

ROY COOPER
ATTORNEY GENERAL

State of North Carolina
Department of Justice
P.O. Box 629
Raleigh
27602-0629

Reply to:
Bethany A. Burgon
Health Service Section
Phone (919) 716-6860 Fax (919) 716-6756
Email: bburgon@ncdoj.gov

December 8, 2016

Via Email Only

Mr. Garth Dunklin, Chairman
Rules Review Commission

RE: 10A NCAC 13P .1400 *et seq.*

Dear Chairman Dunklin:

The Medical Care Commission (MCC) is currently involved in the regulatory review process for rules found at 10A NCAC 13P .1400 *et seq.* Rules Review Commission (RRC) staff has questioned the exclusive rule-making authority of the MCC with respect to this set of rules. Although our staff and our counsel engaged in several productive discussions with your staff counsel regarding this matter, they were unable to reach a consensus.

A separate letter has been sent on behalf of the Department of Health and Human Services (DHHS), Division of Health Service Regulation (DHSR). I write to share with you the MCC's position on the matter which is concurrence with DHHS that the MCC has the exclusive rule-making authority regarding this set of rules.

The MCC believes that G.S. § 143-508(b) and (d) grants the MCC the sole, express rule-making authority, G.S. § 143-509(13), "regardless of other provisions of rule or law." In contrast, G.S. § 143-509(13) fails to grant rulemaking authority to the Secretary of DHHS. As explained in the letter from DHHS, the plain language of the statutes and the history of rules promulgation for this section of rules support the position of the MCC and DHHS.

If the RRC, were to determine that dual authority is necessary for promulgation of these rules, the MCC requests that the RRC find that substantial compliance was nonetheless achieved in the adoption of these rules. The readoption deadline for the Section .1400 rules is March 30, 2017. It is important there be no lapse in the effective date of these rules as these rules are critical for the safety and protection of all North Carolinians.

The Secretary's Office of DHHS performed a careful and robust review of the Section .1400 rules. Frequently, DHHS will have comments about the rules being reviewed. The MCC will incorporate these comments into the rules before approval by the MCC. DHHS was satisfied the Section .1400 rules and had no comments to present to the MCC. DHHS approved the rules on

March 18, 2016 per DHHS procedure. The MCC approved the rules on May 20, 2016 for publication for Notice of Text. The rules were published and the comment period ran from June 15, 2016 through August 15, 2016. No comments were received and the MCC adopted the rules on November 4, 2016 with no changes. DHHS reviewed and approved the rules that are before the RCC today resulting in the substantial compliance necessary for this process, as set forth in G.S. § 150B-18.

For the reasons set forth above, the MCC respectfully requests that the RRC uphold its previous opinion that the MCC “alone has rulemaking authority” regarding these rules. Alternatively, the MCC requests that the RRC avoid any lapse in the effective date of these rules by finding that the MCC and DHHS’ Secretary has achieved substantial compliance with the Administrative Procedures Act with respect to these rules and/or by extending the deadline for readoption of these rules.

Sincerely,

A handwritten signature in black ink, appearing to read "Bethany A. Burgon", with a stylized flourish at the end.

Bethany A. Burgon

Assistant Attorney General and Staff Attorney for the Medical Care Commission

cc: Via email only
John Fagg, MD, Chairperson, North Carolina Medical Care Commission
Nancy Dunn, Assistant Attorney General
Joel Johnson, Assistant General Counsel, Department of Health and Human Services
Emery Milliken, Deputy Director, Division of Health Service Regulation
Nadine Pfeiffer, Rules Coordinator, Division of Health Service Regulation
Amanda Reeder, Staff Attorney, Rules Review Commission

December 08, 2016

Via Email Only

Mr. Garth Dunklin, Chairman
Rules Review Commission

RE: 10A NCAC 13P .1400 *et seq.*

Dear Chairman Dunklin:

The Department of Health and Human Services (DHHS), Division of Health Service Regulation (DHSR) and the North Carolina Medical Care Commission (MCC) are currently involved in the regulatory review process for rules found at 10A NCAC 13P .1400 *et seq.* Rules Review Commission (RRC) staff counsel has questioned the exclusive rule-making authority of the MCC with respect to this set of rules. Although our staff and our counsel engaged in several productive discussions with your staff counsel regarding this matter, they were unable to reach a consensus.

I write to share with you DHHS/DHSR's position on the matter. A separate letter is forthcoming on behalf of the MCC affirming its concurrence with DHHS that the MCC has the exclusive rule-making authority regarding this set of rules.

The MCC is a Commission created by G.S. § 143B-165 as a Commission of DHHS. A division of DHHS, DHSR, staffs the MCC. DHHS/DHSR contend the MCC has exclusive rule-making authority for the rules found at 10A NAC 13P .1400 which pertain to the "Recovery and Rehabilitation of Chemically Dependent EMS Personnel." Included within Section .1400 are rules regarding treatment program requirements for EMS personnel as well as requirements for participation and consequences for failure to comply with the treatment program.

In support of DHHS' position, please note the following statutory authority:



- G.S. § 143-508(b) provides in pertinent part that, “[t]he North Carolina Medical Care Commission shall adopt, amend, and rescind rules to carry out the purpose of this Article . . . regardless of other provisions of rule or law.” (emphasis added) The “Article” referenced in this statute is Article 56 – the Emergency Medical Services Act of 1973 which is defined by G.S. § 143-507(a) as a “comprehensive Statewide Emergency Medical Services System in the Department of Health and Human Services.” This section further provides that the role of DHHS is to “enforce all rules adopted by the Commission.”
- G.S. § 143-508(d) mandates that the MCC adopt rules regarding a number of specific matters including “standards and criteria for the education and credentialing of emergency medical services personnel”¹, as well as “standards and criteria for the denial, suspension, or revocation of emergency medical services credentials for emergency medical services personnel.”²

RRC staff counsel cites G.S. § 143-509(13) as the rule-making authority for the DHHS Secretary regarding this section of rules. DHHS disagrees with this interpretation as does the MCC. In contrast to the broad, express rule-making authority granted to the MCC in G.S. § 143-508(b) and (d), G.S. § 143-509(13) fails to grant rulemaking authority to the Secretary of DHHS. While this statute assigns specific duties and responsibilities to the DHHS Secretary, these duties and responsibilities pertain to the implementation of those items for which previous statutes grant exclusive rulemaking authority to the MCC.

If the opinion advanced by RRC staff counsel were correct, that G.S. § 143-509(13) grants the Secretary of DHHS rule-making authority for the rules found in Section 10A NAC 13P .1400, that authority lacks the authority to adopt regulations to enforce such programs. The MCC is the sole entity with the express, specific statutory authority to adopt rules regarding credentialing as well as the suspension/revocation of credentials and establishment of fines.³ Furthermore, if the RRC were to find that Article 56 does

¹ G.S. § 143-508(d)(3)

² G.S. § 143-508(d)(10)

³ G.S. § 143-508(d)(3) and (10)



General Counsel
HEALTH AND HUMAN SERVICES

RICHARD O. BRAJER
Secretary

JOEL L. JOHNSON
Assistant General Counsel

grant both entities “dual” rule making authority for these rules, there is no conflict resolution provision in the event of “dueling” rules.

Not only does the plain language of the statutes support DHHS’ position – so does the history of rules promulgation for this section of rules. These rules were originally promulgated noting the statutory authority of the MCC.⁴ They were approved as such by the RRC on September 16, 2010 after receiving MCC approval and adoption. Additionally, and significantly, previous RRC staff counsel determined the MCC had exclusive rule-making authority for this set of rules and requested that reference to any authority of the DHHS Secretary be removed as the MCC “alone has rulemaking authority.”⁵

DHHS counsel and staff have consulted with the MCC and the counsel for MCC; all concur that MCC has the exclusive rule-making authority for this section of rules.

These rules are critical for the safety and protection of all North Carolinians. It is important there be no lapse in the effective date of these rules. In the event the RRC disagrees with the analysis herein and determines that the MCC lacks the exclusive authority to promulgate these rules but rather that the MCC and the Secretary of DHHS have dual authority to adopt these rules, the Office of the Secretary for DHHS requests that the RRC find that substantial compliance was nonetheless achieved in the adoption of these rules, as set forth in G.S. 150B-18.

The Office of the Secretary for DHHS is very involved in the review of every rule promulgated by DHHS as well as all rules promulgated by any of DHHS’ commissions. As the MCC is a commission of DHHS, the Office of the Secretary of DHHS carefully and thoughtfully reviewed these rules and concurred with the readoption of these rules

⁴ See Volume 24, NCR Issue 22, pp 1960-1961 on 5/17/10 Notice of Text “MCC intends to adopt the rules cited as 10A NCAC 13P .1401-.1405.”

⁵ See attached original Submission of Permanent Rule forms (8/20/10) for Rule-making Agency and Technical change request (9/14/10) from former RRC Commission Counsel requesting change of rulemaking authority and noting that, “[t]he Commission alone has rulemaking authority.”



with the amendments proposed by the MCC – both before these rules were published and after publication.⁶

For the reasons set forth above, DHHS respectfully requests that the RRC uphold its previous opinion that the MCC “alone has rulemaking authority” regarding these rules. Alternatively, DHHS requests that the RRC avoid any lapse in the effective date of these rules by finding that DHHS’ Secretary has achieved substantial compliance with the Administrative Procedures Act with respect to these rules and/or by extending the deadline for readoption of these rules.

Sincerely,



Joel Johnson
Assistant General Counsel
Rulemaking Coordinator, Office of the Secretary

Enclosures

cc: John Fagg, MD, Chairperson, North Carolina Medical Care Commission
Amanda Reeder, Staff Attorney, Rules Review Commission
Bethany Burgon, Assistant Attorney General
Emery Milliken, Deputy Director, Division of Health Service Regulation
Nadine Pfeiffer, Rules Coordinator, Division of Health Service Regulation
Tom Mitchell, Section Chief Office of Emergency Management Services

⁶ No public comment was received regarding these rules and no changes were made to the rules following publication in the NC Register.

REQUEST FOR TECHNICAL CHANGE

AGENCY: MEDICAL CARE COMMISSION

RULE CITATION: 10A NCAC 13B & 13P ALL RULES

DEADLINE FOR RECEIPT: Tuesday, September 14, 2010

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Remove the name of the Division and Department from the forms. The Commission alone has rulemaking authority.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Robert A. Bryan, Jr.
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: MEDICAL CARE COMMISSION

RULE CITATION: 10A NCAC 13P .1400 RULES

DEADLINE FOR RECEIPT: Tuesday, September 14, 2010

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

Please submit some type of verification that the advice of the Emergency Medical Service Advisory Council has been obtained as required by G.S. 143-508(b).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Robert A. Bryan, Jr.
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: MEDICAL CARE COMMISSION

RULE CITATION: 10A NCAC 13P .1401

DEADLINE FOR RECEIPT: Tuesday, September 14, 2010

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (b)(2), delete or define "specific."

In (b)(4), delete "a minimum of" and "at least."

In (b)(6)(E), use lower case letters and tell what therapist and counselor you mean.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Robert A. Bryan, Jr.
Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: MEDICAL CARE COMMISSION

RULE CITATION: 10A NCAC 13P .1403

DEADLINE FOR RECEIPT: Tuesday, September 14, 2010

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

In (b), change "be considered for restricted practice" to "obtain an enumerated credential" or something similar.

In (d), change "will" to "shall."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Of course, this will also require conforming changes to the attached copies of the rule. Please check to see that this paperwork is in order and is returned along with the revised rule.

Robert A. Bryan, Jr.
Commission Counsel

SUBMISSION FOR PERMANENT RULE


[Authority G.S. 150B-21.19]

COPY
AUG 20 2010

1. Rule-Making Agency: N.C. Medical Care Commission; Division of Health Service Regulation (DHSR), N.C. Department of Health & Human Services	
2. Rule citation & name (name not required for repeal): 10A NCAC 13P .1401 CHEMICAL ADDICTION OR ABUSE TREATMENT PROGRAM REQUIREMENTS	
3. Action: <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL	
4. Notice: <input checked="" type="checkbox"/> Notice Required Notice of text on: 05/17/10 Hearing on: 06/01/10 Adoption by agency on: 08/13/10 <input type="checkbox"/> Notice not required under G.S.: Adoption by agency on:	5. Fiscal impact (mark all that apply): <input checked="" type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$3,000,000) <input type="checkbox"/> No fiscal note required
6. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	
<p style="text-align: center;">7. REASON FOR ACTION</p> 7A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> Legislation enacted in last General Assembly session Cite Session Law: HB 878 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other: </div> </div> <p>7B. Explain: This adoption is in response to HB 878 which authorizes the establishment of programs for aiding in the recovery and rehabilitation of EMS personnel who experience chemical addiction or abuse and programs for monitoring such EMS personnel for safe practice. It amends G.S. 143-509.</p>	
8. Rule-making Coordinator: Erin Glendening Address: 2714 Mail Service Center Raleigh, NC 27699-2714 Phone: 919-855-3848 E-Mail: Erin.Glendening@dhhs.nc.gov Agency Contact, if any: Donnie Sides Phone: 919-855-3964 E-Mail: Donnie.sides@dhhs.nc.gov	9. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  _____ *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: Erin Glendening Title: Rule-making Coordinator </div>
RRC AND OAH USE ONLY	
Action taken: Submitted to OAH/RRC	
<div style="display: flex; justify-content: space-between;"> <div> <input type="checkbox"/> RRC Extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other: </div> <div> <input type="checkbox"/> Rule exempt from RRC review </div> </div>	

SUBMISSION FOR PERMANENT RULE
[Authority G.S. 150B-21.19]

COPY
AUG 20 2010


1. Rule-Making Agency: N.C. Medical Care Commission; Division of Health Service Regulation (DHSR), N.C. Department of Health & Human Services	
2. Rule citation & name (name not required for repeal): 10A NCAC 13P .1402 PROVISIONS FOR PARTICIPATION IN THE CHEMICAL ADDICTION OR ABUSE TREATMENT PROGRAM.	
3. Action: <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL	
4. Notice: <input checked="" type="checkbox"/> Notice Required Notice of text on: 05/17/10 Hearing on: 06/01/10 Adoption by agency on: 08/13/10 <input type="checkbox"/> Notice not required under G.S.: Adoption by agency on:	5. Fiscal impact (mark all that apply): <input checked="" type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$3,000,000) <input type="checkbox"/> No fiscal note required
6. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	
<p align="center">7. REASON FOR ACTION</p> 7A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> Legislation enacted in last General Assembly session Cite Session Law: HB 878 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other: </div> </div> 7B. Explain: This adoption is in response to HB 878 which authorizes the establishment of programs for aiding in the recovery and rehabilitation of EMS personnel who experience chemical addiction or abuse and programs for monitoring such EMS personnel for safe practice. It amends G.S. 143-509.	
8. Rule-making Coordinator: Erin Glendening Address: 2714 Mail Service Center Raleigh, NC 27699-2714 Phone: 919-855-3848 E-Mail: Erin.Glendening@dhhs.nc.gov Agency Contact, if any: Donnie Sides Phone: 919-855-3964 E-Mail: Donnie.sides@dhhs.nc.gov	9. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  _____ *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: Erin Glendening Title: Rule-making Coordinator </div>
RRC AND OAH USE ONLY	
Action taken: Submitted to OAH/RRC <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <input type="checkbox"/> RRC Extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other: </div> <div style="width: 35%; text-align: right;"> <input type="checkbox"/> Rule exempt from RRC review </div> </div>	

SUBMISSION FOR PERMANENT RULE

[Authority G.S. 150B-21.19]

COPY


AUG 20 2010

1. Rule-Making Agency: N.C. Medical Care Commission; Division of Health Service Regulation (DHSR), N.C. Department of Health & Human Services	
2. Rule citation & name (name not required for repeal): 10A NCAC 13P .1403 CONDITIONS FOR RESTRICTED PRACTICE WITH LIMITED PRIVILEGES	
3. Action: <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL	
4. Notice: <input checked="" type="checkbox"/> Notice Required Notice of text on: 05/17/10 Hearing on: 06/01/10 Adoption by agency on: 08/13/10 <input type="checkbox"/> Notice not required under G.S.: Adoption by agency on:	5. Fiscal impact (mark all that apply): <input checked="" type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$3,000,000) <input type="checkbox"/> No fiscal note required
6. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	
<p style="text-align: center;">7. REASON FOR ACTION</p> 7A: What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> Legislation enacted in last General Assembly session Cite Session Law: HB 878 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other: </div> </div> <p>7B. Explain: This adoption is in response to HB 878 which authorizes the establishment of programs for aiding in the recovery and rehabilitation of EMS personnel who experience chemical addiction or abuse and programs for monitoring such EMS personnel for safe practice. It amends G.S. 143-509.</p>	
8. Rule-making Coordinator: Erin Glendening Address: 2714 Mail Service Center Raleigh, NC 27699-2714 Phone: 919-855-3848 E-Mail: Erin.Glendening@dhhs.nc.gov Agency Contact, if any: Donnie Sides Phone: 919-855-3964 E-Mail: Donnie.sides@dhhs.nc.gov	9. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  _____ *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: Erin Glendening Title: Rule-making Coordinator </div>
RRC AND OAH USE ONLY	
Action taken: _____ Submitted to OAH/RRC	
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <input type="checkbox"/> RRC Extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other: </div> <div style="width: 35%; text-align: right;"> <input type="checkbox"/> Rule exempt from RRC review </div> </div>	

SUBMISSION FOR PERMANENT RULE
[Authority G.S. 150B-21.19]

[C] COPY

AUG 20 2010

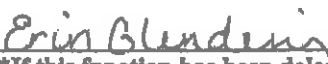
1. Rule-Making Agency: N.C. Medical Care Commission; Division of Health Service Regulation (DHSR), N.C. Department of Health & Human Services									
2. Rule citation & name (name not required for repeal): 10A NCAC 13P .1404 REINSTATEMENT OF AN UNENCUMBERED EMS CREDENTIAL									
3. Action: <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL									
4. Notice: <input checked="" type="checkbox"/> Notice Required Notice of text on: 05/17/10 Hearing on: 06/01/10 Adoption by agency on: 08/13/10 <input type="checkbox"/> Notice not required under G.S.: Adoption by agency on:	5. Fiscal impact (mark all that apply): <input checked="" type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$3,000,000) <input type="checkbox"/> No fiscal note required								
6. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No									
<p align="center">7. REASON FOR ACTION</p> 7A. What prompted this action? Check all that apply: <table border="0"><tr><td><input type="checkbox"/> Agency</td><td><input checked="" type="checkbox"/> Legislation enacted in last General Assembly session</td></tr><tr><td><input type="checkbox"/> Court order / cite:</td><td> Cite Session Law: HB 878</td></tr><tr><td><input type="checkbox"/> Federal statute / cite:</td><td><input type="checkbox"/> Petition for rule-making</td></tr><tr><td><input type="checkbox"/> Federal regulation / cite:</td><td><input type="checkbox"/> Other:</td></tr></table> 7B. Explain: This adoption is in response to HB 878 which authorizes the establishment of programs for aiding in the recovery and rehabilitation of EMS personnel who experience chemical addiction or abuse and programs for monitoring such EMS personnel for safe practice. It amends G.S. 143-509.		<input type="checkbox"/> Agency	<input checked="" type="checkbox"/> Legislation enacted in last General Assembly session	<input type="checkbox"/> Court order / cite:	Cite Session Law: HB 878	<input type="checkbox"/> Federal statute / cite:	<input type="checkbox"/> Petition for rule-making	<input type="checkbox"/> Federal regulation / cite:	<input type="checkbox"/> Other:
<input type="checkbox"/> Agency	<input checked="" type="checkbox"/> Legislation enacted in last General Assembly session								
<input type="checkbox"/> Court order / cite:	Cite Session Law: HB 878								
<input type="checkbox"/> Federal statute / cite:	<input type="checkbox"/> Petition for rule-making								
<input type="checkbox"/> Federal regulation / cite:	<input type="checkbox"/> Other:								
8. Rule-making Coordinator: Erin Glendening Address: 2714 Mail Service Center Raleigh, NC 27699-2714 Phone: 919-855-3848 E-Mail: Erin.Glendening@dhhs.nc.gov Agency Contact, if any: Donnie Sides Phone: 919-855-3964 E-Mail: Donnie.sides@dhhs.nc.gov	9. Signature of Agency Head* or Rule-making Coordinator:  *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: Erin Glendening Title: Rule-making Coordinator								
<p align="center">RRC AND OAH USE ONLY</p>									
Action taken: _____ Submitted to OAH/RRC									
<table border="0"><tr><td><input type="checkbox"/> RRC Extended period of review:</td><td rowspan="5"><input type="checkbox"/> Rule exempt from RRC review</td></tr><tr><td><input type="checkbox"/> RRC determined substantial changes:</td></tr><tr><td><input type="checkbox"/> Withdrawn by agency</td></tr><tr><td><input type="checkbox"/> Subject to Legislative Review</td></tr><tr><td><input type="checkbox"/> Other:</td></tr></table>		<input type="checkbox"/> RRC Extended period of review:	<input type="checkbox"/> Rule exempt from RRC review	<input type="checkbox"/> RRC determined substantial changes:	<input type="checkbox"/> Withdrawn by agency	<input type="checkbox"/> Subject to Legislative Review	<input type="checkbox"/> Other:		
<input type="checkbox"/> RRC Extended period of review:	<input type="checkbox"/> Rule exempt from RRC review								
<input type="checkbox"/> RRC determined substantial changes:									
<input type="checkbox"/> Withdrawn by agency									
<input type="checkbox"/> Subject to Legislative Review									
<input type="checkbox"/> Other:									

SUBMISSION FOR PERMANENT RULE

[Authority G.S. 150B-21.19]

COPY

AUG 20 2010

1. Rule-Making Agency: N.C. Medical Care Commission; Division of Health Service Regulation (DHSR), N.C. Department of Health & Human Services	
2. Rule citation & name (name not required for repeal): 10A NCAC 13P .1405 FAILURE TO COMPLETE THE CHEMICAL ADDICTION OR ABUSE TREATMENT PROGRAM	
3. Action: <input checked="" type="checkbox"/> ADOPTION <input type="checkbox"/> AMENDMENT <input type="checkbox"/> REPEAL	
4. Notice: <input checked="" type="checkbox"/> Notice Required Notice of text on: 05/17/10 Hearing on: 06/01/10 Adoption by agency on: 08/13/10 <input type="checkbox"/> Notice not required under G.S.: Adoption by agency on:	5. Fiscal impact (mark all that apply): <input checked="" type="checkbox"/> Approved by OSBM <input checked="" type="checkbox"/> State funds affected <input type="checkbox"/> Local funds affected <input type="checkbox"/> Substantial economic impact (≥\$3,000,000) <input type="checkbox"/> No fiscal note required
6. Rule establishes or increases a fee? (See G.S. 12-3.1) <input type="checkbox"/> Yes Agency submitted request for consultation on: Consultation not required. Cite authority: <input checked="" type="checkbox"/> No	
<p style="text-align: center;">7. REASON FOR ACTION</p> 7A. What prompted this action? Check all that apply: <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Agency <input type="checkbox"/> Court order / cite: <input type="checkbox"/> Federal statute / cite: <input type="checkbox"/> Federal regulation / cite: </div> <div style="width: 45%;"> <input checked="" type="checkbox"/> Legislation enacted in last General Assembly session Cite Session Law: HB 878 <input type="checkbox"/> Petition for rule-making <input type="checkbox"/> Other: </div> </div>	
7B. Explain: This adoption is in response to HB 878 which authorizes the establishment of programs for aiding in the recovery and rehabilitation of EMS personnel who experience chemical addiction or abuse and programs for monitoring such EMS personnel for safe practice. It amends G.S. 143-509.	
8. Rule-making Coordinator: Erin Glendening Address: 2714 Mall Service Center Raleigh, NC 27699-2714 Phone: 919-855-3848 E-Mail: Erin.Glendening@dhhs.nc.gov Agency Contact, if any: Donnie Sides Phone: 919-855-3964 E-Mail: Donnie.sides@dhhs.nc.gov	9. Signature of Agency Head* or Rule-making Coordinator: <div style="text-align: center;">  _____ *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: Erin Glendening Title: Rule-making Coordinator </div>
RRC AND OAH USE ONLY	
Action taken: _____ Submitted to OAH/RRC _____	
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <input type="checkbox"/> RRC Extended period of review: <input type="checkbox"/> RRC determined substantial changes: <input type="checkbox"/> Withdrawn by agency <input type="checkbox"/> Subject to Legislative Review <input type="checkbox"/> Other: </div> <div style="width: 35%; text-align: right;"> <input type="checkbox"/> Rule exempt from RRC review </div> </div>	

