REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32A .0104

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:* This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.**

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4, define or delete "customarily"

Line 4, define or delete "regularly"

Line 4, define or delete "as appropriate"

Line 7, add G.S. 90-5.1 to the statutory authority

Line 7, considering the cited statutory authority, what is the purpose of this Rule? Is this more appropriate as bylaw content for the Board? Please review and clarify.

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32A .0104 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32A .0104 MEETINGS

The Board customarily meets at regularly scheduled intervals as appropriate to carry out Board business. Other meetings may be called by the President of the Board or upon written request of the majority of the members of the Board.

History Note: *Authority G.S. 90-5;*
Eff. February 1, 1976;
Amended Eff. May 1, 1990; ~~May 1, 1989.~~ May 1, 2017;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32A .0111

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:* This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.**

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6, move the period inside the quotation marks

Line 7, replace "must" with "shall"

Line 12, delete "therefore"

Line 14, add G.S. 90-5.1 to the statutory authority

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32A .0111 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32A .0111 REQUEST FOR DECLARATORY RULING

(a) All requests for declaratory rulings shall be written and mailed to the Board at 1203 Front Street, Raleigh, North Carolina 27609. The envelope containing the request shall bear the notation: "REQUEST FOR DECLARATORY RULING".

(b) Each Request for Declaratory Ruling must include the following information:

(1) the name and address of the person requesting the ruling;

(2) the statute or rule to which the request relates;

(3) a concise statement of the manner in which the requesting person is affected by the statute or rule or its potential application to that person;

(4) a statement whether an oral hearing is desired and, if so, the reason therefore.

History Note: *Authority G.S. 150B-4;*
Eff. ~~February 1, 2007.~~ February 1, 2007;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0101

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:** This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4, considering the following technical change requests, consider adding the following clause to this Rule:

"In addition to the terms set forth in G.S. 90-21.22, the following…."

Line 5, what is the purpose of defining "Board" or "NCMB" as G.S. 90-21.22 specifically states that "The North Carolina Medical Board (Board)" is the statutory name. The only use of "NCMB" within this Subchapter is this Rule. Please consider deleting this definition.

Line 6, replace "which" with "that"

Lines 6, 8, 9, 10, 16, and 19, replace the term "NCMB" with "Board"

Line 11, add a comma after "tasks"

Line 13, add a comma after "chemicals"

Line 14, what is the purpose of changing "licensee" to "practitioner" as G.S. 90-21.22 specifically identifies a "licensee" as the body subject to the statutory requirements. Please review and clarify, if necessary.

Line 15, replace "above" with "Item (3)."

Lines 21 thru 22, what is the purpose of defining "Program" or "NCPHP" or "PHP" as G.S. 90-21.22 specifically states that "North Carolina Physicians Health Program (Program)" is the statutory name. The only use of "NCPHP" within this Subchapter is this Rule. Please consider deleting this definition.

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

In light of the suggested deletion of lines 21 thru 22, replace the term "PHP" with "Program" on lines 7, 8, and 20.

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

21 NCAC 32K .0101 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0101 DEFINITIONS

The following definitions apply to this Subchapter:

(1) "Board" or "NCMB" means the North Carolina Medical Board.

(2) "Compliance Committee" means the committee which meets to coordinate with the NCMB in its oversight of licensees in the PHP. It includes members of the PHP Board of Directors, members appointed by ~~of~~ the NCMB, and a Physician Assistant member of ~~who is on~~ the PHP Board of Directors. The NCMB shall not appoint to the Compliance Committee a current member of the NCMB or a past member who has served on the NCMB within the past two years.

(3) "Impairment" means the inability to practice medicine or perform acts, tasks and functions with skill and safety to patients by reasons of physical or mental illness or condition, including use of alcohol, drugs, chemicals or any other type of material.

(4) "Impaired Practitioner" means a licensee of the NCMB who is or could be afflicted with a condition of impairment as defined above.

~~(4)~~(5) "Licensee" means a person licensed by the NCMB.

~~(5)~~(6) ~~"Medical Director"~~ "Chief Executive Officer" means the person employed by the Program to coordinate the activities of the Program.

~~(6)~~(7) "Participant" means a licensee of the NCMB who is permitted to participate and may receive services from ~~PHP, and has executed a monitoring contract with~~ PHP.

~~(7)~~(8) "Program" or "NCPHP" or "PHP" means the North Carolina Physicians Health Program. ~~Program established for promoting a coordinated and effective peer review process.~~

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; ~~May 1, 1989.~~ May 1, 1989;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0201

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:** This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6, define or delete "as soon as possible"

Line 9, delete "be required to"

Line 10, delete "deemed"

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32K .0201 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0201 RECEIPT AND USE OF INFORMATION OF POTENTIAL IMPAIRMENT

Information concerning ~~potential impairments~~ a Participant may be received by the Program through reports from any source. Upon receipt of information of a potential impairment, the Program shall conduct ~~an assessment~~ a screening interview of the Participant as soon as possible. This screening interview shall not create a physician-patient or other clinical relationship. ~~A physician assistant selected by the Medical Director shall be present during an assessment of a physician assistant.~~ The Program may conduct routine inquiries regarding potential impairments. ~~Licensees with potential impairments may~~ Participants shall be required to submit to ~~personal~~ interviews ~~before the Medical Director or a designee.~~ with Program staff. Records relating to the Participant's involvement with the Program shall not be deemed medical records.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; ~~May 1, 1989.~~ May 1, 1989;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0202

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:* This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.**

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4, add a comma after "treatment"

Line 6, what is meant by "safe to practice"? Who is making this determination? Are there standards that should be referenced?

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32K .0202 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0202 ASSESSMENT AND REFERRAL

When an initial ~~assessment~~ screening interview reveals that ~~further~~ assessment, treatment or monitoring is indicated, ~~PHP~~ the Program shall advise the ~~licensee~~ Participant and referral source of the findings and recommendations. The Program shall develop a ~~treatment~~ plan designed to ensure that the ~~recipient~~ Participant is safe to practice.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; ~~May 1, 1989~~. May 1, 1989;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0203

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:** This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please place line numbers on this page.

In Items (1) and (3), define or delete "adequate"

In Items (2) and (4), define or delete "appropriate"

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32K .0203 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0203 MONITORING TREATMENT SOURCES

The Program shall monitor the cost of treatment. Treatment sources receiving referrals from the Program also shall be monitored as to their ability to provide:

(1) adequate medical and non-medical staffing;

(2) appropriate treatment;

(3) adequate facilities; and

(4) appropriate post-treatment support.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. ~~April 1, 2009.~~ April 1, 2009;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0204

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:** This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 10, what is meant by "are met"? When is something "not met"? Is it the criteria in Paragraph (d)? Could this language be clarified?

Lines 11 and 12, and 14, delete "to be required"

Line 14, define or delete "appropriate"

Line 15, define or delete "other workplace monitors"

Line 15, if "other workplace monitors" is clarified and remains in this Rule, then add a comma after "employers"

Lines 16 and 17, what is meant by "is known to the Board"? When is a Participant "known" or "not known" to the Board? Please clarify.

Line 16 thru 17, what is the purpose of this sentence? If the Participant is signing a release for the Program to request the information from the third-party treatment provider, why include an affirmative obligation on the Participant to ensure compliance to the request by the Program to the third-party treatment provider? What is the purpose of the release if the Participant has to "ensure" providing the reports? Please delete or clarify.

Line 17, replace "Such" with "The"

Line 18, please specify the "state and applicable laws"

Line 20, when is "When appropriate"? Please clarify the process.

Line 21, replace "may include" with "includes"

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

Line 22, what is meant by "deeded appropriate"? Please clarify whom is making the determination. When is something "appropriate"?

Line 23, why is this text not part of Paragraph (f)? Please review and clarify.

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

21 NCAC 32K .0204 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0204 MONITORING REHABILITATION AND PERFORMANCE

(a) If a ~~licensee~~ Participant is referred to the Program by the Board, and if the Program finds that treatment or monitoring are appropriate, the Program shall ask the ~~licensee~~ Participant to sign a monitoring contract. ~~contract in order to become an active participant in the Program.~~ If the ~~licensee~~ Participant chooses not to sign a monitoring contract, the Program ~~may~~ shall refer the ~~licensee~~ Participant to the Board. ~~Board for potential disciplinary action.~~

(b) If a ~~licensee~~ Participant is self-referred to the Program, and if the Program finds that treatment or monitoring are appropriate, the Program shall ask the ~~licensee~~ Participant to sign a monitoring contract. ~~contract in order to become a participant in the program.~~ The Program shall report the Participant to the Board if the criteria of G.S. 90-21.22 are met.

(c) Participants shall be required to submit urine or other bodily specimens if requested by ~~PHP.~~ the Program.

(d) Participants ~~may~~ shall be required to submit to periodic ~~personal~~ interviews with the ~~Medical Director or a designee.~~ Program staff.

(e) ~~Treatment providers~~ Participants shall be required to sign appropriate releases allowing their treatment providers, employers or other workplace monitors to submit reports regarding ~~a licensee's~~ the Participant's rehabilitation and performance to the ~~Program.~~ Program and to the Board if the Participant is known to the Board. Participants shall ensure the such reports are provided to the Program and the Board if the Participant is known to the Board. Such reports shall be in accordance with state and federal laws. The Program shall maintain case records for each Participant. ~~participant or licensee.~~

(f) When appropriate the Program shall require Participants to engage in post-treatment support. Post-treatment support may include family counseling, advocacy, after care support groups, self-help groups and other services and programs deemed appropriate to improve recoveries.

(g) The Program shall monitor post-treatment support.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; ~~May 1, 1989.~~ May 1, 1989;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0205

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:* This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.**

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 4 thru 6, please remove all text, as required by 26 NCAC 02C .0108(6)(a)(iii)*. Here is an example of a repeal pending before the Rules Review Commission:*

http://www.ncoah.com/rules/examples/Permanent%20Repeal%20for%20Publication%20in%20the%20NCAC.pdf

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32K .0205 is repealed through readoption as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0205 MONITORING POST-TREATMENT SUPPORT

~~(a) The Program may require post-treatment support. Post-treatment support may include family counseling, advocacy, after care support groups, self-help groups and other services and programs deemed appropriate to improve recoveries.~~

~~(b) The Program shall monitor post-treatment support.~~

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; ~~*May 1, 1989.*~~ *May 1, 1989;*
Repealed Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0206

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:* This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.**

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

> *Line 5, what is meant by "is known to the Board"? When is a Participant "known" or "not known" to the Board? Please clarify.*

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32K .0206 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0206 REPORTS OF INDIVIDUAL CASES TO THE BOARD

~~Bimonthly,~~ ~~the~~ The Program shall submit a report to the Board on a bi-monthly basis regarding the status of all Participants known to the Board. ~~participants under monitoring contracts and all licensees being treated who have not signed monitoring contracts.~~ The Program shall report immediately to the Board information about any licensee as required under G.S. 90-21.22(d).

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; ~~*May 1, 1989.*~~ *May 1, 1989;*
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0207

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:** This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4, delete "not less than"

Line 5, add "existing" after "potential impairments,"

Line 5, add a comma after "support"

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32K .0207 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0207 PERIODIC REPORTING OF STATISTICAL INFORMATION

On not less than a quarterly basis and upon ~~Upon~~ request by the Board, the Program shall provide statistical and demographic information concerning potential impairments, impairments, self-referrals, post-treatment support and other demographic and substantive information collected through Program operations.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; ~~May 1, 1989.~~ May 1, 1989;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0208

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:* This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.**

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 3, remove the strike through on the name of this Rule.

Lines 4 thru 6, please remove all text, as required by 26 NCAC 02C .0108(6)(a)(iii)*. Here is an example of a repeal pending before the Rules Review Commission:*

http://www.ncoah.com/rules/examples/Permanent%20Repeal%20for%20Publication%20in%20the%20NCAC.pdf

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32K .0208 is repealed through readoption as published in 31:17 NCR 1757 – 1760 as follows:

~~**21 NCAC 32K .0208 CONFIDENTIALITY**~~

~~Any nonpublic information acquired, created, or used in good faith by the Program shall be treated according to G.S. 90-21.22.~~

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. ~~*May 1, 1989.*~~ *May 1, 1989;*
Repealed Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32K .0209

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:** This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please review the formatting of this rule in accordance with 26 NCAC 02C .0108

Line 4, replace "is created" with "exists"

Lines 4, 7, 9, 10, 11, 12, 13, 22, 25, and 28, replace "PHP" with the statutory term of "Program"

Line 9, add an "or" at the end of the clause

Line 11 thru 12, who is the "Executive Committee"? Is this a known group or should it be identified in this Rule? Please clarify.

Line 12, replace "will" with "shall"

Lines 19 and 21, replace "must" with "shall"

Line 24, replace "are" with "shall be"

Line 28, replace " are encouraged, but not required to" with "may"

Page 2, line 1, replace "three-member panel of the Review Committee ("panel")" with "Review Committee" That phrase is provided with context on page 1, lines 4, Paragraph (b), and Paragraph (k). Consistent terms should be used throughout the rule.

Line 2, replace "via" with "by"

Page 2, lines 4, 11, 13, 18, 19, 20, 22, 23, 26, and 28, replace "panel" with "Review Committee"

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

Page 2, line 4, what is meant by "believe are relevant"?

Page 2, line 6, replace "such" with "the"

Page 2, line 9, replace "must" with "shall"

Page 2, line 11, add a comma after "Participant"

Page 2, line 15, replace "is not" with "shall not be"

Page 2, line 15, add a comma after "Procedure"

Page 2, line 16, delete "Neither"

Page 2, line 16, replace "nor" with "and"

Page 2, line 16, add "no" after "has"

Page 2, line 16, delete "any"

Page 2, line 16, delete "otherwise"

Lines 17 thru 18, rewrite as follows:

"Program staff, Participants, or the Review Committee."

Page 2, line 19, delete "members"

Page 2, line 22, add a comma after "treatment"

Page 2, lines 23 thru 24, replace "that have not been previously considered" with "not provided"

Page 2, line 24, add a comma after "Participant"

Page 2, line 24, what is meant by "significant"? Are there factors of consideration by the Review Committee when not choosing an option proposed by the Participant or Program? Please clarify.

Page 2, line 28, replace "is" with "shall be"

Page 2, line 30, replace "is" with "shall be"

Page 2, line 31, delete "only"

Page 2, line 32, replace "PHP" with the statutory term of "Program"

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32K .0209 is adopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32K .0209 REVIEW COMMITTEE

(a) A Review Committee is created for Participants to request reconsideration of PHP staff findings and recommendations in the following areas:

(1) General nature of diagnosis;

(2) Need for additional assessment beyond PHP;

(3) Need for treatment;

(4) Need for monitoring by PHP;

(5) Closure of file or loss of PHP advocacy;

(b) The Review Committee shall have three primary members and three alternate members. The PHP Executive Committee will nominate all potential members. The PHP Board of Directors shall appoint members to the Review Committee. Review Committee members shall not be current members of the PHP Compliance Committee, the PHP Board of Directors, or the North Carolina Medical Board, nor shall they have served in those organizations within two years of their appointment to the Review Committee.

(c) Two primary Review Committee members shall be clinicians, including one physician and one person with relevant clinical experience with substance use disorders. One Review Committee member, either primary or alternate, shall be a physician assistant.

(d) A Participant who wishes to challenge one of the matters included in subsection (a) of this Rule must deliver to the Chair of the Board of Directors a written request for review of the matter within ten days of being notified of the matter giving rise to the disagreement. Prior to the Review Committee considering the request, the Participant must:

(1) Sign a release allowing PHP staff to share all information with Review Committee members;

(2) Agree to abide by the finding of the Review Committee;

(3) Agree that all decisions by the Review Committee are final; and

(4) Sign a form releasing PHP and the Review Committee from legal liability for activities conducted in good faith consistent with the provisions of N.C. Gen. Stat. § 90-21.22(f).

(e) At any time prior to the Review Committee undertaking the request for reconsideration, the Participant and PHP staff are encouraged, but not required, to attempt to resolve the disagreement prior to the Review Committee meeting.

(f) The Chair of the Board of Directors shall empanel the three primary members of the Review Committee to act on the request for reconsideration. In the event one or more primary members are not available, the Chair of the Board of Directors shall select from the alternate members to constitute a panel of three members.

(g) The three-member panel of the Review Committee ("panel") shall meet and the Participant and Program staff shall appear via teleconference within 30 days after receipt of the written request for reconsideration.

(1) At least five days prior to the teleconference meeting, Program staff and the Participant shall furnish to each other and to the panel any materials they believe are relevant for the panel to consider. However, information provided to the Program from the Board regarding a Participant shall be provided pursuant to N.C. Gen. Stat. § 90-16(c), and such information, including reports of investigation and attachments thereto, shall remain confidential and shall not be provided to the Participant.

(2) The teleconference shall last no more than one hour.

(3) If the Participant is a physician assistant, a physician assistant member of the Review Committee must be included in the panel.

(4) The panel, Participant and Program staff shall announce the names of all persons present on the phone call prior to the teleconference commencing. The Participant shall be allowed not less than 15 minutes to make a presentation followed by questions of the Participant and Program staff by panel members. A Participant is permitted to be represented by counsel, and that counsel may participate in the meeting. The Review Committee process is not a legal or quasi-judicial proceeding and is not governed by the Rules of Evidence, Rules of Civil Procedure or the Administrative Procedures Act. Neither Participant nor Program staff has any right to question or otherwise examine Program staff or Participant. Neither Participant nor Program staff have any right to question or otherwise examine panel members.

(5) After the presentation and questioning, the panel members shall discuss the request for reconsideration without the presence of the Participant or Program staff. After completing the discussion, the panel shall announce its decision.

(6) The panel shall choose among the assessment, treatment and monitoring options provided by Program staff and the Participant. The panel shall not consider options for assessment, treatment, or monitoring that have not been previously considered by Program staff or the Participant unless significant new information is provided to the panel.

(7) The panel shall reduce its decision to writing and provide a copy of its written decision to the Participant and Program staff within five business days.

(8) The panel's decision is binding upon the Program and the Participant.

(9) The Program staff shall make an official recording of the teleconference meeting and preserve the recording. The Participant is allowed to make a recording of the meeting.

(h) After completion of the review, new or additional review requests may be made by the Participant only if there are new findings or recommendations by PHP regarding the Participant.

History Note: *Authority G.S. 90-21.22;*
Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32M .0111

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:** This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 4, replace "herself/himself" with "herself or himself"

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32M .0111 is readopted as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32M .0111 METHOD OF IDENTIFICATION

When providing care to the public, the nurse practitioner shall identify herself/himself as specified in G.S. 90-640 and 21 NCAC 36 .0231.

History Note: *Authority G.S. 90-18(14); G.S.90-640;*
Eff. January 1, 1991;
Recodified from 21 NCAC 32M .0108 Eff. January 1, 1996;
Amended Eff. August 1, 2004; May 1, 1999; January 1, 1996;
Recodified from Rule .0110 Eff. ~~August 1, 2004.~~ August 1, 2004;
Readopted Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Medical Board

RULE CITATION: 21 NCAC 32Y .0101

DEADLINE FOR RECEIPT: Friday, June 9, 2017

***PLEASE NOTE:* This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.**

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. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

> *Line 21, consider adding general rulemaking authority for this Board. Is it G.S. 90-5.1? Please review and supplement.*

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Friday, May 26, 2017

21 NCAC 32Y .0101 is amended as published in 31:17 NCR 1757 – 1760 as follows:

21 NCAC 32Y .0101 REPORTING CRITERIA

(a) The Department of Health and Human Services ("Department") may report to the North Carolina Medical Board ("Board") information regarding the prescribing practices of those physicians and physician assistants ("prescribers") whose prescribing:

(1) falls within the top ~~one~~ two percent of those prescribing 100 morphine milligrams ~~of morphine~~ equivalents ("MME") per patient per day; or

(2) falls within the top ~~one~~ two percent of those prescribing 100 MME's per patient per day in combination with any benzodiazepine and who are within the top one percent of all controlled substance prescribers by volume.

(b) In addition, the Department may report to the Board information regarding prescribers who have had two or more patient deaths in the preceding twelve months due to opioid ~~poisoning.~~ poisoning where the prescribers authorized more than 30 tablets of an opioid to the decedent and the prescriptions were written within 60 days of the patient deaths.

(c) The Department may submit these reports to the Board upon request and may include the information described in G.S. 90-113.73(b).

(d) The reports and communications between the Department and the Board shall remain confidential pursuant to G.S. 90-16 and G.S. 90-113.74.

History Note: *Authority G.S. 90-113.74;*
Eff. ~~May 1, 2015.~~ May 1, 2015;
Amended Eff. July 1, 2017.