



NORTH CAROLINA ASSISTED LIVING ASSOCIATION

NCALA

3392 Six Forks Road
Raleigh NC 27609

August 7, 2024

Taylor Corpening
809 Ruggles Drive
2701 Mail Service Center
Raleigh, NC 27699
Email: dhsr.rulescoordinator@dhhs.nc.gov

Re: North Carolina Assisted Living Association public hearing comments for the record, August 7, 2024. Comments are presented in response to the proposed Medical Care Commission Rules Published June 17, 2024, in the North Carolina Register, Volume 38, Issue 24, pages 1582-1623

Dear Ms. Corpening,

As President/CEO of the North Carolina Assisted Living Association (NCALA), I am providing comments to the proposed rule changes from NC DHSR, Adult Care Licensure Section for rule 10A NCAC 13F .0309 (Fire Safety and Emergency Preparedness Plans).

The NCALA represents over 300 adult care and family care facilities that serve approximately 20,000 residents. We appreciate the opportunity to voice our comments.

Proposed rule: 13F .0309

To say that 10A NCAC 13F .0309, “is proposed with substantive changes” is an understatement. The proposed changes to Adult Care Home Rule 13F .0309 are extensive and the assumption that adult care and family care homes can implement these changes by May 1, 2025, is unrealistic. Additionally, the assumption that the fiscal cost to the communities is minimal, is also unrealistic.

The rule 10A NCAC 13F .0309 has gone from a one page, 20-line rule to the proposed rule being a four-page document with 35-37 lines each page (attached before and after documents).

Proposed rule: 13F .0309

(b) There shall be unannounced rehearsals of the fire evacuation plan quarterly on each shift

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We ask the word “rehearsals” to be clarified. Current “rehearsals” as used in 10A NCAC 13F .0309 rule does not require residents be physically removed from the building during the required drill of the fire evacuation plan. We ask that the current interpretation of “rehearsals” continues; however, we ask for clarification in rule or in a Q&A that is documented so the county monitors and the Adult Care Licensure Section staff have consistent instructions to follow when evaluating/surveying compliance with 13F .0309 (b).

Proposed rule:

13F .0309 (e) (1)(A) and (e) (1)(K)(L)

DHSR in 13F .0309 (e) (1) (A) is requiring “*procedures for collaborating with other healthcare facilities and services to include emergency medical services, hospitals, nursing homes, adult care homes when applicable and the community during an emergency or disaster*” coupled with 13F .0309 (e) (1) (K) requiring “*transportation procedures to include prearranged transfer agreements, written agreements, or contracted arrangements with other facilities and other providers to receive residents*”

Although larger chains that have facilities clustered within a reasonable distance of each other may be able to more easily meet these requirements, family care homes and single facility providers are going to have great issues in creating contracts with other facilities. And what happens if a “contract” is created and at the time of the needed evacuation, the state declares that the contracted facility cannot accept the residents because they are already at full census, or the contracted facility is not another licensed adult care home. An example of this is the following excerpt from an email from Megan Lamphere, copied below, and dated 8/4/2024 states that it is expected that any evacuated residents will be placed in other licensed adult care homes. If this is the case, why burden communities with attempting to get signed contracts with hospitals and nursing homes? Obtaining signed contracts with the agencies identified in 13F.0309 (e) (1)(A) and (K) above is excessive work that is impractical to implement.

*“*Please note that it is expected that evacuated residents will be placed in other licensed adult care homes that have bed availability. It is by rare exception that waiver requests will be granted to allow for residents to be placed in locations other than another licensed adult care home bed.”*



Also, DHSR in 13F .0309 (e) (1) (L) is requiring “*provisions for addressing potential staffing issues and ensuring staffing during an emergency.*” Even if a facility has an agreement with a staffing agency, if a storm such as Katrina or Florence (examples which are listed by DHSR in supporting documents) were to hit an area, staffing agencies would have all the same issues that facilities have in getting staff to work. Adjoining or sister facilities would likewise be unable to share staff because everyone would be experiencing the same event.

Without the assistance from state and local authorities, it appears that these proposed rules will only create extra paperwork for facilities. The NCALA suggests the Division of Health Service Regulation and the providers and advocates collaboratively develop Fire Safety and Emergency Plan guidelines which include a standard fire and emergency plan template that can be individualized to each community and each emergency management agency. A precedent for this type of collaboration was established with the development of the Infection Control Plan templates for policies and procedures.

Additionally, the NCALA believes the fiscal note needs to be reevaluated. The NCALA would like to see rule 10A NCAC 13F .0309 be readopted as it is currently written.

The NCALA regrets we did not have the opportunity to vet the proposed changes to rule 10A NCAC 13F .0309 during our customary and collaborative DHSR/Advocate/Provider Rule Readoption Committee meetings

Thank you for your consideration of my comments and if I can be of further assistance in addressing any questions about my comments, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Frances Messer".

Frances Messer
President/CEO
North Carolina Assisted Living Association.