



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: N.C. Medical Care Commission
2. Rule citation & name: 10A NCAC 13B .3110 Itemized Charges
3. Action: <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal
4. Was this an Emergency Rule: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Effective date:
5. Provide dates for the following actions as applicable: a. Proposed Temporary Rule submitted to OAH: 2/17/2014 b. Proposed Temporary Rule published on the OAH website: 2/21/2014 c. Public Hearing date: 3/11/2014 d. Comment Period: 2/22/2014-3/14/2014 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 2/17/2014 f. Adoption by agency on: 3/18/2014 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: 5/1/2014 h. Rule approved by RRC as a permanent rule: N/A
6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review. <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: N.C.G.A. Session Law 2013-382, Part XIII Fair Health Care Facility Billing and Collections Practices Effective date: 10/1/2013 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:
Explain: <p>The proposed temporary amendments to rules in Chapters 10A NCAC 13B <i>Licensing of Hospitals</i> are in response to a recent act of the General Assembly, specifically Session Law 2013-382, Part XIII. <i>Fair Health Care Facility Billing and Collections Practices</i>, which became effective on October 1, 2013. The intent of this Act is to improve transparency in the cost of health care provided by hospitals and ambulatory surgical facilities and to provide for fair health care facility billing and collections practices. Section 13.1 of this Act requires the N.C. Medical Care Commission to adopt rules to ensure that the provisions of the law are properly implemented.</p>

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The availability of information related to health care pricing and transparency of that information is of significant importance to the citizens of North Carolina. The proposed temporary rules address billing and collections practices for hospitals and ambulatory surgical centers to ensure that these practices are transparent, fair and reasonable to the health care consumer as intended by the General Assembly. In fact, these rules protect patients' rights to be fully informed of charges they have incurred or may incur, and also empower patients to make informed health care decisions. In light of the complexity of health care, the proposed rules also seek to require providers to present patient billing information and financial assistance resources in a manner that is comprehensible to an 'ordinary' lay person.

These proposed amendments require a facility's governing body to assure that written policies and procedures are developed in order to implement the requirements of S.L. 2013-382 regarding transparency, fair billing and collections practices. They also, in accordance with the session law, provide for a way for the Division of Health Service Regulation to verify that a facility is in compliance with the law prior to licensure or renewal of a facility's license.

Transparency in health care pricing and billing is important to North Carolinians. These proposed rules are the first step to achieving it in a manner that is meaningful and useful to the public.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

No

9. Rule-making Coordinator: Megan Lamphere

Phone: 919-855-3974

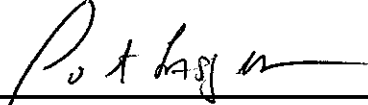
E-Mail: Megan.Lamphere@dhhs.nc.gov

Agency contact, if any: Nadine Pfeiffer

Phone: 919-855-3811

E-Mail: Nadine.Pfeiffer@dhhs.nc.gov

10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Dr. John A. Fagg, M.D.

Title: Chair, N.C. Medical Care Commission

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

1 10A NCAC 13B .3110 is temporarily adopted, ~~without~~ with changes as published on the OAH website, as
2 follows:

3
4 **10A NCAC 13B .3110 ITEMIZED CHARGES**

5 (a) The facility shall either present an itemized list of charges to all discharged patients or the facility shall
6 include on patients' ~~bills, which~~ bills that are not itemized, notification of the right to request an itemized
7 bill within ~~30 days~~ three years of receipt of the non-itemized ~~bill,~~ bill or so long as the hospital, a
8 collections agency, or other assignee asserts the patient has an obligation to pay the bill.

9 (b) If requested, the facility shall present an itemized list of charges to each ~~patient,~~ patient or the patient's
10 responsible party. This list shall detail in layman's terms the specific nature of the charges or expenses
11 incurred by the patient.

12 (c) The itemized listing shall ~~include, at a minimum,~~ include all charges incurred, including those charges
13 incurred in the following service areas:

- 14 (1) room rates;
- 15 (2) laboratory;
- 16 (3) radiology and nuclear medicine;
- 17 (4) surgery;
- 18 (5) anesthesiology;
- 19 (6) pharmacy;
- 20 (7) emergency services;
- 21 (8) outpatient services;
- 22 (9) specialized care;
- 23 (10) extended care;
- 24 (11) prosthetic and orthopedic appliances; and
- 25 (12) professional services provided by other independently billing medical personnel.

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27 *History Note: Authority G.S. 131E-79; 131E-91; S.L. 2013-382(s.13.1);*
28 *Eff. January 1, ~~1996.~~ 1996;*
29 *Temporary Amendment Eff. May 1, 2014.*

1 10A NCAC 13B .3502, originally published on the OAH website as 10A NCAC 13B .1906, is temporarily adopted
2 with changes as follows:

3
4 **10A NCAC 13B .3502 REQUIRED POLICIES, RULES, AND REGULATIONS**

5 (a) The governing body shall adopt written policies, rules, and regulations in accordance with all requirements con-
6 tained in this Subchapter and in accordance with the community responsibility of the facility. ~~As a minimum, the~~
7 The written policies, rules, and regulations shall:

- 8 (1) state the ~~general and specific goals~~ purpose of the facility;
- 9 (2) describe the powers and duties of the governing body officers and committees and the
10 responsibilities of the chief executive officer;
- 11 (3) state the qualifications for governing body membership, the procedures for selecting members, and
12 the terms of service for members, officers and committee chairmen;
- 13 (4) describe the authority delegated to the chief executive officer and to the medical staff. No
14 assignment, referral, or delegation of authority by the governing body shall relieve the governing
15 body of its responsibility for the conduct of the facility. The governing body shall retain the right
16 to rescind any such delegation;
- 17 (5) require Board approval of the bylaws of any auxiliary organizations established by the hospital;
- 18 (6) require the governing body to review and approve the bylaws of the medical staff organization;
- 19 (7) establish a procedure for processing and evaluating the applications for medical staff membership
20 and for the granting of clinical privileges;
- 21 (8) establish a procedure for implementing, disseminating, and enforcing a Patient's Bill of Rights as
22 ~~described set forth~~ in Rule .3302 of this Subchapter and in compliance with ~~G.S. 131E-117 where~~
23 ~~applicable; and~~ G.S. 131E-117; and
- 24 (9) require the governing body to institute procedures to provide for:
 - 25 (A) orientation of newly elected board members to specific board functions and procedures;
 - 26 (B) the development of procedures for periodic reexamination of the relationship of the board
27 to the total facility community; and
 - 28 (C) the recording of minutes of all governing body and executive committee meetings and the
29 dissemination of those minutes, or summaries thereof, on a regular basis to all members
30 of the governing body.

31 (b) The governing body shall adopt written policies and procedures to assure billing and collection practices in
32 accordance with G. S. 131E-91. These policies and procedures shall include:

- 33 (1) how a patient or patient's representative may dispute a bill;
- 34 ~~[(2) how a patient or patient's representative may appeal a decision made by the facility regarding a~~
35 ~~bill;]~~
- 36 ~~[(3)]~~ (2) issuance of a refund to the patient resulting from overpayment of a bill;

1 ~~[(4)]~~ (3) providing written notification to the patient or patient's responsible party prior to submitting a
2 delinquent bill to a collection agency;

3 ~~[(5)]~~ (4) providing the patient or patient's responsible party with the facility's charity care and financial
4 assistance policies, if the facility is required to file a Schedule H, federal form 990; and

5 ~~[(6)]~~ (5) the requirement that a collections agency, entity, or other assignee obtain written consent from the
6 facility prior to initiating litigation against the patient or responsible party.

7 ~~(b)~~ (c) The written policies, rules, and regulations shall be reviewed ~~at least~~ every three years, revised as necessary,
8 and dated to indicate when last reviewed or revised.

9 (d) To qualify for licensure or license renewal, each facility must provide to the Division, ~~[within six months of]~~
10 upon application, an attestation statement in a ~~[format approved]~~ form provided by the ~~[Department]~~ Division
11 verifying compliance with the requirements in Paragraph (b) of this Rule.

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14 *History Note:* Authority *G.S. 131E-79; ~~G.S. 131E-91; S.L. 2013-382(s.10.1), S.L. 2013-382(s.13.1); ~~[S.L. 2013-~~~~*
15 *~~382(s.10.1),(s.13.1); G.S. 131E-91;~~*
16 *Eff. January 1, ~~1996.~~ 1996;*
17 *Temporary Amendment Eff. May 1, 2014.*
18

1 10A NCAC 13C .0202 is temporarily adopted, with changes as published on the OAH website, as follows:

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3 **10A NCAC 13C .0202 REQUIREMENTS FOR ISSUANCE OF LICENSE**

4 (a) Upon application for a license from a facility never before licensed, a representative of the Department shall
5 make an inspection of that facility. Every building, institution or establishment for which a license has been issued
6 shall be inspected for compliance with the rules found in this Subchapter. An ambulatory surgery facility shall be
7 deemed to meet licensure requirements if the ambulatory surgery facility is accredited by The Joint Commission
8 (formerly known as "JCAHO"), JCAHO, AAAHC or AAAASF. Accreditation does not exempt a facility from
9 statutory or rule requirements for licensure nor does it prohibit the Department from conducting inspections as
10 provided in this Rule to determine compliance with all requirements.

11 (b) If the applicant has been issued a Certificate of Need and is found to be in compliance with the Rules found in
12 this ~~Subchapter~~ Subchapter, then the Department shall issue a license to expire on December 31 of each year.

13 (c) The Department shall be notified at the time of:

- 14 (1) any change of the owner of operator; ~~as to the person who is the operator or owner of an~~
15 ~~ambulatory surgical facility;~~
16 (2) any change of location;
17 (3) any change as to a lease; and
18 (4) any transfer, assignment or other disposition or change of ownership or control of 20 percent or
19 more of the capital stock or voting rights thereunder of a corporation which is the operator or
20 owner of an ambulatory surgical facility, or any transfer, assignment, or other disposition of the
21 stock or voting rights thereunder of such corporation which results in the ownership or control of
22 more than 20 percent of the stock or voting rights thereunder of such corporation by any person.

23 A new application shall be submitted to the Department in the event of such a change or changes.

24 (d) The Department shall not grant a license until the plans and ~~specifications,~~ specifications which are stated in
25 Section .1400 of this Subchapter, covering the construction of new buildings, additions, or material alterations to
26 existing buildings are approved by the Department.

27 (e) The facility design and construction shall be in accordance with the licensure rules for ambulatory surgical
28 facilities found in this Subchapter, the North Carolina State Building Code, and local municipal codes.

29 (f) Submission of ~~Plans~~ Plans.

- 30 (1) Before construction is begun, plans and specifications covering construction of the new buildings,
31 alterations, renovations or additions to existing buildings, shall be submitted to the Division for
32 approval.
33 (2) The Division shall review the plans and notify the licensee that said buildings, alterations,
34 additions, or changes are approved or disapproved. If plans are disapproved the Division shall
35 give the applicant notice of deficiencies identified by the Division.
36 (3) In order to avoid unnecessary expense in changing final plans, as a preliminary step, proposed
37 plans in schematic form shall be reviewed by the Division.

1 (4) The plans shall include a plot plan showing the size and shape of the entire site and the location of
2 all existing and proposed facilities.

3 (5) Plans shall be submitted in ~~duplicate.~~ ~~duplicate in order that the~~ The Division ~~may shall~~ distribute
4 a copy to the Department of Insurance for review of the North Carolina State Building Code
5 ~~requirements.~~ requirements if required by the North Carolina State Building Code which is
6 incorporated by reference, including all subsequent amendments. Copies of the code may be
7 purchased from the International Code Council online at
8 <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of \$527.00 or accessed electronically
9 free of charge at
10 [n.html](http://www.ecodes.biz/ecodes_support/Free_Resources/2012NorthCarolina/12NorthCarolina_mai</u>
11 <u><a href=)

12 (g) To qualify for licensure or license renewal, each facility must provide to the Division, [within six months of
13 application,] upon application, an attestation statement in a [format approved by the Department] form provided by
14 the Division verifying compliance with the requirements defined in Rule .0301(d) of this Subchapter.

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16 *History Note:* Authority G.S. 131E-91; G.S. 131E-147; 131E-149; S.L. 2013-382; [G.S. 131E-91;]
17 Eff. October 14, 1978;
18 Amended Eff. April 1, 2003. 2003;
19 Temporary Amendment Eff. May 1, 2014.

1 10A NCAC 13C .0205 is temporarily adopted, without changes as published on the OAH website, as follows:

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3 **10A NCAC 13C .0205 ITEMIZED CHARGES**

4 (a) The facility shall either present an itemized list of charges to all discharged patients or the facility shall include
5 on patients' bills which are not itemized notification of the right to request an itemized bill within ~~30 days~~ three
6 years of receipt of the non-itemized ~~bill~~, bill or so long as the facility, collections agency, or other assignee asserts
7 the patient has an obligation to pay the bill.

8 (b) If requested, the facility shall present an itemized list of charges to each ~~patient~~, patient or his or her
9 representative. ~~responsible party~~. This list shall detail in layman's terms the specific nature of the charges or
10 expenses incurred by the patient.

11 (c) The listing shall ~~include, at a minimum,~~ include all charges incurred, including those charges incurred in the
12 following service areas:

- 13 (1) Surgery (facility fee);
14 (2) Anesthesiology;
15 (3) Pharmacy;
16 (4) Laboratory;
17 (5) Radiology;
18 (6) Prosthetic and Orthopedic appliances; and
19 (7) Other professional services.

20 (d) The facility shall indicate on the initial or renewal license application that patient bills are itemized, or that each
21 patient or ~~responsible party~~ his or her representative is formally advised of the patient's right to request an itemized
22 listing within ~~30 days~~ three years of receipt of a non-itemized bill.

23
24 *History Note:* Authority *G.S. 131E-91; G.S. 131E-147.1; S.L. 2013-382(s.13.1); ~~G.S. 131E-91;~~*

25 *Eff. December 1, ~~1991~~ 1991;*

26 *Temporary Amendment Eff. May 1, 2014.*

1 10A NCAC 13C .0301 is temporarily adopted, with changes as published on the OAH website, as follows:

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3 **10A NCAC 13C .0301 GOVERNING AUTHORITY**

4 (a) The facility's governing authority shall adopt bylaws or other ~~appropriate~~ operating policies and procedures
5 ~~which shall:~~ to assure that:

6 (1) ~~specify by name the person to whom responsibility for operation and maintenance of the facility is~~
7 ~~delegated and methods established by the governing authority for holding such individuals~~
8 ~~responsible;~~

9 a named individual is identified who is responsible for the overall operation and maintenance of
10 the facility. The governing authority shall have methods in place for the oversight of the
11 individual's performance.

12 (2) ~~provide for at least annual meetings of the governing authority if the governing authority consists~~
13 ~~of two or more individuals. Minutes shall be maintained of such meetings;~~

14 annual meetings of the governing authority are conducted. Minutes of the meetings shall be
15 maintained;

16 (3) ~~maintain a policies and procedures manual which is designed to ensure professional and safe care~~
17 ~~for the patients. The manual shall be reviewed, and revised when necessary, at least annually.~~

18 a policy and procedure manual is created which is designed to ensure professional and safe care
19 for the patients. The manual shall be reviewed annually and revised when necessary. The manual
20 shall include provisions for administration and use of the facility, compliance, personnel quality
21 assurance, procurement of outside services and consultations, patient care policies and services
22 offered; and

23 (4) ~~provide for annual reviews and evaluations of the facility's policies, management, and operation.~~
24 annual reviews and evaluations of the facility's policies, management, and operation are
25 conducted.

26 (b) When services such as dietary, laundry, or therapy services are purchased from others, the governing authority
27 shall be responsible to assure the supplier meets the same local and state standards the facility would have to meet if
28 it were providing those services itself using its own staff.

29 (c) The governing authority shall provide for the selection and appointment of the professional staff and the
30 granting of clinical privileges and shall be responsible for the professional conduct of these persons.

31 (d) The governing {board} authority shall ~~assure~~ establish written policies and procedures to assure billing and
32 collection practices in accordance with G. S. 131E-91. These policies and procedures shall include:

33 (1) how a patient or patient's representative may dispute a bill;

34 ~~[(2) how a patient or patient's representative may appeal a decision made by the facility regarding a~~
35 ~~bill;]~~

36 ~~[(3)]~~ (2) issuance of a refund to the patient resulting from overpayment of a bill;

1 ~~[(4)]~~ (3) providing written notification to the patient or patient's responsible party prior to submitting a
2 delinquent bill to a collection agency;

3 ~~[(5)]~~ (4) providing the patient or patient's responsible party with the facility's charity care and financial
4 assistance policies, if the facility is required to file a Schedule H, federal form 990; and

5 ~~[(6)]~~ (5) the requirement that a collections agency, entity, or other assignee obtain written consent from the
6 facility prior to initiating litigation against the patient or responsible party.

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9 *History Note:* Authority G.S. 131E-91; G.S. 131E-149; ~~[S.L. 2013-382(s.10.1), (s.13.1); G.S. 131E-91;]~~ S.L.
10 2013-382(s.10.1), S.L. 2013-382 (s.13.1);
11 Eff. October 14, 1978;
12 Amended Eff. November 1, 1989; November 1, 1985; December 24, 1979; 1979;
13 Temporary Amendment Eff. May 1, 2014.