

G.S. 150B-21.3A Report for 10A NCAC 13D, RULES FOR THE LICENSING OF NURSING HOMES

Agency - Health and Human Services, NC Medical Care Commission

Comment Period - June 30, 2014-September 3, 2014

Date Submitted to APO - January 20, 2015

Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SECTION .2000 GENERAL INFORMATION	10A NCAC 13D .2001	DEFINITIONS	Eff. January 1, 1996.	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42CFR 488.301	Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .2100 - LICENSURE	10A NCAC 13D .2101	APPLICATION REQUIREMENTS	Amended Eff. July 1, 2012.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2102	ISSUANCE OF LICENSE	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2103	LENGTH OF LICENSURE	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2104	REQUIREMENTS FOR LICENSURE RENEWAL OR CHANGES	Amended Eff. September 1, 2006.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2105	TEMPORARY CHANGE IN BED CAPACITY	Amended Eff. March 1, 2013.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2106	DENIAL, AMENDMENT, OR REVOCATION OF LICENSE	Amended Eff. January 1, 2013.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2107	SUSPENSION OF ADMISSIONS	Amended Eff. January 1, 2013.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2108	PROCEDURE FOR APPEAL	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2109	INSPECTIONS	Eff. January 1, 1996.	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2111	ADMINISTRATIVE PENALTY DETERMINATION PROCESS	Amended Eff. July 1, 2014	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .2200 - GENERAL STANDARDS OF ADMINISTRATION	10A NCAC 13D .2201	ADMINISTRATOR	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2202	ADMISSIONS	Amended Eff. January 1, 2013.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2203	PATIENTS NOT TO BE ADMITTED	Amended Eff. January 1, 2013.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2204	RESPIRE CARE	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2205	DISCHARGE OF PATIENTS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2206	MEDICAL DIRECTOR	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2207	PATIENT RIGHTS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2208	SAFETY	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2209	INFECTION CONTROL	Amended Eff. July 1, 2012.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2210	REPORTING AND INVESTIGATING ABUSE, NEGLIGENCE OR MISAPPROPRIATION	Amended Eff. July 1, 2014.E73	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42USC 1395 & 1396	Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt

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	10A NCAC 13D .2211	PERSONNEL STANDARDS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2212	QUALITY ASSURANCE COMMITTEE	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .2300 - PATIENT AND RESIDENT CARE AND SERVICES	10A NCAC 13D .2301	PATIENT ASSESSMENT AND PLAN OF CARE	Amended Eff. February 1, 2013.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2302	NURSING SERVICES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2303	NURSE STAFFING REQUIREMENTS	Amended Eff. January 1, 2013.	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	10A NCAC 13D .2304	NURSE AIDES	Amended Eff. July 1, 2012.	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42USC 1395 & 1396	No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2305	QUALITY OF CARE	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2306	MEDICATION ADMINISTRATION	Amended Eff. January 1, 2013.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2307	DENTAL CARE AND SERVICES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2308	ADULT CARE HOME PERSONNEL REQUIREMENTS	Amended Eff. July 1, 2012.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2309	CARDIO-PULMONARY RESUSCITATION	Eff. October 1, 2006.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .2400 - MEDICAL RECORDS	10A NCAC 13D .2401	MAINTENANCE OF MEDICAL RECORDS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2402	PRESERVATION OF MEDICAL RECORDS	Amended Eff. November 1, 2014.	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
SECTION .2500 - PHYSICIAN'S SERVICES	10A NCAC 13D .2501	AVAILABILITY OF PHYSICIAN'S SERVICES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2502	PRIVATE PHYSICIAN	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2503	USE OF NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS	Amended Eff. November 1, 2014.	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	10a NCAC 13D .2504	LABORATORY AND RADIOLOGY SERVICES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2505	BRAIN INJURY LONG-TERM CARE PHYSICIAN SERVICES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2506	PHYSICIAN SERVICES FOR VENTILATOR DEPENDENT PATIENTS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .2600 - PHARMACEUTICAL SERVICES	10A NCAC 13D .2601	AVAILABILITY OF PHARMACEUTICAL SERVICES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2602	PHARMACY PERSONNEL	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note

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	10A NCAC 13D .2603	ADMINISTRATIVE RESPONSIBILITIES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2604	DRUG PROCUREMENT	Amended Eff. January 1, 2013.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2605	DRUG STORAGE AND DISPOSITION	Amended Eff. July 1, 2012.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2606	PHARMACEUTICAL RECORDS	Amended Eff. July 1, 2012.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2607	EMERGENCY DRUGS	Amended Eff. July 1, 2012.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .2700 - DIETARY SERVICES	10A NCAC 13D .2701	PROVISION OF NUTRITION AND DIETETIC SERVICES	Amended Eff. August 1, 2012.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .2800 - ACTIVITIES, RECREATION AND SOCIAL SERVICES	10A NCAC 13D .2801	ACTIVITY SERVICES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2802	SOCIAL SERVICES	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .2900 - SPECIAL REQUIREMENTS	10A NCAC 13D .2901	REPORT OF DEATH	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .2902	PETS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .3000 - SPECIALLY DESIGNATED UNITS	10A NCAC 13D .3003	VENTILATOR DEPENDENCE	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3004	BRAIN INJURY LONG-TERM CARE	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3005	SPECIAL NURSING REQUIREMENTS FOR BRAIN INJURY LONG-TERM CARE	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3031	ADDITIONAL REQUIREMENTS FOR SPINAL CORD INJURY PATIENTS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .3100 - DESIGN AND CONSTRUCTION	10A NCAC 13D .3101	GENERAL RULES	Amended Eff. July 1, 2014.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3102	APPLICATION OF PHYSICAL PLANT REQUIREMENTS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3103	SITE	Amended Eff. July 1, 2014.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3104	PLANS AND SPECIFICATIONS	Eff. January 1, 1996.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
SECTION .3200 - FUNCTIONAL REQUIREMENTS	10A NCAC 13D .3201	REQUIRED SPACES	Amended Eff. August 1, 2014.	Necessary with substantive public interest	No		No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
	10A NCAC 13D .3202	FURNISHINGS	Amended Eff. July 1, 2014.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3301	NEW FACILITY REQUIREMENTS	Eff. January 1, 1996.	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code

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	10A NCAC 13D .3302	ADDITIONS	Eff. January 1, 1996.	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code
SECTION .3400 - MECHANICAL: ELECTRICAL: PLUMBING											
	10A NCAC 13D .3401	HEATING AND AIR CONDITIONING	Amended Eff. July 1, 2014.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3402	EMERGENCY ELECTRICAL SERVICE	Amended Eff. July 1, 2014.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3403	GENERAL ELECTRICAL	Amended Eff. July E241, 2014.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	10A NCAC 13D .3404	OTHER	Amended Eff. July 1, 2014.	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note

Periodic Rules Review Public Comments and Agency Response
Submission to RRC

Rule Subchapter: 10A NCAC 13D

1) Rule Citation: 10A NCAC 13D .2001

Rule Title: DEFINITIONS

a) Commenter: Erin Glendening

Comment:

This is a test of the system.

Agency Response:

This comment has no merit. It is a test of the comment reporting system.

b) Commenter: William Croft

Comment:

In several rules, you refer to respiratory therapist providing care. Respiratory therapy is a licensed healthcare practitioner group not mentioned in 10A NCAC 13D .2001 DEFINITIONS. For example: 10A NCAC 13D .2506 'PHYSICIAN SERVICES FOR VENTILATOR DEPENDENT PATIENTS': Facilities with ventilator dependent care patients shall contract with a physician who has specialized training in pulmonary medicine. This physician shall be responsible for respiratory services and shall: (1) establish, with the respiratory therapist and nursing staff, appropriate ventilator policies and procedures, including emergency procedures; (2) assess each ventilator dependent patient's status at least monthly with corresponding progress notes; (3) be available on an emergency basis; and (4) participate in individual care planning. Under rule 10A NCAC 13D .3003 'VENTILATOR DEPENDENCE': In addition, facilities having patients requiring the use of ventilators for more than eight hours a day shall meet the following requirements: (1) The facility shall be located within 30 minutes of an acute care facility. (2) Respiratory therapy shall be provided and supervised by a respiratory therapist currently registered by the National Board for Respiratory Care. The respiratory therapist shall: (a) make, as a minimum, weekly on site assessments of each patient receiving ventilator support with corresponding progress notes; (b) be on call 24 hours daily; and (c) assist the pulmonologist and nursing staff in establishing ventilator policies and procedures, including emergency policies and procedures. We agree with the rules above and the others proposed. However, respiratory therapist are a licensed profession that should be defined in 10A NCAC 13D .2001 DEFINITIONS as "Respiratory Therapist" means a respiratory therapist who is licensed as a Respiratory Care Practitioner under G.S. 90-646, Article 38 under the title Respiratory Care Practice Act. Sincerely, William L.

Croft, PhD, RRT, RCP Executive Director The North Carolina Respiratory Care Board
1100 Navaho Drive, Suite 242 Raleigh, North Carolina 27609 Phone: (919) 878-5595
Fax: (919) 878-5565 E-mail: bcroft@ncrcb.org

Agency Response:

The Agency determined this rule was necessary with substantive public interest. Based on the comment, we will not change its categorization. We have noted your concern about the absence of a definition for a respiratory therapist and will consider the comment when the rule is revised.

2) Rule Citation: 10A NCAC 13D .2109

Rule Title: INSPECTIONS

a) Commenter: Jonathan Thomas

Comment:

Under Section (f), the use of 'mail' seems to prohibit the use of the ePOC system since the CMS-2567 is not longer mailed in. Perhaps as an alternate, it should state 'submit' rather than 'mail.'

Agency Response:

The Agency determined this rule was necessary without substantive public interest. The electronic plan of correction (EPOC) is designed for use with nursing homes that participate in Medicare and/or Medicaid. Licensed nursing homes that do not participate in Medicare or Medicaid will continue to mail the plan of correction through the US mail. We have noted the recommended wording change and will consider it in the future. We do not see a need to change rule categorization at this time.

3) Rule Citation: 10A NCAC 13D .2210

Rule Title: REPORTING AND INVESTIGATING ABUSE, NEGLECT OR MISAPPROPRIATION

a) Commenter: Jonathan Thomas

Comment:

Under Section (d), it states providers must have reports (allegations) of abuse postmarked withing 5 working days. As this is stated, I am concerned the use of fax would be deemed out of compliance since only US Mail can be postmarked.

Agency Response:

The Agency determined this rule was necessary without substantive public interest.

Reports can be submitted to the Health Care Personnel Registry Section via fax. The rule categorization will be changed to necessary with substantive public interest.