

RRC STAFF OPINION

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: NC COMMISSION FOR MH / DD / SAS

RULE CITATION: 10A NCAC 27G .0504

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
  - X Lack of statutory authority
  - Unclear or ambiguous
  - Unnecessary
  - Failure to comply with the APA
- Extend the period of review

COMMENT:

The additional text added since publication to lines 68 through 72 alters a limited and specific statute. The statute is set forth below:

**§ 122C-64. Client rights and human rights committees.**

Client rights and human rights committees responsible for protecting the rights of clients shall be established at each State facility, for each local management entity, and provider agency. The Commission shall adopt rules for the establishment, composition, and duties of the committees and procedures for appointment and coordination with the State and Local Consumer Advocacy programs. The membership of the client rights and human rights committee for a multicounty program or local management entity shall include a representative from each of the participating counties. (1985-589, s. 2; 2001-437, s. 1.3; 2009-190, s. 1.)

The last sentence requires “representative from each of the participating counties. The text added since publication discusses representation by at least fifty percent and “efforts to rotate counties in membership...so that all counties have equal representation when turnover on the committee occurs.” That is contrary to the directive that the membership “shall include a representative from each of the participating counties.”

Abigail M. Hammond  
Commission Counsel