

**11 NCAC 23B .0202      MEDICAL MALPRACTICE CLAIMS BY UNREPRESENTED PRISON INMATES**

In any tort claim filed by an unrepresented prison inmate in which the Commission determines that the plaintiff is alleging that a health care provider, as defined in G.S. 90-21.11, failed to comply with the applicable standard of care set forth in G.S. 90-21.12, or the defendant has moved to dismiss the claim for failure to comply with Rule 9(j) of the North Rules of Civil Procedure, all discovery shall be stayed until a recorded non-evidentiary hearing before the Commission is held for the purpose of determining whether a claim for medical malpractice has been stated and, if so, whether:

- (1) the plaintiff must meet the requirements of Rule 9(j)(1) or (2) of the North Carolina Rules of Civil Procedure to proceed with the claim; or
- (2) the plaintiff has alleged facts establishing negligence under the existing common-law doctrine of res ipsa loquitur.

If the Commission determines that a claim for medical malpractice has been stated and plaintiff must meet the requirements of Rule 9(j)(1) or (2) of the North Carolina Rules of Civil Procedure, the defendant shall produce medical records to the plaintiff within the time period ordered by the Commission. The plaintiff shall have one hundred and twenty (120) days following receipt of the medical records to comply with Rule 9(j) of the North Carolina Rules of Civil Procedure.

*History Note: Authority G.S. 143-300;  
Eff. January 1, 1989;  
Recodified from 04 NCAC 10B .0206 Eff. April 17, 2000;  
Amended Eff. July 1, 2014; May 1, 2000;  
Recodified from 04 NCAC 10B .0202 Eff. June 1, 2018;  
Amended Eff. March 1, 2019.*