

**Fiscal Impact Analysis**  
**Permanent Rule Amendment without Substantial Economic Impact**

**Rulemaking Authority Proposing Rule Change:**

North Carolina Medical Care Commission

**Agency Contact Persons**

Nadine Pfeiffer, DHSR Rules Review Manager – (919) 855-3811

Emery Milliken, Deputy Director, Health Service Regulation – (919) 855-3958

**Impact Summary**

Federal Government: No  
State Government: Yes  
Local Government: No  
Private Entities: No  
Substantial Impact: No

**N.C. Administrative Code Citations and Titles of Rule Change**

*\*See proposed text in the Appendix*

10A NCAC 13A .0201 Petitions (Amendment)

**Authorizing Statutes**

N.C. G.S. 143B-65

N.C. G.S. 150B-20

**Background and Rationale for Rule Amendment**

The rulemaking procedures in Subchapter 10A NCAC 13A apply to the rulemaking authority of the North Carolina Medical Care Commission (Commission) granted by G.S. 143B-65. Rules are required in the N.C. Administrative Code pursuant to G.S. 150B-20 for the procedure for submitting a rule petition to an Agency and the procedure an Agency follows in considering a rulemaking petition. There are 1745 rules the Division of Health Service Regulation (DHSR) has jurisdiction over in the N.C. Administrative Code. Of that number, the Commission has rulemaking authority for 738 rules. The remaining 1007 rules are under the rulemaking authority of the Director, DHSR through Directive II-24 from the Department of Health and Human Services, the N.C. Radiation Protection Commission, the N.C. Social Services Commission and the N.C. Mental Health Commission.

As discussed in the fiscal analysis, this rule is proposed for amendment to provide clarity, remove ambiguity, remove language restating statute, and make technical changes to the text.

**Rules Summary and Anticipated Fiscal Impact**

**Rule .0101 – Petitions**

The Agency is proposing to amend this rule to revise, update and clarify the procedure for the requirements for a rule petition submission and for rule petition approval by the Commission. The rule has been reorganized to identify items the petitioner may include in the petition but are not required to submit. The requirement for the timeframe of rendering of a final decision by the Commission Chairman of a petition submission was removed because it is governed by statute in G.S. 150B-20. In addition, other language restating the requirements in G.S. 150B-20 has been removed. By clarifying the requirements for rule petition submission and rule petition approval in the proposed rule, it removes the ambiguity in the rule for the submission of rule petitions to the Office of the Director, DHSR for rulemaking by the Commission.

#### Fiscal Impact

In the last five years (4/1/17 -4/1/22), there has been one rule petition submitted to DHSR for the rulemaking authority of the Commission. In clarifying the requirements for petition submission in the proposed rule readoption, no additional requirements were added for the petitioner to address. Of the optional items listed in the rule, it is up to the discretion of the petitioner to include any or all of these items listed the submitted petition for Agency consideration. Clarifying the determination factors for granting the petition enables a fair and equitable process for the Commission to grant petitions submitted. Commission rulemaking petitions are not granted for rules that are cost prohibitive, unnecessary, and for rules that do not promote the best interest of the public for health and safety. By identifying the criteria in the rule for petition denial, there will be a fiscal impact benefit to state government that results from the lack of the rule process going forward in terms of the cost of time and resources needed for rule promulgation. The proposed rule is clarifying the process, as these factors have been used in consideration of the rule petition approval and are not new in the determination used to grant a rule petition. The responsibility for a petition determination has been shifted from solely that of the Commission Chair to that of the entire Commission. This enables more diverse input from the members at a Commission meeting and transparency to the decision process. The Commission holds quarterly meetings, and as business needs arise, has special meetings in between the quarterly meetings. There will be no increase in time for a petition determination by the Commission because according to statute, a decision must be made within 120 days of receipt of a petition.

There is no federal or local fiscal impact associated with the readoption of this rule; however, the changes to the rule will result in a positive state fiscal impact.

## Appendix: Proposed Rule Text

10A NCAC 13A .0201 is proposed for amendment as follows:

### SECTION .0200 - RULEMAKING

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

(a) Any person wishing to submit a petition requesting the adoption, ~~amendment~~ amendment, or repeal of a rule by the North Carolina Medical Care Commission shall ~~address~~ 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) ~~either a draft of the text of the proposed rule or a summary of its contents~~ rule(s) for adoption or amendment and the statutory authority for the agency to promulgate the ~~rule~~; rule(s);
- ~~(2) reason for proposal;~~
- ~~(3)~~(2) a statement of the effect on existing rules or orders;
- ~~(4) any data supporting the proposal;~~
- ~~(5)~~(3) a statement of the effect of the proposed rule rule(s) on existing practices in the area involved, including cost factors, if known; and
- ~~(6) names of those most likely to be affected by the proposed rule, with addresses, if known;~~
- ~~(7)~~(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(s), amendment or the repeal of an existing rule(s);
- (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 most likely to be affected by the proposed rule(s).

~~(e)~~(d) The ~~Chairman of the North Carolina Medical Care Commission will determine~~, Commission, based on a study review of the facts stated in the petition, ~~whether the public interest will be served by granting the petition. He will consider all the contents of the submitted petition, plus any additional information he deems relevant.~~ 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(s);
- (2) the effect of the proposed rule(s) on existing rules, programs and practices;
- (3) probable costs and cost factors of the proposed rule(s);
- (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.

~~(d) Within 30 days of submission of the petition, the Chairman will render a final decision. If the decision is to deny the petition, the Chairman will notify the petitioner in writing, stating the reasons for the denial. If the decision is to approve the petition, the Chairman will initiate a rulemaking proceeding by issuing a rulemaking notice, as provided in these rules.~~

(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~~. 2015;*

*Amended Eff. April 1, 2023.*