10A NCAC 14C .0303 is proposed for readoption with substantive changes as follows:

10A NCAC 14C .0303  REPLACEMENT EQUIPMENT

(a) The purpose of this Rule is to define the terms used in the definition of "replacement equipment" set forth in G.S. 131E-176(22a).

(b) "Activities essential to acquiring and making operational the replacement equipment" means those activities which are indispensable and requisite, absent which the replacement equipment could not be acquired or made operational.

(c) "Comparable medical equipment" means equipment which is functionally similar and which is used for the same diagnostic or treatment purposes.

(d) Replacement equipment is comparable to the equipment being replaced if:

1. it has the same technology as the equipment currently in use, although it may possess expanded capabilities due to technological improvements; and

2. it is functionally similar and is used for the same diagnostic or treatment purposes as the equipment currently in use and is not used to provide a new health service; and

3. the acquisition of the equipment does not result in more than a 10% increase in patient charges or per procedure operating expenses within the first twelve months after the replacement equipment is acquired.

(e) Replacement equipment is not comparable to the equipment being replaced if:

1. the replacement equipment is new or reconditioned, the existing equipment was purchased second-hand, and the replacement equipment is purchased less than three years after the acquisition of the existing equipment; or

2. the replacement equipment is new, the existing equipment was reconditioned when purchased, and the replacement equipment is purchased less than three years after the acquisition of the existing equipment; or

3. the replacement equipment is capable of performing procedures that could result in the provision of a new health service or type of procedure that has not been provided with the existing equipment; or

4. the replacement equipment is purchased and the existing equipment is leased, unless the lease is a capital lease; or

5. the replacement equipment is a dedicated PET scanner and the existing equipment is:

   (A) a gamma camera with coincidence capability; or

   (B) nuclear medicine equipment that was designed, built, or modified to detect only the single photon emitted from nuclear events other than positron annihilation.

(a) This Rule defines the terms used in the definition of “replacement equipment” set forth in G.S. 131E-176(22a).

(b) “Currently in use” means that the equipment to be replaced has been used by the person requesting the exemption at least 10 times to provide a health service during the 12 months prior to the date the written notice required by G.S. 131E-184(a) is submitted to the CON Section.
(c) Replacement equipment is not “comparable” if:

1. the replacement equipment to be acquired is capable of providing a health service that the equipment to be replaced cannot provide; or
2. the equipment to be replaced was acquired less than 12 months prior to the date the written notice required by G.S. 131E-184(a) is submitted to the CON Section and it was refurbished or reconditioned when it was acquired by the person requesting the exemption.

History Note: Authority G.S. 131E-177(1);
Temporary Adoption Eff. September 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Eff. January 4, 1994;
Amended Eff. April 1, 1999; November 1, 1996;
Temporary Amendment Eff. June 3, 2002;
Amended Eff. April 1, 2004, 2003;