

RRC STAFF OPINION

PERIODIC REVIEW AND EXPIRATION OF EXISTING RULES REPORT

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

REPORT: 10A NCAC 13D .2109

RECOMMENDED ACTION:

- X Note staff's comment
- X Find the comment does not have merit.

COMMENT:

10A NCAC 13D .2109 INSPECTIONS

- (a) The facility shall allow inspection by an authorized representative of the Department at any time.
- (b) At the time of inspection, any authorized representative of the Department shall make his or her presence known to the administrator or other person in charge who shall cooperate with the representative and facilitate the inspection.
- (c) Inspections of medical records will be carried out in accordance with G.S. 131E-105.
- (d) The administrator shall provide and make available to representatives of the Department financial and statistical records required to verify compliance with all rules contained in this Subchapter.
- (e) The Department shall mail a written report to the facility within 10 working days from the date of the licensure survey or complaint investigation exit conference. The report shall include statements of any deficiencies or violations cited during the survey or investigation.
- (f) The administrator shall prepare a written plan of correction and mail it to the Department within 10 working days following receipt of any statement of deficiencies or violations. The Department shall review and accept or reject the plan of correction, with written notice given to the administrator within 10 working days following receipt of the plan.

*History Note: Authority G.S. 131E-104;
Eff. January 1, 1996.*

Public Comment:

Under Section (f), the use of 'mail' seems to prohibit the use of the ePOC system since the CMS-2567 is no longer mailed in. Perhaps as an alternate, it should state 'submit' rather than 'mail.'

Agency Response:

The Agency determined this rule was necessary without substantive public interest. The electronic plan of correction (EPOC) is designed for use with nursing homes that participate in Medicare and/or Medicaid.

Amanda J. Reeder
Commission Counsel

Licensed nursing homes that do not participate in Medicare or Medicaid will continue to mail the plan of correction through the US mail. We have noted the recommended wording change and will consider it in the future. We do not see a need to change rule categorization at this time.

Staff Recommendation:

Staff recommends finding that the public comment does not have merit. While it does address the content of the Rule, the agency response indicates that the use of the word “mailing” is not incorrect and does not make the Rule ambiguous.