

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: Department of Health and Human Services/ Division of Medical Assistance (DHB)

RULE CITATION: 10A NCAC 22F .0301

RECOMMENDED ACTION:

- X Approve and note staff's comment
 - Object, based on:
 - Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
 - Extend the period of review
 - No action necessary

COMMENT:

This Rule was objected to by the RRC at the June 14, 2018, August 16, 2018, and September 20, 2018 meetings. At its November 15, 2018 meeting, the RRC determined that the rewritten Rule submitted by the agency met the previous objection and it was approved. In addition to approving the Rule, the RRC determined that the rewritten rule submitted in response to their objection resulted in substantial changes as referenced in 150B-21.12(c). As such, this Rule was required to be "published and reviewed in accordance with the procedure set forth in G.S. 150B-21.1(a3) and (b)."

At this time, the agency has completed the process set forth in G.S. 150B-21.1(a3). The agency is now submitting the same Rule that was approved at the November 15, 2018 meeting for review by the RRC at the February 21, 2018 meeting with no changes. Because no changes have been made from the Rule approved in November, staff is recommending approval of the Rule submitted by DHB.

This Rule has received 10 letters of objection and will be subject to legislative review in accordance with G.S. 150B-21.3(b2).