

## FISCAL IMPACT ANALYSIS

Date of Submission to OSBM: February 29, 2012

**Agency Proposing Rules:** NC Medical Care Commission  
Division of Health Service Regulation (DHSR)

**Agency Contacts:**

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**Fiscal Note Category:** Tier 1—De Minimus Rules

**Proposed Rule Actions & Fiscal Impact:**

<b>10A NCAC 14A .0102</b>	<b>Rulemaking Procedures</b>
Statutory Authority:	G.S. 143B-10
Fiscal Impact:	State Government: None Local Government: None Private Sector: None

This rule outlines rulemaking procedures for DHSR and its Director. It also informs the public as to where Division rules may be obtained. The proposed changes to this rule are a result of Executive Order 70 as components of this rule have been determined to be outdated. The changes are considered technical changes and include updated statutory references and addresses. There is no anticipated fiscal impact on state or local government or on the private sector as a result of these changes.

<b>10A NCAC 14A .0202</b>	<b>Request for Determination</b>
Statutory Authority:	G.S. 143B-10
Fiscal Impact:	State Government: None Local Government: None Private Sector: None

This rule describes a person's right to request a determination of his legal rights, privileges, or duties as they relate to laws or rules administered by the Department. The

proposed changes to this rule are a result of Executive Order 70 as the rule reference in (c) has been determined to be outdated. This change is considered a technical change and provides the correct rule reference. There is no anticipated fiscal impact on state or local government or on the private sector as a result of these changes.

**10A NCAC 14A .0204 Exceptions to Recommended Decision (repeal)**

Statutory Authority: G.S. 143B-10  
Fiscal Impact: State Government: None  
Local Government: None  
Private Sector: None

The proposed repeal of this rule is a result of Section 18 of Senate Bill 781, Session Law 2011-398. Section 18 of the law re-writes G.S. 150B-34 to remove the agency’s ability to issue a “Final Agency Decision.” The passage of this legislation eliminates the need for this rule, rendering it obsolete. There is no anticipated fiscal impact on state or local government or on the private sector as a result of the repeal of this rule.

**10A NCAC 14A .0303 Initiating a Hearing**

Statutory Authority: G.S. 143B-165(10)  
Fiscal Impact: State Government: None  
Local Government: None  
Private Sector: None

This rule outlines the process for residents of nursing facilities to initiate an appeal hearing related to transfer or discharge from the facility. The proposed changes to this rule are a result of Executive Order 70 as the rule reference in (a) has been determined to be outdated. The changes are considered technical changes and include the correct rule reference as well as modifications to the language as requested by the Rules Review Commission. There is no anticipated fiscal impact on state or local government or on the private sector as a result of these changes.

**10A NCAC 14A .0304 Notice of Hearing**

Statutory Authority: G.S. 143B-165(10)  
Fiscal Impact: State Government: None  
Local Government: None  
Private Sector: None

This rule outlines the process for providing nursing facility residents and/or their representative notice of a hearing related to transfer or discharge from the facility. The proposed changes to this rule are a result of Executive Order 70 as the address provided is outdated. The changes are considered technical changes and include the correct address as well as modifications to the language as requested by the Rules Review Commission.

There is no anticipated fiscal impact on state or local government or on the private sector as a result of these changes.

## APPENDIX

10A NCAC 14A .0303 is amended without notice pursuant to G.S. 150B-21.5(a)(5) as follows:

### **10A NCAC 14A .0303 INITIATING A HEARING**

(a) In order to initiate a hearing with the Hearing Officer, a resident must first have been served by the facility administrator with a written Notice of Transfer or Discharge and must file a Request for Hearing. ~~Hearing in accordance with the Rules in 10 NCAC 14A .0300.~~ The Request for Hearing must be in writing and must be signed by the resident. A Request for Hearing form shall be provided to the resident by the facility for this purpose.

(b) The hearing is a mechanism for listening to appeals by residents concerning disputes over transfers and discharges. The hearing shall be narrowly focused on discharge and transfer issues between the nursing facility and the resident and shall not involve Medicaid matters such as eligibility, which is the responsibility of the Medicaid hearing officer.

(c) Should an appeal of the Notice of Transfer or Discharge be desired, a Request for a Hearing, accompanied by the Notice of Transfer or Discharge, shall be served to the Hearing Officer and must be received by him no later than 11 days from the date of the facility's Notice of Transfer or Discharge. If the request for hearing has not been received within 11 days, the resident ~~shall waive~~ has waived his right to appeal. ~~The resident must be notified~~ Hearing Officer must notify the resident of the option for the hearing to be in person (face-to-face) or by telephone.

(d) The facility administrator must make available to the resident information and records at least five working days prior to the hearing to enable an opportunity for review and preparation. The facility administrator must forward identical information relevant to the transfer or discharge to the agency, to be received at least five working days prior to the hearing. A resident must authorize release of his medical records to the hearing officer.

*History Note: Authority 42 U.S.C.S. 1396r(e)(3) and (f)(3); 42 C.F.R. 483.12; G.S. 143B-165(10);  
Eff. August 3, ~~1992~~ 1992;  
Amended Eff. July 1, 2012.*

10A NCAC 14A .0304 is amended without notice pursuant to G.S. 150B-21.5(a)(4) as follows:

**10A NCAC 14A .0304 NOTICE OF HEARING**

Upon receipt of a timely request for a hearing, the Hearing Officer shall ~~promptly~~ notify all parties (the facility administrator, the resident, and ~~either an immediate family member, if known or if an immediate family member is not known, the authorized representative~~) the resident's legal representative or responsible person as documented in the resident's record of receipt of the Request and shall arrange with the parties a time, date, and telephone numbers (if by phone conference). If the hearing is to be conducted in person (face-to-face), hearings ~~will~~ shall be held in the ~~Council Building, 701 Barbour Drive~~ Brown Building, 801 Biggs Drive on the Dorothea Dix Campus in Raleigh, North Carolina, with time and date arranged with the parties by the hearing officer. ~~These parties will be served notice of the date of hearing.~~ The Hearing Officer shall serve these parties with notice of the date of the hearing.

*History Note: Authority 42 U.S.C.S. 1396r(e)(3) and (f)(3); 42 C.F.R. 483.12; G.S. 143B-165(10);  
Eff. August 3, ~~1992~~, 1992;  
Amended Eff. July 1, 2012.*