



October 19, 2017

MEMORANDUM

TO: Nadine Pfeiffer, Rule Review Manager

FROM: Mike Vicario, Vice President of Regulatory Affairs
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SUBJECT: Comment on proposed Temporary rule 10A NCAC 13B .6105 (c) and 10A NCAC 13B .6105 (d)

Session Law 2017-174, Senate Bill 42, is known as "An Act Directing the Medical Care Commission to Adopt the Recommendations of the American Society of Healthcare Engineering's Facility Guidelines Institute" (FGI). The law requires the repeal of numerous existing state construction regulations and proposes several new regulations that enact the FGI, becoming effective December 1, 2017.

NCHA has the following comments on 10A NCAC 13B .6105 (c) and (d), both of which propose to define the effective date and instances under which the FGI will apply in replacing much of the current Section .6000 of the North Carolina Regulations for Hospitals.

- 1) Section 10A NCAC 13B .6105 (c) of the regulation establishes that additions/alterations approved by DHSR on or after January 1, **2018** shall meet the standards established in Sections .6000 through .6200. This proposed rule is inconsistent with the law and is confusing in that the law requiring transition to FGI, SB 42, states that it applies to a hospital "who submits plans and specifications to the Department of Health and Human Services pursuant to Article 5 of Chapter 113E of the General Statutes on or after January 1, **2016**," not January 1, 2018. SB 42 does not include a January 1, 2018 deadline.
- 2) Section 10A NCAC 13B .6105 (d) of the regulation states that a facility whose documents were **approved** by DHSR prior to January 1, 2018 shall meet those standards established in Sections .6000 through .6200 of this Subchapter that were in effect at the time the construction documents were approved by the Construction Section. Again, the law establishing this regulation states that it applies to any hospital "who **submits** plans and specifications to the Department of Health and Human Services pursuant to Article 5 of Chapter 113E of the General Statutes on or after January 1, **2016**." If a hospital applicant **submits** plans and specifications in accordance with the law (on or after January 1, 2016), they must be reviewed under the FGI, regardless of the date those documents were approved by DHSR.

NCHA proposes the following as a substitute for the two proposed rules 10A NCAC 13B .6105 (c) and (d):



10A NCAC 13B .6105

~~(c) A new facility or any additions or alterations to an existing facility whose construction documents were approved by the Construction Section on or after January 1, 2018 shall meet the standards established in Sections .6000 through .6200 of this Subchapter.—~~

~~(d) An existing facility whose construction documents were approved by the Construction Section prior to January 1, 2018 shall meet those standards established in Sections .6000 through .6200 of this Subchapter that were in effect at the time the construction documents were approved by the Construction Section.—~~

A new facility or any additions or alterations to an existing facility whose construction documents were submitted to the Construction Section on or after January 1, 2016 shall choose to comply with either the 2017 standards established in Sections 10A NCAC 13B .6000 of the Hospital Licensure Regulations or the Temporary Regulations 10A NCAC 13B .6003, .6105(a) and .6228, as scheduled to become effective December 1, 2017 and inclusive of the edition of the Facility Guidelines Institute in effect at that time.

Thank you for the opportunity to comment on these proposed regulations. Please feel free to contact me if you have questions.