

G.S. 150B-21.3A Report for 10A NCAC 13K, HOSPICE LICENSING RULES

Agency - Medical Care Commission

Comment Period - 2/23/18 - 4/24/18

Date Submitted to APO - October 22, 2018

Subchapter	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(e)]	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 .0100 – GENERAL INFORMATION	10A NCAC 13K .0102	DEFINITIONS	Amended Eff. February 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.3	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 .0200 - LICENSE	10A NCAC 13K .0201	LICENSE REQUIRED	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.116	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 13K .0202	APPLICATION FOR AND ISSUANCE OF A LICENSE	Amended Eff. April 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 13K .0206	ADVERSE ACTION	Amended Eff. February 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 13K .0208	INSPECTIONS	Amended Eff. February 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 13K .0209	MULTIPLE PREMISES	Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.116	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 13K .0210	COMPLIANCE WITH LAWS	Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.116	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 .0300 - ADMINISTRATION	10A NCAC 13K .0301	AGENCY MANAGEMENT AND SUPERVISION	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.100	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 13K .0303	ADMINISTRATIVE FINANCIAL AND STATISTICAL RECORDS	Amended Eff. February 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 .0400 - PERSONNEL	10A NCAC 13K .0401	PERSONNEL	Amended Eff. February 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.60	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
		10A NCAC 13K .0402	INSERVICE EDUCATION AND TRAINING	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.112	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 .0500 - SCOPE OF SERVICES	10A NCAC 13K .0501	SERVICE REQUIREMENTS	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.70	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 13K .0504	HOME MEDICAL EQUIPMENT AND SUPPLIES	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.106	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 13K .0505	SERVICES ARRANGED WITH OTHER AGENCIES AND INDIVIDUALS	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.108	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 .0600 - PATIENT/FAMILY CARE	10A NCAC 13K .0601	ACCEPTANCE OF PATIENTS FOR HOSPICE SERVICES	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.56	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 13K .0604	PATIENT'S RIGHTS AND RESPONSIBILITIES	Eff. February 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.52	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 13K .0605	HOME CARE	Eff. April 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 .0700 - PATIENT/FAMILY CARE PLAN	10A NCAC 13K .0701	CARE PLAN	Amended Eff. February 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.56	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt

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Subchapter	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(e)]	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 .0800 - PHARMACEUTICAL AND MEDICAL TREATMENT ORDERS AND ADMINISTRATION	10A NCAC 13K .0801	PHARMACEUTICAL AND MEDICAL TREATMENT ORDERS	Amended Eff. April 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.106	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 13K .0802	ADMINISTRATION OF PHARMACEUTICALS	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.106	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 .0900 - MEDICAL RECORDS	10A NCAC 13K .0901	CONTENT OF MEDICAL RECORD	Amended Eff. April 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.104	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 13K .0902	RECORD CONTENT, HANDLING AND RETENTION	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.104	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 .1000 - EVALUATION	10A NCAC 13K .1001	EVALUATION REQUIRED	Amended Eff. February 1, 1996	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.10	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 .1100 - HOSPICE RESIDENTIAL CARE	10A NCAC 13K .1101	ADMINISTRATION	Eff. June 1, 1991	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 13K .1102	HOSPICE RESIDENCE STAFFING	Amended Eff. February 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 13K .1103	PHARMACEUTICAL SERVICES	Eff. June 1, 1991	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 13K .1104	DIETARY SERVICES	Eff. June 1, 1991	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 13K .1105	HOSPICE VISITATION	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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 13K .1106	INFECTION CONTROL	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.56	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 13K .1107	HOUSEKEEPING AND LINENS	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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 13K .1108	REPORT OF DEATH	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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 13K .1109	RESIDENT CARE AREAS	Amended Eff. February 1, 1995	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 13K .1110	FURNISHINGS	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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 13K .1111	HOSPICE RESIDENCE ZONING AND FIRE SAFETY REQUIREMENTS	Eff. June 1, 1991	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 13K .1112	DESIGN AND CONSTRUCTION	Eff. June 1, 1991	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 13K .1113	PLANS AND SPECIFICATIONS	Amended Eff. February 1, 1996	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

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		10A NCAC 13K .1114	PLUMBING	Eff. June 1, 1991	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 13K .1115	WASTE DISPOSAL	Eff. June 1, 1991	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 13K .1116	APPLICATION OF PHYSICAL PLANT REQUIREMENTS	Eff. February 1, 1996	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 .1200 - HOSPICE INPATIENT CARE	10A NCAC 13K .1201	REQUIREMENTS FOR HOSPICE INPATIENT UNITS	Eff. June 1, 1991	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 13K .1202	ADDITIONAL STAFFING REQUIREMENTS FOR HOSPICE INPATIENT UNITS	Amended Eff. January 1, 2010	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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 13K .1203	ADDITIONAL SERVICES REQUIRED FOR HOSPICE INPATIENT CARE	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.100	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 13K .1204	ADDITIONAL PATIENT CARE AREA REQUIREMENTS FOR HOSPICE INPATIENT UNITS	Amended Eff. February 1, 1996	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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
		10A NCAC 13K .1205	FURNISHINGS FOR HOSPICE INPATIENT CARE	Eff. June 1, 1991	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 13K .1206	HOSPICE INPATIENT FIRE AND SAFETY REQUIREMENTS	Eff. June 1, 1991	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.113	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 13K .1207	HOSPICE INPATIENT REQUIREMENTS FOR HEATING/AIR CONDITIONING	Eff. June 1, 1991	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 13K .1208	HOSPICE INPATIENT REQUIREMENTS/EMERGENCY ELECTRICAL SERVICE	Eff. June 1, 1991	Necessary with substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	No	Necessary with substantive public interest	No comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 13K .1209	HOSPICE INPATIENT REQUIREMENTS FOR GENERAL ELECTRICAL	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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 13K .1210	OTHER HOSPICE INPATIENT REQUIREMENTS	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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 13K .1211	ADDITIONAL PLUMBING REQUIREMENTS/HOSPICE INPATIENT UNITS	Eff. June 1, 1991	Necessary without substantive public interest	Yes If yes, include the citation to the federal law	42 CFR 418.110	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
		10A NCAC 13K .1212	APPLICATION OF PHYSICAL PLANT REQUIREMENTS	Eff. February 1, 1996	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

Periodic Rules Review and Expiration of Existing Rules
Subchapter 13K – Hospice Licensing Rules
Public Comments and Agency Response to Comments

Rule Citation & Title	Date	Commenter	Comment	Agency Response
1) 10A NCAC 13K .0102 – Definitions	2/22/18	1a) Erin Glendening, DHSR erin.glendening@dhhs.nc.gov	This is a test to verify that everything is working.	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>The comment is about the test of the electronic comment reporting system.</p> <p>The Agency will not change the determination of this rule.</p>
	3/1/18	1b) Thomas Boone, Medical Services of America, TB66132@gmail.com	<p>Current federal laws recognize a nurse practitioner as an attending physician (CR 3226 published in 2003; Medicare Claims Processing Manual 30.2); further, the most recent budget act contains provisions to allow physician assistants to provide care for hospice patients consistent with their background and training.</p> <p>Recommend defining attending physician as an MD, DO, NP, or PA licensed in NC.</p>	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>The comment recommends the rule be revised to be consistent with rules or guidance from CMS that include NP and PA in their definition of attending physician. This comment will be taken into consideration when the rule is revised.</p> <p>The Agency will not change the determination of this rule</p>
	4/22/18	1c) Annette Kiser, Teleios Collaborative Network akiser@teleioscn.org	I am writing on behalf of Teleios Collaborative Network (TCN), an organization providing services to community based not-for-profit hospice providers. We represent five hospice agencies – Catawba Regional Hospice, Four Seasons Compassion for Life, Caldwell Hospice & Palliative Care, Mountain Valley Hospice & Palliative Care, and Yancey Hospice and Palliative Care. These comments are submitted with input from those agencies. .0102 (2) – We request that you amend the definition of attending physician to include a nurse practitioner and a physician assistant. Currently Section 1861(dd)(3)(B) of the Social Security Act, as well as the Medicare Conditions of Participation, include a nurse practitioner. A federal law was passed earlier this year that amends Section 1861(dd)(3)(B) of the Social Security Act to include physician assistant in the definition of attending physician for hospices effective January 1, 2019. Medicare is expected to add the physician assistant language to the Medicare Conditions of Participation with the fiscal year 2019 hospice rule, a draft of which should be published any day. This expansion of the definition will allow for more timely care of hospice patients as there is a shortage of	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>The comment recommends the rule be revised to be consistent with rules or guidance from CMS that include NP and PA in their definition of attending physician. This comment will be taken into consideration when the rule is revised.</p> <p>The Social Worker comment indicate several areas regarding the definition of social worker that warrant a thoughtful review and the potential for a revision to the existing rule. We have noted the comment and it will be taken into consideration when the rule is revised.</p>

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>qualified physicians, particularly in rural areas. .0102 (30) – We request that you amend the definition of social worker to include those who have a degree in sociology or other fields related to social work. This will be in concert with the Medicare definition of '... degree in psychology, sociology, or other field related to social work' and will give hospices more flexibility in hiring to meet the demanding role of a hospice social worker. Many applicants have the experience and education in other fields, but are not qualified due to their specific degree.</p>	<p>The Agency will not change the determination of this rule</p>
	4/23/18	1d) Annette Kiser, Teleios Collaborative Network akiser@teleioscn.org	<p>13K .0102 (2) – We request that you expand the definition of attending physician to include a nurse practitioner and a physician assistant. Currently Section 1861(dd)(3)(B) of the Social Security Act, as well as the Medicare Conditions of Participation, include a nurse practitioner.</p> <p>A federal law was passed earlier this year that amends Section 1861(dd)(3)(B) of the Social Security Act to include physician assistant in the definition of attending physician for hospices effective January 1, 2019. Medicare is expected to add the physician assistant language to the Medicare Conditions of Participation with the fiscal year 2019 hospice rule, a draft of which should be published very soon. This expansion of the definition will allow for more timely care of hospice patients as there is a shortage of qualified physicians, particularly in rural areas.</p> <p>13K .0102 (30) – We request that you amend the definition of social worker to include those who have a degree in sociology or other fields related to social work. This will be in concert with the Medicare definition of "... degree in psychology, sociology, or other field related to social work" and will give hospices more flexibility in hiring to meet the demanding role of a hospice social worker. Many applicants have the experience and education in other fields, but are not eliminated from consideration because they do not have the specific degree.</p>	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>The comment recommends the rule be revised to be consistent with rules or guidance from CMS that include NP and PA in their definition of attending physician. This comment will be taken into consideration when the rule is revised.</p> <p>The comment indicate several areas regarding the definition of social worker that warrant a thoughtful review and the potential for a revision to the existing rule. We have noted the comment and it will be taken into consideration when the rule is revised.</p> <p>The Agency will not change the determination of this rule</p>
2) 10A NCAC 13K .0401 – Personnel	4/22/18	2a) Annette Kiser, Teleios Collaborative Network akiser@teleioscn.org	<p>.0401 (a) – We suggest the statement be edited to remove 'Airborne and' from the third sentence as that OSHA regulation does not address airborne pathogens. In addition, in the last sentence, OSHA does not prescribe tuberculosis testing. We suggest that 'prescribed by OSHA standards' be changed to 'in accordance with current CDC guidelines' as this will allow hospices to modify their practices as recommendations change. .0401 (d) (6) – Please revise that to remove the inference that airborne pathogens are addressed in 29 CFR 1910.</p>	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>The comment indicates several areas that warrant a thoughtful review and the potential need for a revision to the existing rule. We have noted the comment and it will be taken into consideration when the rule is reviewed.</p> <p>The Agency will not change the determination of this rule</p>

Rule Citation & Title	Date	Commenter	Comment	Agency Response
	4/23/18	2b) Annette Kiser, Teleios Collaborative Network akiser@teleioscn.org	<p>13K .0401 (a) – We suggest the statement be edited to remove “Airborne and” from the third sentence as that OSHA regulation does not address airborne pathogens. In addition, in the last sentence, OSHA does not prescribe tuberculosis testing.</p> <p>We suggest that “prescribed by OSHA standards” be changed to “in accordance with current CDC guidelines” as this will allow hospices to modify their practices as recommendations change.</p> <p>13K .0401 (d) (6) – Please revise this item to remove the inference that airborne pathogens are addressed in 29 CFR 1910.</p>	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>The comment indicates several areas that warrant a thoughtful review and the potential need for a revision to the existing rule. We have noted the comment and it will be taken into consideration when the rule is reviewed.</p> <p>The Agency will not change the determination of this rule.</p>
3) 10A NCAC 13K .1204 – Additional Patient Care Area Requirements for Hospice Inpatient Units	4/22/18	3a) Annette Kiser, Teleios Collaborative Network akiser@teleioscn.org	.1204 (c) – We request removal of the requirement for a 'central bathing area' in the hospice inpatient unit and allowance for more modern and patient-friendly bathing facilities. More and more hospices are finding that those rooms are not utilized. Patients are only in the inpatient unit for a few days and the majority are there for pain and symptom management. They are not able to tolerate being moved from a bed to a wheelchair or stretcher and then down the hall for personal care in another room. Also, this exposes them to numerous temperature changes in the hall and the bathing room which can further increase their discomfort. In addition, many patients are actively dying when admitted to the hospice facility and the family wants to be at the bedside as much as possible so they do not want the patient taken from the room. Most hospice patients in the inpatient facility prefer a bed bath so their activity can be minimized. For those patients who want a shower and can get out of bed without significant discomfort, patient bathrooms can be, and in most hospice facilities are, equipped with roll in showers. This allows a patient to receive personal care in the privacy of their own room. We suggest that the Department work with hospice providers to determine suitable alternative language.	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>This comment agrees with the Agency’s assessment and indicates one requirement that warrants a thoughtful review regarding the concern related to the existing rule language. The comment will be taken into consideration when the rule is reviewed.</p> <p>The Agency will not change the determination of this rule.</p>
	4/23/18	3b) Annette Kiser, Teleios Collaborative Network akiser@teleioscn.org	.1204 (c) – We request removal of the requirement for a “central bathing area” in the hospice inpatient unit and allowance for more modern and patient-friendly bathing facilities. More and more hospices are finding that those rooms are not utilized. Patients are only in the inpatient unit for a few days and the majority are there for pain and symptom management. They are not able to tolerate being moved from a bed to a wheelchair or stretcher and then down the hall for personal care in another room. Also, this could expose the patient to numerous temperature changes in the hall and the bathing room, further increasing their discomfort. In addition, many patients are actively dying when admitted to the hospice facility and the family wants to be at the bedside as much as possible so they do not want the patient taken from the room.	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>This comment agrees with the Agency’s assessment and indicates one requirement that warrants a thoughtful review regarding the concern related to the existing rule language. The comment will be taken into consideration when the rule is reviewed.</p> <p>The Agency will not change the determination of this rule.</p>

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>Furthermore, most hospice patients in the inpatient facility prefer a bed bath so their activity can be minimized. For those patients who want a shower and can get out of bed without significant discomfort, patient bathrooms can be, and in most hospice facilities are, equipped with roll in showers. This allows a patient to receive personal care in the privacy of their own room. We suggest that the Department work with hospice providers to determine suitable alternative language.</p>	
<p>4) 10A NCAC 13K .1211 – Additional Plumbing Requirements/ Hospice Inpatient Units</p>	<p>4/22/18</p>	<p>4a) Annette Kiser, Teleios Collaborative Network akiser@teleioscn.org</p>	<p>.1211 – We request that the Department consider a change in this rule to allow hospices to have lower water temperatures. The rule states that the hot water system in patient areas must be adequate to provide a temperature range of 110-116 degrees Fahrenheit. The Medicare Hospice Conditions of Participation state that the 'recommended water temperatures at the plumbing fixtures should be maintained at or below 110 degrees.'</p>	<p>This rule was determined as Necessary Without Substantive Public Interest.</p> <p>The comment indicates one requirement that warrants a thoughtful review and the potential need for a revision to the existing rule. The agency has noted the comment in reference to the Interpretive Guidance for §418.110(h). The comment will be taken into consideration when the rule is reviewed.</p> <p>The Agency will change the determination of this rule to necessary with substantive public interest.</p>
	<p>4/23/18</p>	<p>4b) Annette Kiser, Teleios Collaborative Network akiser@teleioscn.org</p>	<p>13K .1211 – We request that the Department consider a change in this rule to allow hospices to have lower water temperatures. The rule states that the hot water system in patient areas must be adequate to provide a temperature range of 110-116 degrees Fahrenheit. The Medicare Hospice Conditions of Participation state that the “recommended water temperatures at the plumbing fixtures should be maintained at or below 110 degrees.”</p>	<p>This rule was determined as Necessary Without Substantive Public Interest.</p> <p>The comment indicates one requirement that warrants a thoughtful review and the potential need for a revision to the existing rule. The agency has noted the comment in reference to the Interpretive Guidance for §418.110(h). The comment will be taken into consideration when the rule is reviewed.</p> <p>The Agency will change the determination of this rule to necessary with substantive public interest.</p>

Comments Submitted for Periodic Review
10A NCAC 13K, Hospice Licensing Rules

Rule Title	Rule Citation	Date	First Name	Last Name	Company	Email	Zip	Comment
DEFINITIONS	10A NCAC 13K .0102	22-Feb-18	Erin	Glendening	DHSR	erin.glendening@dhhs.nc.gov		This is a test to verify that everything is working.
DEFINITIONS	10A NCAC 13K .0102	01-Mar-18	Thomas	Boone	Medical Services of America	TB66132@gmail.com		<p>Current federal laws recognize a nurse practitioner as an attending physician (CR 3226 published in 2003; Medicare Claims Processing Manual 30.2); further, the most recent budget act contains provisions to allow physician assistants to provide care for hospice patients consistent with their background and training.</p> <p>Recommend defining attending physician as an MD, DO, NP, or PA licensed in NC.</p>
DEFINITIONS	10A NCAC 13K .0102	22-Apr-18	Annette	Kiser	Teleios Collaborative Network	akiser@teleioscn.org		<p>I am writing on behalf of Teleios Collaborative Network (TCN), an organization providing services to community based not-for-profit hospice providers. We represent five hospice agencies – Catawba Regional Hospice, Four Seasons Compassion for Life, Caldwell Hospice & Palliative Care, Mountain Valley Hospice & Palliative Care, and Yancey Hospice and Palliative Care. These comments are submitted with input from those agencies.</p> <p>.0102 (2) – We request that you amend the definition of attending physician to include a nurse practitioner and a physician assistant. Currently Section 1861(dd)(3)(B) of the Social Security Act, as well as the Medicare Conditions of Participation, include a nurse practitioner.</p> <p>A federal law was passed earlier this year that amends Section 1861(dd)(3)(B) of the Social Security Act to include physician assistant in the definition of attending physician for hospices effective January 1, 2019. Medicare is expected to add the physician assistant language to the Medicare Conditions of Participation with the fiscal year 2019 hospice rule, a draft of which should be published any day. This expansion of the definition will allow for more timely care of hospice patients as there is a shortage of qualified physicians, particularly in rural areas.</p> <p>.0102 (30) – We request that you amend the definition of social worker to include those who have a degree in sociology or other fields related to social work. This will be in concert with the Medicare definition of 'degree in psychology, sociology, or other field related to social work' and will give hospices more flexibility in hiring to meet the demanding role of a hospice social worker. Many applicants have the experience and education in other fields, but are not qualified due to their specific degree.</p>

Comments Submitted for Periodic Review
10A NCAC 13K, Hospice Licensing Rules

Rule Title	Rule Citation	Date	First Name	Last Name	Company	Email	Zip	Comment
DEFINITIONS	10A NCAC 13K .0102	23-Apr-18	Annette	Kiser	Teleios Collaborative Network	akiser@teleioscn.org		<p>13K .0102 (2) “ We request that you expand the definition of attending physician to include a nurse practitioner and a physician assistant. Currently Section 1861(dd)(3)(B) of the Social Security Act, as well as the Medicare Conditions of Participation, include a nurse practitioner.</p> <p>A federal law was passed earlier this year that amends Section 1861(dd)(3)(B) of the Social Security Act to include physician assistant in the definition of attending physician for hospices effective January 1, 2019. Medicare is expected to add the physician assistant language to the Medicare Conditions of Participation with the fiscal year 2019 hospice rule, a draft of which should be published very soon. This expansion of the definition will allow for more timely care of hospice patients as there is a shortage of qualified physicians, particularly in rural areas.</p> <p>13K .0102 (30) “ We request that you amend the definition of social worker to include those who have a degree in sociology or other fields related to social work. This will be in concert with the Medicare definition of ‘ degree in psychology, sociology, or other field related to social work’ and will give hospices more flexibility in hiring to meet the demanding role of a hospice social worker. Many applicants have the experience and education in other fields, but are not eliminated from consideration because they do not have the specific degree.</p>
PERSONNEL	10A NCAC 13K .0401	22-Apr-18	Annette	Kiser	Teleios Collaborative Network	akiser@teleioscn.org		<p>.0401 (a) “ We suggest the statement be edited to remove ‘Airborne and’ from the third sentence as that OSHA regulation does not address airborne pathogens. In addition, in the last sentence, OSHA does not prescribe tuberculosis testing. We suggest that ‘prescribed by OSHA standards’ be changed to ‘in accordance with current CDC guidelines’ as this will allow hospices to modify their practices as recommendations change.</p> <p>.0401 (d) (6) “ Please revise that to remove the inference that airborne pathogens are addressed in 29 CFR 1910.</p>
PERSONNEL	10A NCAC 13K .0401	23-Apr-18	Annette	Kiser	Teleios Collaborative Network	akiser@teleioscn.org		<p>13K .0401 (a) “ We suggest the statement be edited to remove ‘Airborne and’ from the third sentence as that OSHA regulation does not address airborne pathogens. In addition, in the last sentence, OSHA does not prescribe tuberculosis testing.</p> <p>We suggest that ‘prescribed by OSHA standards’ be changed to ‘in accordance with current CDC guidelines’ as this will allow hospices to modify their practices as recommendations change.</p> <p>13K .0401 (d) (6) “ Please revise this item to remove the inference that airborne pathogens are addressed in 29 CFR 1910.</p>

Comments Submitted for Periodic Review
10A NCAC 13K, Hospice Licensing Rules

Rule Title	Rule Citation	Date	First Name	Last Name	Company	Email	Zip	Comment
ADDITIONAL PATIENT CARE AREA REQUIREMENTS FOR HOSPICE INPATIENT UNITS	10A NCAC 13K .1204	22-Apr-18	Annette	Kiser	Teleios Collaborative Network	akiser@teleioscn.org		<p>.1204 (c) â€” We request removal of the requirement for a 'central bathing area' in the hospice inpatient unit and allowance for more modern and patient-friendly bathing facilities. More and more hospices are finding that those rooms are not utilized. Patients are only in the inpatient unit for a few days and the majority are there for pain and symptom management. They are not able to tolerate being moved from a bed to a wheelchair or stretcher and then down the hall for personal care in another room. Also, this exposes them to numerous temperature changes in the hall and the bathing room which can further increase their discomfort. In addition, many patients are actively dying when admitted to the hospice facility and the family wants to be at the bedside as much as possible so they do not want the patient taken from the room.</p> <p>Most hospice patients in the inpatient facility prefer a bed bath so their activity can be minimized. For those patients who want a shower and can get out of bed without significant discomfort, patient bathrooms can be, and in most hospice facilities are, equipped with roll in showers. This allows a patient to receive personal care in the privacy of their own room. We suggest that the Department work with hospice providers to determine suitable alternative language.</p>
ADDITIONAL PATIENT CARE AREA REQUIREMENTS FOR HOSPICE INPATIENT UNITS	10A NCAC 13K .1204	23-Apr-18	Annette	Kiser	Teleios Collaborative Network	akiser@teleioscn.org		<p>.1204 (c) â€” We request removal of the requirement for a 'central bathing area' in the hospice inpatient unit and allowance for more modern and patient-friendly bathing facilities. More and more hospices are finding that those rooms are not utilized. Patients are only in the inpatient unit for a few days and the majority are there for pain and symptom management. They are not able to tolerate being moved from a bed to a wheelchair or stretcher and then down the hall for personal care in another room. Also, this could expose the patient to numerous temperature changes in the hall and the bathing room, further increasing their discomfort. In addition, many patients are actively dying when admitted to the hospice facility and the family wants to be at the bedside as much as possible so they do not want the patient taken from the room.</p> <p>Furthermore, most hospice patients in the inpatient facility prefer a bed bath so their activity can be minimized. For those patients who want a shower and can get out of bed without significant discomfort, patient bathrooms can be, and in most hospice facilities are, equipped with roll in showers. This allows a patient to receive personal care in the privacy of their own room. We suggest that the Department work with hospice providers to determine suitable alternative language.</p>
ADDITIONAL PLUMBING REQUIREMENTS /HOSPICE INPATIENT UNITS	10A NCAC 13K .1211	22-Apr-18	Annette	Kiser	Teleios Collaborative Network	akiser@teleioscn.org		<p>.1211 â€” We request that the Department consider a change in this rule to allow hospices to have lower water temperatures. The rule states that the hot water system in patient areas must be adequate to provide a temperature range of 110-116 degrees Fahrenheit. The Medicare Hospice Conditions of Participation state that the 'recommended water temperatures at the plumbing fixtures should be maintained at or below 110 degrees.'</p>

Comments Submitted for Periodic Review
 10A NCAC 13K, Hospice Licensing Rules

Rule Title	Rule Citation	Date	First Name	Last Name	Company	Email	Zip	Comment
ADDITIONAL PLUMBING REQUIREMENTS /HOSPICE INPATIENT UNITS	10A NCAC 13K .1211	23-Apr-18	Annette	Kiser	Teleios Collaborative	akiser@teleiosc n.org		13K .1211 " We request that the Department consider a change in this rule to allow hospices to have lower water temperatures. The rule states that the hot water system in patient areas must be adequate to provide a temperature range of 110-116 degrees Fahrenheit. The Medicare Hospice Conditions of Participation state that the 'recommended water temperatures at the plumbing fixtures should be maintained at or below 110 degrees.'



April 23, 2018

Nadine Pfeiffer
Rule Review Manager
NC Department of Health & Human Services
Office of the Director
2701 Mail Service Center
Raleigh, NC 27699-2701

RE: 10A Subchapter 13K – Hospice Licensing Rules

To Nadine Pfeiffer:

We appreciate the opportunity to comment on the Hospice Licensing Rules as part of the scheduled review. The comments below were submitted via the online links for each section. I am providing this letter to give information on our organization and to combine all comments in one document.

I am writing on behalf of Teleios Collaborative Network (TCN), an organization providing professional and back office services to multiple community-based not-for-profit hospices to assist them in fulfilling their mission to provide quality care in a competitive environment. We represent five hospice organizations – Catawba Regional Hospice, Four Seasons Compassion for Life, Caldwell Hospice & Palliative Care, Mountain Valley Hospice & Palliative Care, and Yancey Hospice and Palliative Care. These hospices have a combined average daily census of over 1000 patients, providing services across the Piedmont and Western regions of the state. These comments are submitted with input from those agencies.

As you review the rules please consider changes that align with the Medicare Hospice Conditions of Participation (CoPs). When the Department of Health Service Regulation (DHSR) conducts surveys of hospices, surveyors assess compliance with both state licensing rules and the Medicare CoPs. Thus, having the licensing rules congruent with the CoPs helps avoid ambiguity and promotes compliance.

We offer the following specific recommendations:

- ❖ **Definitions 13K .0102 (2)** – We request that you expand the definition of attending physician to include a nurse practitioner and a physician assistant. Currently Section 1861(dd)(3)(B) of the Social Security Act, as well as the Medicare Conditions of Participation, include a nurse practitioner.

A federal law was passed earlier this year that amends Section 1861(dd)(3)(B) of the Social Security Act to include physician assistant in the definition of attending physician for hospices effective January 1, 2019. Medicare is expected to add the physician assistant language to the Medicare Conditions of Participation with the fiscal year 2019 hospice rule, a draft of which should be published very soon. This expansion of the definition will allow for more timely care of hospice patients as there is a shortage of qualified physicians, particularly in rural areas.

- ❖ **Definitions 13K .0102 (30)** – We request that you amend the definition of social worker to include those who have a degree in sociology or other fields related to social work. This will be in concert with the Medicare definition of “... degree in psychology, sociology, or other field related to social work” and will give hospices more flexibility in hiring to meet the demanding role of a hospice social worker. Many applicants have the experience and education in other fields, but are not eliminated from consideration because they do not have the specific degree.
- ❖ **Personnel 13K .0401 (a)** – We suggest the statement be edited to remove “Airborne and” from the third sentence as that OSHA regulation does not address airborne pathogens. In addition, in the last sentence, OSHA does not prescribe tuberculosis testing.

We suggest that “prescribed by OSHA standards” be changed to “in accordance with current CDC guidelines” as this will allow hospices to modify their practices as recommendations change.

- ❖ **Personnel 13K .0401 (d) (6)** – Please revise this item to remove the inference that airborne pathogens are addressed in 29 CFR 1910.
- ❖ **Additional Patient Care Area Requirements for Hospice Inpatient Units .1204 (c)** – We request removal of the requirement for a “central bathing area” in the hospice inpatient unit and allowance for more modern and patient-friendly bathing facilities. More and more hospices are finding that those rooms are not utilized. Patients are only in the inpatient unit for a few days and the majority are there for pain and symptom management. They are not able to tolerate being moved from a bed to a wheelchair or stretcher and then down the hall for personal care in another room. Also, this could expose the patient to numerous temperature changes in the hall and the bathing room,

further increasing their discomfort. In addition, many patients are actively dying when admitted to the hospice facility and the family wants to be at the bedside as much as possible so they do not want the patient taken from the room.

Furthermore, most hospice patients in the inpatient facility prefer a bed bath so their activity can be minimized. For those patients who want a shower and can get out of bed without significant discomfort, patient bathrooms can be, and in most hospice facilities are, equipped with roll in showers. This allows a patient to receive personal care in the privacy of their own room. We suggest that the Department work with hospice providers to determine suitable alternative language.

- ❖ **Additional Plumbing Requirements / Hospice Inpatient Units 13K .1211** – We request that the Department consider a change in this rule to allow hospices to have lower water temperatures. The rule states that the hot water system in patient areas must be adequate to provide a temperature range of 110-116 degrees Fahrenheit. The Medicare Hospice Conditions of Participation state that the “recommended water temperatures at the plumbing fixtures should be maintained at or below 110 degrees.”

These comments are respectfully submitted with the sole interest of remaining compliant with hospice licensing rules and Medicare Conditions of Participation while providing the highest quality care for our patients. Your consideration is greatly appreciated.

Sincerely,



Annette Kiser, MSN, RN, NE-BC
Chief Compliance Officer
Teleios Collaborative Network
704-508-1735
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