

SUBCHAPTER 23L – INDUSTRIAL COMMISSION FORMS

SECTION .0100 – WORKERS' COMPENSATION FORMS

11 NCAC 23L .0101 FORM 21 – AGREEMENT FOR COMPENSATION FOR DISABILITY

(a) The parties to a workers' compensation claim shall use the following Form 21, Agreement for Compensation for Disability, for agreements regarding disability and payment of compensation therefor pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of compensation for permanent partial disability may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 21, Agreement for Compensation for Disability, shall read as follows:

North Carolina Industrial Commission
Agreement for Compensation for Disability
(G.S. 97-82)

IC File # _____
Emp. Code # _____
Carrier Code # _____
Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name

Address

City State Zip

Home Telephone Work Telephone
Last 4 digits of Social Security Number: _____ Sex: M F Date of Birth: _____

Employer's Name Telephone Number

Employer's Address City State Zip

Insurance Carrier

Carrier's Address City State Zip

Carrier's Telephone Number Carrier's Fax Number

We, The Undersigned, Do Hereby Agree And Stipulate As Follows:

1. All parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and _____ is the carrier/administrator for the employer.
2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on or by _____.
3. The injury by accident or occupational disease resulted in the following injuries: _____.
4. The employee was/ was not paid for the entire day when the injury occurred.
5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$_____, subject to verification unless otherwise agreed upon in Item 9 below.
6. Disability resulting from the injury or occupational disease began on _____.
7. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate of \$_____ per week beginning _____, and continuing for _____ weeks.

8. The employee has / has not returned to work for _____ on _____, at an average weekly wage of \$_____.
9. State any further matters agreed upon, including disfigurement, permanent partial, or temporary partial disability: _____.
10. If applicable, the Second Injury Fund Assessment is \$_____. Check is is not attached.
11. The date of this agreement is _____. Date of first payment: _____ Amount: _____.

Name Of Employer Signature Title

Name Of Carrier / Administrator Signature Title

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 2 of this form.

Signature of Employee Address

Signature of Employee's Attorney Address

North Carolina Industrial Commission
The Foregoing Agreement Is Hereby Approved:

Claims Examiner Date

Attorney's Fee Approved

- Check Box If No Attorney Retained.
 Check Box If Employee Is In Managed Care.

IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must file an application for additional medical compensation pursuant to G.S. 97-25.1 within two years, or your right to these benefits may be lost. An application for additional medical compensation may be made on a Form 18M Employee's Application for Additional Medical Compensation or by written request. In the alternative, an employee may file an application for additional medical compensation by filing a Form 33 Request that Claim be Assigned for Hearing pursuant to 11 NCAC 23A .0602. All Industrial Commission forms are available at <https://www.ic.nc.gov/forms.html>.

IMPORTANT NOTICE TO EMPLOYER

The employee must be provided a copy of the form when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

NEED ASSISTANCE?

If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.

Form 21
3/2021

Self-Insured Employer or Carrier, File via Electronic Document Filing Portal ("EDFP"):

<https://www.ic.nc.gov/docfiling.html>

Contact Information:

NCIC- Claims Administration

Telephone: (919) 807-2502

Helpline: (800) 688-8349

Website: <https://www.ic.nc.gov>

(b) The copy of the form described in Paragraph (a) of this Rule can be accessed at <https://www.ic.nc.gov/forms/form21.pdf>. The form may be reproduced only in the format available at <https://www.ic.nc.gov/forms/form21.pdf> and may not be altered or amended in any way.

*History Note: Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;
Eff. November 1, 2014;
Recodified from 04 NCAC 10L .0101 Eff. June 1, 2018;
Amended Eff. March 1, 2021.*

11 NCAC 23L .0102 FORM 26 – SUPPLEMENTAL AGREEMENT AS TO PAYMENT OF COMPENSATION

(a) If the parties to a workers' compensation claim have previously entered into an approved agreement on a Form 21, Agreement for Compensation for Disability, or a Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, they shall use the following Form 26, Supplemental Agreement as to Payment of Compensation, for agreements regarding subsequent additional disability and payment of compensation pursuant to G.S. 97-29 and 97-30. Additional issues agreed upon by the parties such as payment of compensation for permanent partial disability may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 26, Supplemental Agreement as to Payment of Compensation, shall read as follows:

North Carolina Industrial Commission
Supplemental Agreement as to Payment
of Compensation (G.S. §97-82)

IC File # _____

Emp. Code # _____

Carrier Code # _____

Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name

Address

City State Zip

Home Telephone Work Telephone
Last 4 digits of Social Security Number: Sex: M F Date of Birth:

Employer's Name Telephone Number

Employer's Address City State Zip

Insurance Carrier

Carrier's Address City State Zip

Carrier's Telephone Number Carrier's Fax Number

We, The Undersigned, Do Hereby Agree and Stipulate As Follows:

- 1. Date of injury:
2. The employee returned to work / was rated on (date), at a weekly wage of \$
3. The employee became totally disabled on
4. Employee's average weekly wage was reduced / was increased on, from \$ per week to \$ per week.
5. The employer and carrier/administrator hereby undertake to pay compensation to the employee at the rate of \$ per week. Beginning, and continuing for weeks. The type of disability compensation is
6. State any further matters agreed upon, including disfigurement or temporary partial disability:
7. The date of this agreement is

Name Of Employer Signature Title

Name Of Carrier/Administrator Signature Title

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 2 of this form.

Signature of Employee Address

Signature of Employee's Attorney Address

Check box if no attorney retained.

North Carolina Industrial Commission
The Foregoing Agreement Is Hereby Approved:

Claims Examiner Date

Attorney's fee approved

IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must file an application for additional medical compensation pursuant to G.S. 97-25.1 within two years, or your right to these benefits may be lost. An application for additional medical compensation may be made on a Form 18M Employee's Application for Additional Medical Compensation or by written request. In the alternative, an employee may file an application for additional medical compensation by filing a Form 33 Request that Claim be Assigned for Hearing pursuant to 11 NCAC 23A .0602. All Industrial Commission forms are available at <https://www.ic.nc.gov/forms.html>.

IMPORTANT NOTICE TO EMPLOYER

This form shall be used only to supplement Form 21, *Agreement for Compensation for Disability* (G.S. 97-82), or an award in cases in which subsequent conditions require a modification of a former agreement or award. The employee must be provided a copy of the form when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission. The employer or carrier/administrator shall file a Form 28B, *Report of Compensation and Medical Compensation Paid*, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

NEED ASSISTANCE?

If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.

Form 26
3/2021

Self-Insured Employer or Carrier, File via Electronic Document Filing Portal ("EDFP"):
<https://www.ic.nc.gov/docfiling.html>

Contact Information:

NCIC- Claims Administration

Telephone: (919) 807-2502

Helpline: (800) 688-8349

Website: <https://www.ic.nc.gov>

(b) The copy of the form described in Paragraph (a) of this Rule can be accessed at <https://www.ic.nc.gov/forms/form26.pdf>. The form may be reproduced only in the format available at <https://www.ic.nc.gov/forms/form26.pdf> and may not be altered or amended in any way.

History Note: Authority G.S. 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;
Eff. November 1, 2014;
Recodified from 04 NCAC 10L .0102 Eff. June 1, 2018;
Amended Eff. March 1, 2021.

11 NCAC 23L .0103 FORM 26A – EMPLOYER'S ADMISSION OF EMPLOYEE'S RIGHT TO PERMANENT PARTIAL DISABILITY (EFFECTIVE DECEMBER 1, 2020)

(a) The parties to a workers' compensation claim shall use the following Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the employee's entitlement to and the employer's payment of compensation for permanent partial disability pursuant to G.S. 97-31. Additional issues agreed upon by the parties, such as election of payment of temporary partial disability pursuant to G.S. 97-30, may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, shall read as follows:

North Carolina Industrial Commission
Employer's Admission of Employee's Right to Permanent Partial Disability
(G.S. 97-31)

IC File # _____
Emp. Code # _____
Carrier Code # _____
Carrier File # _____
Employer FEIN _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name

Address

City State Zip

Home Telephone Work Telephone
Social Security Number: _____ Sex: M F Date of Birth: _____

Employer's Name Telephone Number

Employer's Address City State Zip

Insurance Carrier

Carrier's Address City State Zip

Carrier's Telephone Number Carrier's Fax Number

WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and _____ is the Carrier/Administrator for the Employer.
2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on _____.
3. The injury by accident or occupational disease resulted in the following injuries:
_____.
4. The employee was was not paid for the 7 day waiting period.
If not, was salary continued? yes no. Was employee paid for the date of injury? yes no
5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$_____. This results in a weekly compensation rate of \$_____.
6. The employee has has not returned full time to work for _____
on _____, at an average weekly wage of \$_____.

7. Claimant was released with permanent restrictions without permanent restrictions. If claimant was released with permanent restrictions and has returned to work for the employer of injury, attach a job description if known to exist.

8. Permanent partial disability compensation will be paid to the injured worker as follows:

____ weeks of compensation at rate of \$ _____ per week for ____ % rating to _____ (body part)

____ weeks of compensation at rate of \$ _____ per week for ____ % rating to _____ (body part)

____ weeks of compensation at rate of \$ _____ per week for ____ % rating to _____ (body part)

Total amount of permanent partial disability compensation is \$ _____. Date of first payment: _____.

9. State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, waiting period or other:

10. An overpayment is claimed in the amount of \$ _____. Overpayment was calculated as follows: _____.

If overpayment claimed, a Form 28B, Report of Compensation and Medical Compensation Paid, is attached. yes no

11. If applicable, the Second Injury Fund Assessment is \$ _____. A check is is not included.

The undersigned hereby certify that the material medical and vocational records related to the injury, including any job description known to exist if the employee has permanent restrictions and has returned to work for the employer of injury, have been provided to the employee or the employee's attorney and have been filed with the Industrial Commission for consideration pursuant to G.S. 97-82(a) and Rule 11 NCAC 23A .0501.

Name Of Employer Signature Title Date

Name Of Carrier/Administrator Signature Direct Phone Number Email Address Title Date

By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 3 of this form.

Signature of Employee Address Email Address Date

Signature of Employee's Attorney Address Email Address Date

Check box if no attorney retained.

North Carolina Industrial Commission
The Foregoing Agreement Is Hereby Approved:

Claims Examiner Date

Attorney's fee approved

IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must apply to the Industrial Commission in writing within two years, or your right to these benefits may be lost. To apply you may also use Industrial Commission 18M, Employee's Application for Additional Medical Compensation (G.S. 97-25.1), available at <http://www.ic.nc.gov/forms.html>.

IMPORTANT NOTICE TO EMPLOYER

The employee must be provided a copy when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission, or show cause for not submitting the agreement. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

NEED ASSISTANCE?

If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.

Form 26A
12/2020

Self-Insured Employer or Carrier Mail to:
NCIC - Claims Administration
4335 Mail Service Center
Raleigh, North Carolina 27699-4335
Main Telephone: (919) 807-2500
Helpline: (800) 688-8349
Website: <http://www.ic.nc.gov/>

(b) A copy of the form described in Paragraph (a) of this Rule can be accessed at <http://www.ic.nc.gov/forms/form26a.pdf>. The form may be reproduced only in the format available at <http://www.ic.nc.gov/forms/form26a.pdf> and may not be altered or amended in any way.

History Note: Authority G.S. 97-30; 97-31; 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77;
Eff. November 1, 2014;
Recodified from 04 NCAC 10L .0103 Eff. June 1, 2018;
Amended Eff. December 1, 2020.

11 NCAC 23L .0103 FORM 26A – EMPLOYER'S ADMISSION OF EMPLOYEE'S RIGHT TO PERMANENT PARTIAL DISABILITY (EFFECTIVE MARCH 1, 2021)

(a) The parties to a workers' compensation claim shall use the following Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, for agreements regarding the employee's entitlement to and the employer's payment of compensation for permanent partial disability pursuant to G.S. 97-31. Additional issues agreed upon by the parties, such as election of payment of temporary partial disability pursuant to G.S. 97-30, may also be included on the form. This form is necessary to comply with Rule 11 NCAC 23A .0501, where applicable. The Form 26A, Employer's Admission of Employee's Right to Permanent Partial Disability, shall read as follows:

North Carolina Industrial Commission
Employer's Admission of Employee's Right to Permanent Partial Disability
(G.S. 97-31)

IC File # _____
Emp. Code # _____
Carrier Code # _____
Carrier File # _____

The Use Of This Form Is Required Under The Provisions of The Workers' Compensation Act

Employee's Name _____

Address _____

City _____ State _____ Zip _____

Home Telephone _____ Work Telephone _____
Last 4 digits of Social Security Number: _____ Sex: M F Date of Birth: _____

Employer's Name _____ Telephone Number _____

Employer's Address _____ City _____ State _____ Zip _____

Insurance Carrier _____

Carrier's Address _____ City _____ State _____ Zip _____

Carrier's Telephone Number _____ Carrier's Fax Number _____

WE, THE UNDERSIGNED, DO HEREBY AGREE AND STIPULATE AS FOLLOWS:

1. All the parties hereto are subject to and bound by the provisions of the Workers' Compensation Act and _____ is the Carrier/Administrator for the Employer.
2. The employee sustained an injury by accident or the employee contracted an occupational disease arising out of and in the course of employment on _____.
3. The injury by accident or occupational disease resulted in the following injuries:
_____.
4. The employee was was not paid for the 7 day waiting period.
If not, was salary continued? yes no. Was employee paid for the date of injury? yes no
5. The average weekly wage of the employee at the time of the injury, including overtime and all allowances, was \$ _____. This results in a weekly compensation rate of \$ _____.
6. The employee has has not returned full time to work for _____ on _____, at an average weekly wage of \$ _____.
7. Claimant was released with permanent restrictions without permanent restrictions. If claimant was released with permanent restrictions and has returned to work for the employer of injury, attach a job description if known to exist.
8. Permanent partial disability compensation will be paid to the injured worker as follows:
____ weeks of compensation at rate of \$ _____ per week for ____% rating to _____ (body part)
____ weeks of compensation at rate of \$ _____ per week for ____% rating to _____ (body part)
____ weeks of compensation at rate of \$ _____ per week for ____% rating to _____ (body part)
Total amount of permanent partial disability compensation is \$ _____. Date of first payment: _____.
9. State any further matters agreed upon, including disfigurement, loss of teeth, election of temporary partial disability, _____ waiting _____ period _____ or _____ other:
_____.
10. An overpayment is claimed in the amount of \$ _____. Overpayment was calculated as follows: _____.

If overpayment claimed, a Form 28B, Report of Compensation and Medical Compensation Paid, is attached. yes
 no

11. If applicable, the Second Injury Fund Assessment is \$ _____. A check is is not included.

The undersigned hereby certify that the material medical and vocational records related to the injury, including any job description known to exist if the employee has permanent restrictions and has returned to work for the employer of injury, have been provided to the employee or the employee's attorney and have been filed with the Industrial Commission for consideration pursuant to G.S. 97-82(a) and Rule 11 NCAC 23A .0501.

Name Of Employer	Signature	Title	Date
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Name Of Carrier/Administrator	Signature	Direct Phone Number	Email Address	Title	Date
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By signing I enter into this agreement and certify that I have read the "Important Notices to Employee" printed on Page 3 of this form.

Signature of Employee	Address	Email Address	Date
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Signature of Employee's Attorney	Address	Email Address	Date
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Check box if no attorney retained.

North Carolina Industrial Commission
The Foregoing Agreement Is Hereby Approved:

Claims Examiner	Date
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Attorney's fee approved

IMPORTANT NOTICE TO EMPLOYEE CLAIMING ADDITIONAL WEEKLY CHECKS OR LUMP SUM PAYMENTS

Once your compensation checks have been stopped, if you claim further compensation, you must notify the Industrial Commission in writing within two years from the date of receipt of your last compensation check or your rights to these benefits may be lost.

IMPORTANT NOTICE TO EMPLOYEE INJURED BEFORE JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred before July 5, 1994, you are entitled to medical compensation as long as it is reasonably necessary, related to your workers' compensation case, and authorized by the carrier or the Industrial Commission.

IMPORTANT NOTICE TO EMPLOYEE INJURED ON OR AFTER JULY 5, 1994 CLAIMING ADDITIONAL MEDICAL BENEFITS

If your injury occurred on or after July 5, 1994, your right to future medical compensation will depend on several factors. Your right to payment of future medical compensation will terminate two years after your employer or carrier/administrator last pays any medical compensation or other compensation, whichever occurs last. If you think you will need future medical compensation, you must file an application for additional medical compensation pursuant to G.S. 97-25.1 within two years, or your right to these benefits may be lost. An application for additional medical compensation may be made on a Form 18M Employee's Application for Additional Medical Compensation or by written request. In the alternative, an employee may file an application for additional medical compensation by filing a Form 33 Request that Claim be Assigned for Hearing pursuant to 11 NCAC 23A .0602. All Industrial Commission forms are available at <https://www.ic.nc.gov/forms.html>.

IMPORTANT NOTICE TO EMPLOYER

The employee must be provided a copy of the form when the agreement is signed by the employee. Pursuant to Rule 11 NCAC 23A .0501, within 20 days after receipt of the agreement executed by the employee, the employer or carrier/administrator must submit the agreement to the Industrial Commission. The employer or carrier/administrator shall file a Form 28B, Report of Compensation and Medical Compensation Paid, within 16 days after the last payment made pursuant to this agreement or be subject to a penalty.

NEED ASSISTANCE?

If you have questions or need help and you do not have an attorney, you may contact the Industrial Commission at (800) 688-8349.

Form 26A
3/2021

Self-Insured Employer or Carrier, File via Electronic Document Filing Portal ("EDFP"):

<https://www.ic.nc.gov/docfiling.html>

Contact Information:

NCIC- Claims Administration

Telephone: (919) 807-2502

Helpline: (800) 688-8349

Website: <https://www.ic.nc.gov>

(b) A copy of the form described in Paragraph (a) of this Rule can be accessed at <https://www.ic.nc.gov/forms/form26a.pdf>. The form may be reproduced only in the format available at <https://www.ic.nc.gov/forms/form26a.pdf> and may not be altered or amended in any way.

History Note: Authority G.S. 97-30; 97-31; 97-73; 97-80(a); 97-81(a); 97-82; S.L. 2014-77; Eff. November 1, 2014; Recodified from 04 NCAC 10L .0103 Eff. June 1, 2018; Amended Eff. December 1, 2020; Amended Eff. March 1, 2021.

11 NCAC 23L .0104 FORM 36 – SUBPOENA

(a) The parties to a claim shall use the following Form 36, *Subpoena*, to subpoena a person(s) to appear and testify and/or produce documents for inspection before the Commission. The Form 36, *Subpoena*, shall read as follows:

STATE OF NORTH CAROLINA File No. _____
_____ County North Carolina Industrial Commission

VERSUS

SUBPOENA

G.S. 1A-1, Rule 45; G.S. 8-59; G.S. 97-80(e)

Party Requesting Subpoena

___ NCIC/State/Plaintiff ___ Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by a Commissioner, Deputy Commissioner, or the Executive Secretary.

TO: Name and Address of Person Subpoenaed _____

Alternate Address _____

Telephone No. _____

Alternate Telephone No. _____

YOU ARE COMMANDED TO: (check all that apply):

appear and testify, in the above entitled action, before the Industrial Commission at the place, date and time indicated below.

appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.

produce and permit inspection and copying of the following items, at the place, date and time indicated below. (A party shall not issue a *subpoena duces tecum* less than 30 days prior to the hearing date except upon prior approval of the Commission. G.S. 97-80(e).)

See attached list. (List here if space sufficient)

Location of Hearing/Place of Deposition/Place to Produce _____

Date to Appear/Produce _____

Time to Appear/Produce ___:___ __ AM __ PM

Name and Address of Applicant or Applicant's Attorney _____

Date _____

Signature of Official or Attorney _____

Deputy Commissioner Commissioner Executive Secretary Attorney

Telephone No. of Applicant or Applicant's Attorney _____

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

By

personal delivery.

registered or certified mail, receipt requested and attached.

service by Sheriff.

I was unable to serve this subpoena. Reason unable to serve: _____

Service Fee \$ _____

Paid

Due

Date Served _____

Name of Authorized Server (Type Or Print) _____

Signature of Authorized Server _____

Title _____

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party.

NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d). (With respect to the provisions of Rule 45 cited below as they apply to this subpoena, the North Carolina Industrial Commission is the "court" and the "court in the county." All motions regarding this subpoena shall be filed with the North Carolina Industrial Commission pursuant to 11 NCAC 23A .0609.)

(c) Protection of Persons Subject to Subpoena

(1) Avoid undue burden or expense. - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) For production of public records or hospital medical records. - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an

affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) Written objection to subpoena. - Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11 of the North Carolina Rules of Civil Procedure. Each of the following grounds may be sufficient for objecting to a subpoena:

- a. The subpoena fails to allow reasonable time for compliance.
- b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- c. The subpoena subjects a person to an undue burden or expense.
- d. The subpoena is otherwise unreasonable or oppressive.
- e. The subpoena is procedurally defective.

(4) Order of court required to override objection. - If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) Motion to quash or modify subpoena. - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

(6) Order to compel; expenses to comply with subpoena. - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

(7) Trade secrets; confidential information. - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) Order to quash; expenses. - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoena

(1) Form of response. - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(2) Form of producing electronically stored information not specified. - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

(3) Electronically stored information in only one form. - The person responding need not produce the same electronically stored information in more than one form.

(4) Inaccessible electronically stored information. - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a) of the North Carolina Rules of Civil Procedure. The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

(5) Specificity of objection. - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

INFORMATION FOR WITNESS

NOTE: If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

DUTIES OF A WITNESS

- Unless otherwise directed by the presiding Deputy Commissioner or Commissioner, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

BRIBING OR THREATENING A WITNESS

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the presiding Deputy Commissioner or Commissioner.

Form 36 (Rev. 4/14)

(b) The copy of the form described in Paragraph (a) of this Rule can be accessed at <http://www.ic.nc.gov/forms/form36.pdf>. The form may be reproduced only in the format available at <http://www.ic.nc.gov/forms/form36.pdf> and may not be altered or amended in any way.

History Note: Authority G.S. 1A-1, Rule 45; 8-59; 97-80(a); 97-80(e); 97-81(a); S.L. 2013-294, s. 8.(12); Eff. July 1, 2014; Recodified from 04 NCAC 10L .0104 Eff. June 1, 2018.

11 NCAC 23L .0105 FORM T-42 – APPLICATION FOR APPOINTMENT OF GUARDIAN AD LITEM

(a) Persons seeking to appear on behalf of an infant or incompetent shall apply on a Form T-42, Application for Appointment of Guardian Ad Litem, in accordance with Rule 11 NCAC 23B .0203. The Form T-42, Application for Appointment of Guardian Ad Litem, shall read as follows:

North Carolina Industrial Commission

IC File # TA- _____

Application for Appointment of Guardian Ad Litem

The use of this Form is required under Rule 11 NCAC 23B .0203

_____ Plaintiff(s) v. _____ Defendant(s)

To the North Carolina Industrial Commission:

The undersigned _____ respectfully shows unto the North Carolina Industrial Commission that _____ is an ___ infant or ___ incompetent without general or testamentary guardian in this State, and that by reason thereof can bring an action only by a guardian ad litem; that the infant or incompetent has a cause of action against the defendants on account of the following matter and things:

The undersigned is a reputable person closely connected with the infant or incompetent having the relationship with the infant or incompetent as follows: _____

Wherefore, the undersigned prays the Commission that a fit and proper person be appointed Guardian Ad Litem for the infant or incompetent for the purpose of bringing on his or her behalf an action as above set out.

Signature of Applicant _____ Date _____

(Please complete page 2 of form)

Order Appointing Guardian Ad Litem

It appearing to the North Carolina Industrial Commission from the above application that _____ is an ___ infant or ___ incompetent having no general or testamentary guardian within this State and that said infant or incompetent appears to have a good cause of action against the defendant(s); and it further appearing to the Commission after due inquiry that _____ is a fit and proper person to be appointed guardian ad litem for the infant or incompetent for the purpose of bringing this action on his or her behalf;

It is therefore ordered that _____ be and is hereby appointed guardian ad litem of _____ to bring action on his or her behalf.

This _____ day of _____.

Commissioner, Deputy Commissioner, or Executive Secretary

Please type or print:

Full name and address of minor or incompetent:

Birth date of minor: _____

Full name and address of proposed guardian ad litem:

Important Information for Parties

Parties should take notice of the provisions set forth in Rule 11 NCAC 23B .0203.

11 NCAC 23B .0203 Infants and Incompetents

(a) Persons seeking to appear on behalf of an infant or incompetent, in accordance with G.S. 1A-1, Rule 17, shall apply on a Form T-42 Application for Appointment of Guardian ad Litem. The Commission shall appoint a fit and proper person as guardian ad litem, if the Commission determines it to be in the best interest of the minor or incompetent. The Commission shall appoint the guardian ad litem only after due inquiry as to the fitness of the person to be appointed.

(b) The Commission may assess a fee to be paid to an attorney who serves as a guardian ad litem for actual services rendered upon receipt of an affidavit of actual time spent in representation of the minor or incompetent as part of the costs.

ATTORNEYS: File via Electronic Document Filing Portal (“EDFP”)

<https://www.ic.nc.gov/docfiling.html>

UNREPRESENTED PLAINTIFFS: File via EDPF, <https://www.ic.nc.gov/docfiling.html> OR

Mail to: Industrial Commission Clerk's Office, 1236 Mail Service Center, Raleigh NC 27699-1236 OR
File via hand delivery: Business days from 8 a.m. – 5 p.m., Dobbs Building, 6th floor, 430 N. Salisbury Street,
Raleigh NC 27603 OR Fax to (919) 715-0282 OR Email to dockets@ic.nc.gov.

FORM T-42

(b) A copy of the form described in Paragraph (a) of this Rule can be accessed at <https://www.ic.nc.gov/forms/formt-42.pdf>. The form shall be reproduced only in the format available at <https://www.ic.nc.gov/forms/formt-42.pdf> and shall not be altered or amended in any way.

History Note: Authority G.S. 143-291; 143-295; 143-300;
Eff. March 1, 2019;
Amended Eff. March 1, 2021.