

## **CHAPTER 13 – NC MEDICAL CARE COMMISSION**

### **SUBCHAPTER 13A – EXECUTIVE COMMITTEE**

#### **SECTION .0100 – EXECUTIVE COMMITTEE**

##### **10A NCAC 13A .0101 EXECUTIVE COMMITTEE**

(a) There shall be an executive committee of the North Carolina Medical Care Commission composed of five members of the commission in addition to the chairman and vice-chairman of the commission. Three members shall be appointed by a vote of the commission at the December meeting of each odd year and two members shall be appointed by the chairman of the commission at the December meeting of each even year. No member of the executive committee, except the chairman and vice-chairman, shall serve more than two two-year terms in succession. The chairman and vice-chairman of the commission shall also be chairman and vice-chairman of the executive committee.

(b) The functions of the executive committee shall be to:

- (1) transact business in behalf of the commission, consistent with established policy, which in the opinion of the chairman is of such urgency that action is required before the next regularly scheduled commission meeting and the impact of the action would not justify the convening of a special meeting of the commission;
- (2) transact business in behalf of the commission when a quorum is not obtained at any commission meeting for which prior notice of at least ten days has been given;
- (3) review periodically the activities of the commission and the assignments and recommendations of the various committees for the purpose of developing policy recommendations for commission consideration.

(c) All actions of the executive committee shall be reviewed at the next commission meeting and if disagreement is expressed by a simple majority of the members present and voting at any commission meeting in which a quorum is present, the functions of the executive committee shall be suspended until resolved by later action of the commission.

(d) The initial approval of all projects under the Health Care Facilities Finance Act must be given by a quorum of the full commission.

(e) A quorum of the executive committee shall consist of at least four members of the executive committee.

*History Note: Authority G.S. 131A-4; 143B-165; 143B-166;  
Eff. January 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

#### **SECTION .0200 - RULEMAKING**

##### **10A NCAC 13A .0201 PETITIONS**

(a) Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule or rules by the North Carolina Medical Care Commission shall submit the petition addressed to: Office of the Director, Division of Health Service Regulation, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

(b) The petition shall contain the following information:

- (1) the text of the proposed rule or rules for adoption or amendment, the rule number of the proposed rule or rules for repeal, and the statutory authority for the agency to promulgate the rule or rules;
- (2) a statement of the effect on existing rules;
- (3) a statement of the effect of the proposed rule or rules on existing practices in the area involved, if known; and
- (4) the name(s) and address(es) of petitioner(s).

(c) The petitioner may include the following information within the request:

- (1) documents and any data supporting the petition;
- (2) a statement of the reasons for adoption of the proposed rule or rules, amendment or the repeal of an existing rule or rules;
- (3) a statement explaining the costs and computation of the cost factors, if known; and

- (4) a description, including the names and addresses, if known, of those individuals or entities most likely to be affected by the proposed rule or rules.
- (d) The North Carolina Medical Care Commission, based on a review of the facts stated in the petition, shall consider the following in the determination to grant the petition:
  - (1) whether the North Carolina Medical Care Commission has authority to adopt the rule or rules;
  - (2) the effect of the proposed rule(s) on existing rules, programs, and practices;
  - (3) probable costs and cost factors of the proposed rule or rules;
  - (4) the impact of the rule on the public and the regulated entities; and
  - (5) whether the public interest will be served by granting the petition.
- (e) Petitions that do not contain the information required by Paragraph (b) of this Rule shall be returned to the petitioner by the Chairman of the North Carolina Medical Care Commission.

*History Note: Authority G.S. 143B-165; 150B-20; Eff. February 1, 1976; Readopted Eff. December 19, 1977; Amended Eff. November 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015; Amended Eff. October 1, 2023.*

#### **10A NCAC 13A .0202 RULEMAKING PROCEDURES**

(a) The rulemaking procedures for the Secretary of the Department of Health and Human Services codified in 10A NCAC 01 are hereby adopted by reference pursuant to G.S. 150B-14(c) to apply to the actions of the Commission, with the following modifications:

- (1) Correspondence related to the Commission's rulemaking actions shall be submitted to:

APA/Rule-making Coordinator  
Office of the Director  
Division of Health Service Regulation  
2701 Mail Service Center  
Raleigh, North Carolina 27699-2701

- (2) The Secretary's designee shall mean the Director of the Division of Health Service Regulation (hereinafter referred to as the Division).
  - (3) The "Division" shall be substituted for the "Office of General Counsel" in 10A NCAC 01.
  - (4) "Hearing officer" shall mean the Chairman of the Medical Care Commission or his designee.
- (b) Copies of 10A NCAC 01 may be inspected in the Division at the address shown in (a)(1) of this Rule. Copies may be obtained from the Office of Administrative Hearings, 424 North Blount Street, Raleigh, North Carolina, 27601.

*History Note: Authority G.S. 143B-165; 150B-11; 150B-14; Eff. November 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*

#### **10A NCAC 13A .0203 DECLARATORY RULINGS**

(a) The Commission shall have the power to make declaratory rulings. All requests for declaratory rulings shall be written and submitted to: Chairman, Medical Care Commission, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701.

(b) All requests for a declaratory ruling must include the following information:

- (1) name and address of the petitioner;
- (2) statute or rule to which petition relates;
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the Commission believes for good cause that the issuance of a declaratory ruling will not serve the public interest, it may refuse to issue one. When good cause is deemed to exist, the Commission will notify the petitioner of the decision in writing stating reasons for the denial of a declaratory ruling.

(d) The Commission may refuse to consider the validity of a rule and therefore refuse to issue a declaratory ruling:

- (1) unless the petitioner shows that the circumstances are so changed since adoption of the rule that such a ruling would be warranted;
- (2) unless the rulemaking record evidences a failure by the agency to consider specified relevant factors;
- (3) if there has been similar controlling factual determination in a contested case, or if the factual context being raised for a declaratory ruling was specifically considered upon adoption of the rule being questioned as evidence by the rulemaking record;
- (4) if circumstances stated in the request or otherwise known to the agency show that a contested case hearing would presently be appropriate.

(e) Where a declaratory ruling is deemed to be in the public interest, the Commission will issue the ruling within 60 days of receipt of the petition.

(f) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be appropriate in a particular case.

(g) The Commission may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.

(h) A record of all declaratory ruling procedures will be maintained for as long as the ruling has validity. This record will contain:

- (1) the original request,
- (2) reasons for refusing to issue a ruling,
- (3) all written memoranda and information submitted,
- (4) any written minutes or audio tape or other record of the oral hearing, and
- (5) a statement of the ruling.

This record will be maintained in a file at the Director's office at Division of Health Service Regulation, 2701 Mail Service Center, Raleigh, North Carolina, 27699-2701 and will be available for public inspection during regular office hours.

*History Note:* Authority G.S. 143B-165; 150B-4;

*Eff. November 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 22, 2015.*