

1 10A NCAC 13E .0303 is amended under temporary procedures as follows:

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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, built~~ prior to the effective date of this Rule; and
12 (4) "new facility" means a facility that has not been licensed previously as an overnight respite services
13 program and for which an initial license is sought. The term also includes a proposed facility that
14 will be built according to building plans approved by the Construction Section for compliance with
15 the standards established in this Section, on or after the effective date of this Rule.

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

- 17 (1) A new facility shall meet the standards established in this Section.
18 (2) An existing facility shall meet the standards established in this Section that were in existence at the
19 time of change in use of ~~space, space, increase in capacity,~~ construction, addition, alteration, or
20 repair.
21 (3) An existing building converted from another use that a program intends to use for an overnight
22 respite services program shall meet all the requirements of a new facility as indicated in
23 Subparagraph (1) of this Paragraph.

24 (c) All new construction, ~~additions,~~ additions, modifications, renovations, or alterations for a new facility shall meet
25 the requirements of the North Carolina State Building ~~Codes,~~ Code: Residential Code for overnight respite services
26 programs requesting licensure for less than seven (7) participants. Additionally, overnight respite services programs
27 requesting licensure for four to six participants shall meet the North Carolina State Building Code: Building Code,
28 Licensed Residential Care Facilities Section in effect at the time of licensure. Before starting any construction or
29 alterations, the overnight respite services program shall consult with the local building code official for information
30 about required permits and construction requirements.

31 (d) All new construction, additions, modifications, renovations, or alterations for a new facility requesting licensure
32 for seven (7) to twelve (12) participants shall meet the requirements of the North Carolina State Building: Building
33 Code, Licensed Large Residential Care Facilities Section in effect at the time of licensure. Before starting any
34 construction or alterations, the overnight respite services program shall consult with the local building code official
35 for information about required permits and construction requirements. The North Carolina State Building Codes,
36 which are incorporated herein by reference ~~reference,~~ including subsequent amendments and editions. Copies of these
37 codes ~~editions,~~ may be purchased from the International Code Council online at

1 ~~http://www.iccsafe.org/Store/Pages/default.aspx at a cost of five hundred twenty seven dollars (\$527.00) or accessed~~
2 electronically free of charge at ~~http://codes.iccsafe.org/North%20Carolina.html.~~
3 <https://codes.iccsafe.org/codes/united-states/north-carolina>. ~~All new construction, additions, or repairs of an existing~~
4 ~~facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction,~~
5 ~~addition, alteration, or repair.~~

6 (e) All new construction, additions, modifications, renovations, or alterations of an existing facility shall meet the
7 requirements of the North Carolina State Building Codes in effect at the time of construction, addition, modification,
8 renovation, alteration, or repair. Before starting any construction or alterations, the overnight respite services program
9 shall consult with the local building code official for information about required permits and construction
10 requirements.

11 ~~(d)(f)~~ A facility shall be constructed, equipped, and maintained to comply with the standards established in this
12 Section for the capacity indicated on its license.

13 ~~(e)(g)~~ The Construction Section may grant an equivalency to allow an alternate design or functional variation from
14 the requirements of the rules contained in this Section. For the purposes of this Rule, an "equivalency" is a
15 Construction Section-approved alternate design and functional variation to a requirement contained in the rules of this
16 Section that meets the intent of the rule requirement but does not reduce the safety and operational effectiveness of
17 the facility design and layout. If granted, the equivalency shall apply to a specific facility. A program shall be granted
18 an equivalency if:

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

21 (A) the rule requirement that will not be met;

22 (B) the justification for the equivalency; and

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

24 (2) the program receives a written approval of the equivalency from the Construction Section.

25 ~~(f)(h)~~ If any of the rules, codes, or standards contained in this Section conflict, the most restrictive requirement shall
26 apply.

27 ~~(g)(i)~~ For an existing facility whose license is revoked or suspended by the Division of Health Service Regulation
28 pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the facility shall meet the requirements of a new facility as
29 required by Subparagraph (b)(1) of this Rule prior to being relicensed.

30 ~~(h)(j)~~ Prior to commencement of construction or change in use of space, any program intending to offer overnight
31 respite care services that is planning new construction, an ~~addition~~ addition, modification, renovation, or alteration to
32 an existing building, or a change in use of space shall submit building plans and other documents to the Construction
33 Section as specified in Rule .0301 of this Section.

34 ~~(i)(k)~~ If the building to be used for a facility is two or more stories in height, it shall meet the following additional
35 requirements:

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

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

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

~~(j)(l)~~ The basement and the attic shall not be used for storage or sleeping.

~~(k)(m)~~ The ceiling height throughout the facility shall be at least seven and one-half feet from the floor.

~~(l)(n)~~ Elevation changes in the floor are not permitted in participant-use ~~areas~~. areas. Steps and ramps between levels are not permitted.

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

~~(n)(p)~~ ~~Windows shall be operable and~~ All windows that are designed to be operable shall be maintained operable. For the purposes of this Rule, "operable" means a window that may be opened and shut to allow outdoor-air ventilation. ~~To inhibit participant elopement from any window, the window opening may be restricted to a six-inch opening.~~

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

~~(p)(q)~~ The facility shall ~~comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section,~~ meet sanitation requirements set forth in 15A NCAC 18A .1600, Rules Governing the Sanitation of Residential Care Facilities, which are incorporated herein by ~~reference~~ reference, including subsequent amendments and editions. ~~The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 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 27609. Copies of these Rules may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699 1632 at no cost or can be accessed electronically free of charge at~~ <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>. <https://www.oah.nc.gov/>.

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

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

(2) a ~~current~~ fire and safety inspection report from the local fire ~~marshal.~~ marshal dated within the past 12 months.

~~(r)(s)~~ The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and sounding devices that are audible throughout the building. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated herein by ~~reference~~ reference, including subsequent amendments and editions editions, and may be ~~obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50).~~ accessed electronically free of charge at <https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=72>.

1 (t) Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected
2 to the fire alarm system. These heat detectors shall be interconnected and provided with battery backup. Corridors
3 shall be equipped with smoke detectors that are connected to the fire alarm system.

4 (s)(u) A building housing an overnight respite services program or an adult day care or adult health care program
5 shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by
6 ~~reference~~ reference, including subsequent amendments and ~~editions~~ editions, and may be ~~obtained from the National~~
7 ~~Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars~~
8 ~~(\$103.00).~~ accessed electronically free of charge at [https://www.nfpa.org/codes-and-standards/nfpa-13-standard-](https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13)
9 [development/13](https://www.nfpa.org/codes-and-standards/nfpa-13-standard-development/13).

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

12 *Eff. April 1, 2017-2017;*

13 *Temporary Adoption Eff. November 1, 2026.*
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