

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Medical Care Commission

RULE CITATION: 10A NCAC 13B .4805

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - Lack of statutory authority
 - X Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

This Rule, which is also covered by another staff opinion recommending objection for lack of statutory authority, imposes safety requirements for use of imaging equipment using radioactive materials. In paragraph (c), MCC requires the hospital's governing authority to appoint a radiation safety committee and specifies that membership shall include "a physician approved by the medical staff experienced in the handling of radio-active isotopes and their therapeutic use[.]" Despite making this staffing requirement, the Rule does not specify what experience is required to satisfy the requirement. As such, it is staff's opinion that the Rule is unclear and ambiguous, and staff recommends objection to the Rule on that basis.

Brian Liebman
Commission Counsel
Issued August 5, 2022