10A NCAC 13K .1116 is proposed for readoption with substantive changes as follows:

**10A NCAC 13K .1116 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

The physical plant requirements for each hospice residential facility or unit shall be applied as follows:

1. **New construction** shall comply with all the requirements of Section .1100 of this Subchapter; this Section.
2. **Existing** Except where otherwise specified, existing buildings shall meet the licensure and code requirements in effect at the time of licensure, construction, alteration, or modification; modification.
3. New additions, alterations, modifications, and repairs shall meet the technical requirements of Section .1100 of this Subchapter; however, where strict conformance with current requirements would be impracticable, the authority having jurisdiction may approve alternative measures where the facility can demonstrate to the Department's satisfaction that the alternative measures do not reduce the safety or operating effectiveness of the facility;
4. Rules contained in Rule .1109 of this Section are minimum requirements and are not intended to prohibit buildings, systems, or operational conditions that exceed minimum requirements;
5. **Equivalency:** Alternate methods, procedures, design criteria, and functional variations from the physical plant requirements, because of extraordinary circumstances, new programs, or unusual conditions, may be approved by the authority having jurisdiction when the facility can effectively demonstrate to the Department's satisfaction that the intent of the physical plant requirements are met and that the variation does not reduce the safety or operational effectiveness of the facility; and The Division may grant an equivalency to allow alternate methods, procedures, design criteria or functional variation from the requirements of this Rule and the rules contained in this Section. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that states the following:
   a. the rule citation and the rule requirement that will not be met due to strict conformance with current requirements would be impractical, extraordinary circumstances, new programs, or unusual conditions;
   b. the justification for the equivalency; and
   c. how the proposed equivalency meets the intent of the corresponding rule requirement.
5. In determining whether to grant an equivalency request the Division shall consider whether the request will reduce the safety and operational effectiveness of the facility. The governing body shall maintain a copy of the approved equivalence issued by the Division.
6. Where rules or codes have any conflict, the more stringent requirement shall apply.
History Note: Authority G.S. 131E-202;