facility that will be built
10 according to building plans approved by the Construction Section for compliance with the standards
11 established in this Section, prior to the effective date of this Rule; and

12 (4) “new facility” means a proposed facility that will be built according to building plans approved by
13 the Construction Section for compliance with the standards established in this Section, on or after
14 the effective date of this Rule.

15 (b) The physical plant requirements for each facility shall be applied as follows:

16 (1) A new facility shall meet the standards established in this Section.

17 (2) An existing facility shall meet the standards established in this Section that were in existence at the
18 time of change in use of space, construction, addition, alteration, or repair.

19 (3) An existing building converted from another use that a program intends to use for an overnight
20 respite services program shall meet all the requirements of a new facility as indicated in
21 Subparagraph (1) of this Paragraph.

22 (c) For a new facility, new construction or an addition or alteration to an existing building shall meet the requirements
23 of the North Carolina State Building Codes, which are incorporated herein by reference, including all subsequent
24 amendments and editions. Copies of these codes may be purchased from the International Code Council online at
25 <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty-seven dollars (\$527.00) or accessed
26 electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>. For an existing facility, construction,
27 addition, alteration, or repair shall meet the requirements of the North Carolina State Building Codes in effect at the
28 time of construction, addition, alteration, or repair.

29 (d) A facility shall be constructed, equipped, and maintained to comply with the standards established in this Section
30 for the total number of participants indicated on its license.

31 (e) Rules contained in this Section are minimum requirements and are not intended to prohibit buildings, systems, or
32 operational conditions that exceed these minimum requirements.

33 (f) The Construction Section may grant an equivalency to allow an alternate design or functional variation from the
34 requirements of the Rules contained in this Section. For the purposes of this Rule, an “equivalency” is a Construction
35 Section approved alternate design and functional variation to a Rule requirement that meets the intent of the Rule
36 requirement, but does not reduce the safety and operational effectiveness of the facility design and layout. If granted,
37 the equivalency shall apply to a specific facility. If the following occurs, a program shall be granted an equivalency:

1 (1) the overnight respite services program submits a written equivalency request to the Construction
2 Section indicating:

3 (A) the Rule requirement, which will not be met;

4 (B) the justification for the equivalency; and

5 (C) how the proposed equivalency meets the intent of the corresponding Rule requirement;

6 (2) the Construction Section reviews the equivalency request; and

7 (3) the program receives a written approval of the equivalency from the Construction Section.

8 (g) If any of the rules, codes, or standards contained in this Section conflict, the most stringent requirement shall
9 apply.

10 (h) For an existing facility that has its license revoked or suspended by the Division of Health Service Regulation
11 pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the existing facility shall meet the requirements of a new facility
12 as indicated in Subparagraph (b)(1) of this Rule prior to being relicensed.

13 (i) Prior to commencement of construction or change in use of space, any program intending to offer overnight respite
14 care services that is planning new construction, an addition or alteration to an existing building, or a change in use of
15 space shall submit building plans and other documents to the Construction Section as specified in Rule .0301 of this
16 Section.

17 (j) If the building to be used for a facility is two or more stories in height, it shall meet the following additional
18 requirements:

19 (1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building
20 Code;

21 (2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c)
22 of this Section; and

23 (3) participant-use areas shall be located on the level of the principal exterior door.

24 (k) The basement and the attic shall not to be used for storage or sleeping.

25 (l) The ceiling shall be at least seven and one-half feet from the floor.

26 (m) Elevation changes in the level of the floor are not permitted in participant-use areas.

27 (n) The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms,
28 and bathrooms.

29 (o) Windows shall be operable and shall be maintained operable. For the purposes of this Rule, “operable” means a
30 window that may be opened and shut to allow outdoor-air ventilation. To inhibit participant elopement from any
31 window, the window opening may be restricted to a six-inch opening.

32 (p) Before starting any construction or alterations, the overnight respite services program shall consult with the local
33 building code official for information on required permits and construction requirements.

34 (q) The facility shall comply with the sanitation rules of the North Carolina Division of Public Health, Environmental
35 Health Services Section, which are incorporated herein by reference, including subsequent amendments and editions.
36 The “Rules Governing the Sanitation of Residential Care Facilities,” 15A NCAC 18A .1600 are available for
37 inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental

1 Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27509. Copies may be obtained from the
2 Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost or can be
3 accessed electronically free of charge at <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>.

4 (r) The facility shall have the following inspection reports available for review upon request by the Construction
5 Section:

6 (1) a current sanitation inspection report from the county health department; and

7 (2) a fire safety inspection report from the local fire marshal.

8 (s) A fire alarm system with pull stations on each floor and sounding devices that are audible throughout the building
9 shall be installed. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire
10 department dispatch center, either directly or through a central station monitoring company connection. The fire alarm
11 system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated
12 herein by reference including subsequent amendments and editions and may be obtained from the National Fire
13 Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50).
14 Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected to the
15 fire alarm system. These heat detectors shall be interconnected and be provided with battery backup. Corridors shall
16 be equipped with smoke detectors that are connected to the fire alarm system.

17 (t) The building housing the overnight respite services program and the adult day care or adult health care programs
18 shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by
19 reference including subsequent amendments and editions and may be obtained from the National Fire Protection
20 Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars (\$103.00).

21
22 *History Note: Authority G.S. 131D-6.1;*

23 *Eff. April 1, 2017.*