

1 10A NCAC 14C .2103 is proposed as a temporary rule as follows:

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3 **10A NCAC 14C .2103 PERFORMANCE STANDARDS**

4 (a) In projecting utilization, the operating rooms shall be considered to be available for use five days per week and
5 52 weeks a year.

6 (b) A proposal to establish a new ambulatory surgical facility, to establish a new campus of an existing facility, to
7 establish a new hospital, to increase the number of operating rooms in an existing facility (excluding dedicated C-
8 section operating rooms), to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical
9 program or to add a specialty to a specialty ambulatory surgical program shall not be approved unless:

10 (1) the applicant reasonably demonstrates the need for the number of proposed operating rooms in the
11 ~~facility, which is the subject of this review,~~ facility, which is proposed to be developed or
12 expanded, in the third operating year of the project based on the following formula: {[(Number of
13 facility's projected inpatient cases, excluding trauma cases reported by Level I or II trauma
14 centers, cases reported by designated burn intensive care units and cases performed in dedicated
15 open heart and C-section rooms, times 3.0 hours) plus (Number of facility's projected outpatient
16 cases times 1.5 hours)] divided by 1872 hours} minus the facility's total number of existing and
17 approved operating rooms and operating rooms proposed in another pending application,
18 excluding one operating room for Level I or II trauma centers, one operating room for facilities
19 with designated burn intensive care units, and all dedicated open heart and C-section operating
20 rooms. The number of rooms needed is determined as follows:

21 (A) in a service area which has more than 10 operating rooms, if the difference is a positive
22 number greater than or equal to 0.5, then the need is the next highest whole number for
23 fractions of 0.5 or greater and the next lowest whole number for fractions less than 0.5;
24 and if the difference is a negative number or a positive number less than 0.5, then the
25 need is zero;

26 (B) in a service area which has six to 10 operating rooms, if the difference is a positive
27 number greater than or equal to 0.3, then the need is the next highest whole number for
28 fractions of 0.3 or greater and the next lowest whole number for fractions less than 0.3,
29 and if the difference is a negative number or a positive number less than 0.3, then the
30 need is zero; and

31 (C) in a service area which has five or fewer operating rooms, if the difference is a positive
32 number greater than or equal to 0.2, then the need is the next highest whole number for
33 fractions of 0.2 or greater and the next lowest whole number for fractions less than 0.2;
34 and if the difference is a negative number or a positive number less than 0.2, then the
35 need is zero;

36 or

1 (2) the applicant demonstrates conformance of the proposed project to Policy AC-3 in the State
2 Medical Facilities Plan titled “Exemption From Plan Provisions for Certain Academic Medical
3 Center Teaching Hospital Projects.”

4 (c) A proposal ~~to establish a new ambulatory surgical facility~~, to increase the number of operating rooms (excluding
5 dedicated C-section operating rooms) ~~except relocations of existing operating rooms within the same in a service~~
6 ~~area, to convert a specialty ambulatory surgical program to a multispecialty ambulatory surgical program or to add a~~
7 ~~specialty to a specialty ambulatory surgical program~~ area shall not be approved unless the applicant reasonably
8 demonstrates the need for the number of proposed operating rooms in addition to the rooms in all of the licensed
9 facilities identified in response to 10A NCAC 14C .2102(b)(2) in the third operating year of the proposed project
10 based on the following formula: {[Number of projected inpatient cases for all the applicant’s or related entities’
11 facilities, excluding trauma cases reported by Level I or II trauma centers, cases reported by designated burn
12 intensive care units and cases performed in dedicated open heart and C-section rooms, times 3.0 hours) plus
13 (Number of projected outpatient cases for all the applicant’s or related entities’ facilities times 1.5 hours)] divided
14 by 1872 hours} minus the total number of existing and approved operating rooms and operating rooms proposed in
15 another pending application, excluding one operating room for Level I or II trauma centers, one operating room for
16 facilities with designated burn intensive care units, and all dedicated open heart and C-Section operating rooms in all
17 of the applicant’s or related entities’ licensed facilities in the service area. The number of rooms needed is
18 determined as follows:

19 (1) in a service area which has more than 10 operating rooms, if the difference is a positive number
20 greater than or equal to 0.5, then the need is the next highest whole number for fractions of 0.5 or
21 greater and the next lowest whole number for fractions less than 0.5; and if the difference is a
22 negative number or a positive number less than 0.5, then the need is zero;

23 (2) in a service area which has six to 10 operating rooms, if the difference is a positive number greater
24 than or equal to 0.3, then the need is the next highest whole number for fractions of 0.3 or greater
25 and the next lowest whole number for fractions less than 0.3, and if the difference is a negative
26 number or a positive number less than 0.3, then the need is zero; and

27 (3) in a service area which has five or fewer operating rooms, if the difference is a positive number
28 greater than or equal to 0.2, then the need is the next highest whole number for fractions of 0.2 or
29 greater and the next lowest whole number for fractions less than 0.2; and if the difference is a
30 negative number or a positive number less than 0.2, then the need is zero.

31 (d) An applicant that has one or more existing or approved dedicated C-section operating rooms and is proposing to
32 develop an additional dedicated C-section operating room in the same facility shall demonstrate that an average of at
33 least 365 C-sections per room were performed in the facility’s existing dedicated C-section operating rooms in the
34 previous 12 months and are projected to be performed in the facility’s existing, approved and proposed dedicated C-
35 section rooms during the third year of operation following completion of the project.

36 (e) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory
37 surgical program or to add a specialty to a specialty ambulatory surgical program shall provide documentation to

1 show that each existing ambulatory surgery program in the service area that performs ambulatory surgery in the
2 same specialty area as proposed in the application is currently utilized an average of at least 1,872 hours per
3 operating room per year, excluding dedicated open heart and C-Section operating rooms. The hours utilized per
4 operating room shall be calculated as follows: [(Number of projected inpatient cases, excluding open heart and C-
5 sections performed in dedicated rooms, times 3.0 hours) plus (Number of projected outpatient cases times 1.5
6 hours)] divided by the number of operating rooms, excluding dedicated open heart and C-Section operating rooms.

7 (f) An applicant proposing to convert a specialty ambulatory surgical program to a multispecialty ambulatory
8 surgical program or to add a specialty to a specialty ambulatory surgical program shall reasonably demonstrate the
9 need for the conversion in the third operating year of the project based on the following formula: [(Total number of
10 projected outpatient cases for all ambulatory surgery programs in the service area times 1.5 hours) divided by 1872
11 hours] minus the total number of existing, approved and proposed outpatient or ambulatory surgical operating rooms
12 and shared operating rooms in the service area. The need for the conversion is demonstrated if the difference is a
13 positive number greater than or equal to one, after the number is rounded to the next highest number for fractions of
14 0.50 or greater.

15 (g) The applicant shall document the assumptions and provide data supporting the methodology used for each
16 projection in this Rule.

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18 *History Note: Authority G.S. 131E-177; 131E-183(b);*
19 *Eff. November 1, 1990;*
20 *Amended Eff. March 1, 1993;*
21 *Temporary Amendment Eff. September 1, 1993 for a period of 180 days or until the permanent*
22 *rule becomes effective, whichever is sooner;*
23 *Amended Eff. January 4, 1994;*
24 *Temporary Amendment Eff. January 1, 2002; July 1, 2001;*
25 *Amended Eff. August 1, 2002;*
26 *Temporary Amendment effective January 1, 2002 amends and replaces the permanent rule*
27 *effective August 1, 2002;*
28 *Amended Eff. April 1, 2003;*
29 *Temporary Amendment Eff. January 1, 2005;*
30 *Amended Eff. November 1, 2005;*
31 *Temporary Rule Eff. February 1, 2006;*
32 *Amended Eff. November 1, 2006;*
33 *Temporary Amendment Eff. February 1, 2008;*
34 *Amended Eff. November 1, 2008;*
35 *Temporary Amendment Eff. February 1, 2009;*
36 *Amended Eff. November 1, 2009;*
37 *Temporary Amendment Eff. February 1, 2010.*