

**G.S. 150B-21.3A Report for 10A NCAC 28B, CIVIL AND LEGAL RIGHTS**

Agency - DHHS Commission for Mental Health/DD/SAS

Comment Period - September 8, 2017 - November 7, 2017

Date Submitted to APO - January 28, 2018

| Subchapter | Rule Section                             | Rule Citation      | Rule Name  | Date and Last Agency Action on the Rule | Agency Determination [150B-21.3A(c)(1)a]      | Implements or Conforms to Federal Regulation [150B-21.3A(e)] | Federal Regulation Citation | Public Comment Received [150B-21.3A(c)(1)] | Agency Determination Following Public Comment [150B-21.3A(c)(1)] | RRC Determination of Public Comments [150B-21.3A(c)(2)] | RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]                   | OAH Next Steps                     |
|------------|--|--------------------|--|---|---|--|-----------------------------|--|--|---|--|------------------------------------|
|            | <b>SECTION .0100 – GENERAL RIGHTS</b>    | 10A NCAC 28B .0101 | COMPETENCY OF ADULT CLIENTS                        | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | Yes  | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0102 | BASIC RIGHTS                                       | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0103 | RELIGIOUS RIGHTS                                   | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            | <b>SECTION .0200 - LEGAL RIGHTS</b>      | 10A NCAC 28B .0201 | ACCESS TO LEGAL SERVICES                           | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0202 | NONPROFIT LEGAL SERVICES ORGANIZATIONS             | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0203 | STATE FACILITY GRIEVANCE PROCEDURE AND REPORTS     | Amended Eff. April 1, 1990              | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0204 | DIVISION DIRECTOR'S REVIEW OF GRIEVANCES           | Amended Eff. April 1, 1990              | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0205 | DEPARTMENT REVIEW OF GRIEVANCE                     | Amended Eff. April 1, 1990              | Necessary without substantive public interest | No   |                             | Yes  | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0206 | ACCESS TO INTERNAL CLIENT ADVOCATE                 | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0207 | CLIENT ADVOCATE ACCESS TO CONFIDENTIAL INFORMATION | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | Yes  | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0208 | DEATHS AND AUTOPSIES                               | Amended Eff. April 1, 1990              | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            | <b>SECTION .0300 - LABOR RIGHTS</b>      | 10A NCAC 28B .0301 | EMPLOYMENT CONDITIONS                              | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0302 | VOLUNTARY NON-COMPENSATED WORK                     | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0303 | PERSONAL HOUSEKEEPING                              | Eff. October 1, 1984                    | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            | <b>SECTION .0400 - NONDISCRIMINATION</b> | 10A NCAC 28B .0401 | TITLE VI CIVIL RIGHTS ACT 1964                     | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0402 | DHHS DIRECTIVE - INTERPRETER SERVICES              | Amended Eff. April 1, 1990              | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |
|            |  | 10A NCAC 28B .0403 | STATE AND FEDERAL REGULATIONS                      | Amended Eff. July 1, 1989               | Necessary without substantive public interest | No   |                             | No   | Necessary without substantive public interest                    | No comments with merit                                  | Necessary without substantive public interest and should remain in effect without further action | Keep in Code - Update History Note |

| Agency   | Rule               | Name                        | Type of Comment | Comment  | Agency Response  | RRC Staff Recommendation | RRC Determination [150B-21.3A(c)(2)] |
|--|--------------------|-----------------------------|-----------------|--|--|--------------------------|--------------------------------------|
| <b>Copy all columns in this row to the right of this yellow cell and paste in new rows</b> |                    |                             | Select One      |  |  | Select One               | Select One                           |
| <b>DHHS Commission for MH/DD/SAS</b>   | 10A NCAC 28B .0101 | COMPETENCY OF ADULT CLIENTS | Other Statement | <p>Submitted by: Kenneth Cave 10/27/2017. In 2015 without knowledge or warning i was alledgedly took to court and filed incompetant. This i am told biolated my civil rights. Also my aister had this done qith the help of wilkes county NC ssa admin. Ahe had taken my bank account in 2010, i neversaw not eecieved my backpay.</p> | <p>The rule speaks to the right of every adult consumer to be considered legally competent unless adjudicated incompetent. The rule does not speak to the process of having one adjudicated incompetent. While it is unclear what happened in this case, the statement seems to express dissatisfaction with what happened to him personally and with the possible personal outcome for the individual. It is not clear what procedures were involved in this case, whether applicable rules were followed or whether the person's rights were violated.</p> | Select One               | Select One                           |

| Agency  | Rule               | Name                                 | Type of Comment | Comment  | Agency Response   | RRC Staff Recommendation | RRC Determination [150B-21.3A(c)(2)] |
|---|--------------------|--------------------------------------|-----------------|--|---|--------------------------|--------------------------------------|
| Copy all columns in this row to the right of this yellow cell and paste in new rows |                    |                                      | Select One      |  |   | Select One               | Select One                           |
| DHHS<br>Commission for<br>MH/DD/SAS   | 10A NCAC 28B .0205 | DEPARTMENT<br>REVIEW OF<br>GRIEVANCE | Other Statement | Submitted by: Kenneth Cave 10/27/2017. Hello you talk of appeals and legal issues. My attorney quit me early. Was over paid. I filed appeals after appeals and no help   | The rule speaks to the right of every client or his/her representative as defined in Rule 28B .0203(b)(1)(D) to request the Secretary, Department of Health and Human Services review a grievance filed with, and the outcomes reached at the facility and Division of MH/DD/SAS levels. While it is unclear what happened in this case, the statement seems to express the individual's dissatisfaction with the work allegedly performed by his attorney as well as with the fees charged and the case outcome. The statement does not indicate whether the person filed an appeal with the Secretary as permitted by this Rule.  | Select One               | Select One                           |
| DHHS<br>Commission for<br>MH/DD/SAS   | 10A NCAC 28B .0205 | DEPARTMENT<br>REVIEW OF<br>GRIEVANCE | Other Statement | Submitted by: Kenneth Cave 10/27/2017. Hello you talk of appeals and legal issues. My attorney quit me early. Was over paid. I filed appeals after appeals and no help, i follie the rules. My sister failed to file a re'eiw im +9/2016, and now i geta letter stating the state does not have enough records and wants me to see some doctor.i call but no answer. Rhis is a grievance. All apeals, and reports of misconduct i have made havw been ignores. Nut now after 9 years of disability i may lose mine ? I state that there is corryption and mishandling of records and funds. I do not have a ride to anywhere. Dince 2012 all apeals and geieviamcws havw been ignored just like this will be | The rule speaks to the right of every client or his/her representative as defined in Rule 28B .0203(b)(1)(D) to request the Secretary, Department of Health and Human Services review a grievance filed with, and the outcomes reached at the facility and Division of MH/DD/SAS levels. While it is unclear what happened in this case, the statement seems to express the individual's dissatisfaction with the work allegedly performed by his attorney as well as with the fees charged and the case outcome. The statement also alleges the sister failed to follow the grievance process. However, it is unclear whether the person, his sister, or his attorney filed a grievance with the facility or an appeal with the Division or Department. The statement does not indicate whether the person filed an appeal with the Secretary as permitted by this Rule. It is not clear what type of appeal was involved in this case and hints that it may have involved a disability determination; if so, this is not handled by the facility or the Department. |                          |                                      |

| Agency  | Rule               | Name   | Type of Comment | Comment  | Agency Response  | RRC Staff Recommendation | RRC Determination<br>[150B-21.3A(c)(2)] |
|---|--------------------|--|-----------------|--|--|--------------------------|---|
| Copy all columns in this row to the right of this yellow cell and paste in new rows |                    |  |                 |  |  |                          |   |
| DHHS Commission for MH/DD/SAS   | 10A NCAC 28B .0207 | CLIENT<br>ADVOCATE<br>ACCESS TO<br>CONFIDENTIAL<br>INFORMATION | Other Statement | <p>Submitted by: Kenneth Cave 10/27/2017.</p> <p>Hello you talk of appeals and legal issues. My attorney quit me early. Was over paid. I filed appeals after appeals and no help, i follie the rules. My sister failed to file a re'eiw im +9/2016, and now i geta letter stating the state does not have enough records and wants me to see some doctor.i call but no answer. Rhis is a grievance. All apeals, and reports of misconduct i have made havw been ignores. Nut now after 9 years of disability i may lose mine ? I state that there is corryption and mishandling of records and funds. I do not have a ride to anywhere. Dince 2012 all apeals and geieviamcws havw been ignored just like this will be</p> | <p>The rule speaks to access to information by a client advocate. While it is unclear what happened in this case, the statement seems to express the individual's dissatisfaction with the work allegedly performed by his attorney as well as with the fees charged and the case outcome. It also speaks to dissatisfaction with the actions of his sister. The statement does not indicate what type of appeal was involved in his case and suggests this might be related to a disability determination. If so, this is not handled by the facility, Division, or Department. It does not allege that a client advocate was denied access to information.</p> | Select One               | Select One                              |
|   |                    |  |                 |  |  | Select One               | Select One                              |