

Periodic Rules Review and Expiration of Existing Rules
 Subchapter 13C – Licensing of Ambulatory Surgical Facilities
 Public Comments and Agency Response to Comments

Rule Citation & Title	Date	Commenter	Comment	Agency Response
1) 10A NCAC 13C .0103 – Definitions	2/23/17	Erin Glendening, DHSR erin.glendening@dhhs.nc.gov	This is a test of the system to verify that everything is working properly.	<p>This rule was determined as necessary without substantive public interest.</p> <p>The comment is about the test of the electronic comment reporting system.</p> <p>The Agency will not change the determination of this rule.</p>
2) 10A NCAC 13C .0501 – Providing Anesthesia Services	3/20/17	Dana Simpson, Smith Anderson, et al. dsimpson@smithlaw.com	<p>Dear Medical Care Commission Members: On behalf of our client the North Carolina Society of Anesthesiologists ('NCSA'), we would like to provide comment as part of the Commission's review of existing rules pursuant to the requirements under N.C.Gen.Stat. § 150B-21.3A. Specifically, the Commission is in the process of receiving public comment regarding the current rule governing the provision of anesthesia services in ambulatory surgery centers—10A NCAC 13C.0501 ('Anesthesia Rule'). The Anesthesia Rule in question reads as follows: 'Only a physician, dentist, or qualified anesthetist shall administer anesthetic agents (general and regional).' The NCSA believes this rule should be revised to make clear that a qualified anesthetist may only administer anesthesia 'under the supervision of a physician or dentist,' as required by North Carolina law. It is well-established law that nurse anesthetists may only practice under physician or dentist supervision in North Carolina. This has been repeatedly confirmed by the North Carolina Court of Appeals, Attorney General and Medical Board. In 2005, the North Carolina Court of Appeals</p>	<p>This rule was determined as necessary without substantive public interest.</p> <p>The comment indicates several situations that warrant a thoughtful review and the potential need for a revision to the existing rule. We have noted the comment and it will be taken into consideration when the rule is reviewed.</p> <p>The Agency will change the determination of this rule to necessary with substantive public interest</p>

			<p>noted that 'physician supervision of nurse anesthetists providing anesthesia care...is a fundamental patient safety standard required by North Carolina law.' (See N.C. Medical Society, et al. vs. N.C. Board of Nursing, 169 N.C. App. 1; 610 S.E.2d 722.) Similarly, an Attorney General Opinion from 1998 concluded that '...the anesthesia care of a patient [must] be under the supervision of a physician.' (See 1998 N.C.A.G. 58 (12/31/98).) Similarly in its position statement governing the standard of care for office-based surgery, the North Carolina Medical Board expressly requires physician supervision of nurse anesthetists. Finally, the Dental Practice Act requires that any nurse anesthetist providing a dental anesthetic be 'under the supervision and direction of a licensed dentist or physician.' (See N.C.Gen.Stat. § 90-29(b)(6).) As clearly demonstrated above, physician and dentist supervision of nurse anesthetists is the law in North Carolina. This patient safety standard, therefore, should be reflected in the Anesthesia Rule governing ambulatory surgery centers. To this end, the NCSA would request the Commission to consider clarifying the Anesthesia Rule as follows: 'Only a physician, dentist, or qualified anesthetist under the supervision of a physician or dentist shall administer anesthetic agents (general and regional).' Physician and dentist supervision of nurse anesthetists is a fundamental standard of patient safety in North Carolina, and this legal requirement should be clearly identified for operators of ambulatory surgery centers. Thank you for your consideration of our comments. We would be glad to provide additional information, if needed. With best regards. Sincerely, Dana E. Simpson</p>	
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