

1 10A NCAC 13G .0301 is proposed for readoption with substantive changes as follows:

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3 **10A NCAC 13G .0301 APPLICATION OF PHYSICAL PLANT REQUIREMENTS**

4 ~~The physical plant requirements for each A family care home shall be applied as follows~~ meet the following physical
5 plant requirements:

- 6 (1) New construction and ~~existing~~ buildings proposed for use as a Family Care Home shall comply with
7 the requirements of this ~~Section;~~ Section.
- 8 (2) Except where otherwise specified, ~~existing~~ licensed homes or portions of ~~existing~~ licensed homes
9 shall meet the licensure and code requirements in effect at the time of licensure, construction, change
10 in ~~service or~~ service, change in bed count, addition, modification, renovation or alteration;
11 renovation, or alteration. however, in no case shall the requirements for any licensed home, where
12 no addition or renovation has been made, be less than those requirements found in the 1971
13 "Minimum and Desired Standards and Regulations" for "Family Care Homes", copies of which are
14 available at the Division of Health Service Regulation, 701 Barbour Drive, Raleigh, North Carolina
15 27603 at no cost;
- 16 (3) In no case shall the requirements for a licensed home, where no addition or renovation has been
17 made, be less than those requirements found in the 1971 "Minimum and Desired Standards and
18 Regulations" for "Family Care Homes", copies of which are available at no cost at the Division of
19 Health Service Regulation, 1800 Umstead Drive, Raleigh, North Carolina 27603.
- 20 ~~(3)(4)~~ (4) New additions, alterations, ~~modifications~~ modifications, and repairs shall meet the requirements of
21 this ~~Section;~~ Section.
- 22 (4) ~~Rules contained in this Section are minimum requirements and are not intended to prohibit~~
23 ~~buildings, systems or operational conditions that exceed minimum requirements;~~
- 24 (5) ~~Equivalency: Alternate methods, procedures, design criteria and functional variations from the~~
25 ~~physical plant requirements shall be approved by the Division when the home can effectively~~
26 ~~demonstrate to the Division's satisfaction, that the intent of the physical plant requirements are met~~
27 ~~and that the variation does not reduce the safety or operational effectiveness of the home; and~~ The
28 Division may grant an equivalency to allow alternate methods, procedures, design criteria, or
29 functional variation from the requirements of this Rule and the rules contained in this Section. The
30 equivalency may be granted by the Division when a facility submits a written equivalency request
31 to the Division that states the following:
- 32 (a) the rule citation and the rule requirement that will not be met because strict conformance
33 with current requirements would be:
- 34 (i) impractical;
- 35 (ii) unable to be met due to extraordinary circumstances;
- 36 (iii) unable to be met due to new programs; or
- 37 (iv) unable to be met due to unusual conditions;

- 1 (b) the justification for the equivalency; and
- 2 (c) how the proposed equivalency meets the intent of the corresponding rule requirement.
- 3 (6) ~~Where rules, codes or standards have any conflict, the most stringent requirement shall apply. In~~
- 4 ~~determining whether to grant an equivalency request, the Division shall consider whether the request~~
- 5 ~~will reduce the safety and operational effectiveness of the facility. The facility shall maintain a copy~~
- 6 ~~of the approved equivalency issued by the Division, and~~
- 7 (7) ~~Where rules, codes or standards have any conflict, the more stringent requirement shall apply.~~

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9 *History Note:* *Authority G.S. 131D-2.16; 143B -165;*

10 *Eff. July 1, ~~2005-2005~~;*

11 *Readopted Eff. January 1, 2025.*