

**Fiscal Impact Analysis of
Permanent Rule Readoption without Substantial Economic Impact**

Agency Proposing Rule Change

DHHS/Director, Division of Health Service Regulation

Contact Persons

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Impact Summary

Federal Government:	No Impact
State Government:	Negligible Impact
Local Government:	No Impact
Small Business:	Negligible Impact
Substantial Impact:	No

Titles of Rule Changes and Statutory Citations

Rule Readoptions:

10A NCAC 14E .0105	Approval
10A NCAC 14E .0312	Medications and Anesthesia
10A NCAC 14E .0316	Food Service

*See text in Appendix

Authorizing Statutes

G.S. 14-45.1(a) and G.S. 143B-10

Background

The 10A NCAC 14E Subchapter rules regulate the operation and construction of clinics for abortion. The State currently has 15 certified clinics for abortion located in 9 counties of the State.

Under authority of G.S. 150B-21.3A, Periodic review and expiration of existing rules, the DHHS/Director, Division of Health Service Regulation, and Rule Review Commission approved the Subchapter report with classifications for the rules located at 10A NCAC 14E – Certifications of Clinics for Abortion – September 26, 2018 and June 20, 2019, respectively.

The following rules were classified in the report as necessary with substantive public interest: 10A NCAC 14E .0105, .0312, and .0316. This Agency is presenting these two rules with substantive changes, 10A NCAC 14E .0105, and .0312 for this analysis. Rule 10A NCAC .0316 is being readopted with substantive changes; however, the rule imposes a less stringent burden on the regulated providers and is not discussed in this analysis per G.S. 150B 21.3A(d)(2).

Rule 10A NCAC 14E .0105 Approval is being corrected to reflect current Division and Department names referenced in more detail with rules in Section .0200 Minimum Standards for Construction and Equipment. An additional paragraph is being added requiring all construction documents and specifications approved by the Division of Health Service Regulation must be used to obtain a building permit within one year of the approval date or the approval will expire. This one-year expiration date is typical in the construction industry as an effort to help verify that the rules and building codes for this building type have not changed. This is a safe guard that protects the Owners from making costly mistakes. Changes are not expected to happen and would require less than one day of a plan reviewer's time to reapprove the drawings. The Division of Health Service Regulation does not charge a review fee on abortion clinics, so any cost to the Owner or to the State would have no negligible impact.

Rule 10A NCAC 14E .0312 Medications and Anesthesia is being revised to remove any reference to flammable anesthetics. In previous years, ether was used as an anesthetic and was considered flammable. Ether is no longer used as an anesthetic in healthcare and flammable anesthetics are now prohibited in healthcare. The rule is also being revised to clarify that a Registered Nurse is responsible for medication administration and that the administration of the medication must be recorded in the patient's permanent record. Existing rule 10A NCAC 14E .0307 requires at least one Registered Nurse to be on duty in the clinic at all times when patients are in the clinic; therefore, there is no impact for the rule readoption.

Rule Summary and Anticipated Fiscal Impact

The readoption of these three rules does not create a fiscal impact on State Government or Small Business. Abortion clinics will continue to be designed and constructed using the same rules as in previous years.

Appendix

10A NCAC 14E .0105 is proposed for readoption with substantive changes as follows:

10A NCAC 14E .0105 APPROVAL

(a) Approval of construction documents and specifications shall be obtained from the Division of Health Service Regulation, the Division of Public Health Environmental Health, Health Section, and the Department of Insurance should be obtained before construction is commenced. Insurance, in accordance with the rules in Section .0200 of this Subchapter.

(b) Approval of construction documents and specifications shall expire one year after the date of approval unless a building permit for the construction has been obtained prior to the expiration date of the approval of construction documents and specifications.

*History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. December 1, 1989. 1989;
Readopted Eff. September 1, 2020.*

10A NCAC 14E .0312 is proposed for readoption with substantive changes as follows:

10A NCAC 14E .0312 MEDICATIONS AND ANESTHESIA

(a) ~~Medication~~ No medication or treatment shall be given except on written order of a physician.

(1) ~~No medication or treatment shall be given except on written order of a physician.~~

(2) ~~Medications must be administered in accordance with the Nurse Practice Act of the State of North Carolina, and must be recorded in the patient's permanent record.~~

(b) ~~Anesthesia~~ Any medications shall be administered by a Registered Nurse in accordance with G.S. 90-171.30 or G.S. 90.171.32 and must be recorded in the patient's permanent record.

(1) ~~The anesthesia must be administered only under the direct supervision of a licensed physician.~~

(2) ~~Flammable anesthetics shall be prohibited except when construction, storage and equipment meet the standards of the National Fire Protection Association (N.F.P.A.) incorporated in Bulletin No. 56, "Code for Use of Flammable Anesthetics."~~

(c) The anesthesia shall be administered only under the direct supervision of a licensed physician.

*History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;*

Readopted Eff. December 19, ~~1977~~, 1977;

Readopted Eff. September 1, 2020.

10A NCAC 14E .0316 is proposed for readoption with substantive changes as follows:

10A NCAC 14E .0316 FOOD SERVICE

~~(a) Nourishments~~ Nourishments, such as crackers and soft drinks, shall be available and offered to all patients.

~~(b) Sanitary conditions shall be maintained in accordance with regulations of the North Carolina Sanitation Code administered by the Division of Environmental Health.~~

*History Note: Authority G.S. 14-45.1(a); 143B-10;
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. January 1, ~~1990~~, 1990;
Readopted Eff. September 1, 2020.*