



NC DEPARTMENT OF  
**HEALTH AND  
HUMAN SERVICES**

**ROY COOPER** • Governor

**KODY H. KINSLEY** • Secretary

**MARK PAYNE** • Director, Division of Health Service Regulation

**MEMORANDUM**

**DATE:** July 17, 2023

**TO:** Interested Parties

**FROM:** Nadine Pfeiffer, Rule Review Manager *NP*

**RE:** Proposed Readoption/Amendment of Certificate of Need Rules  
10A NCAC 14C .1401, .1403, and .2703

GS 150B-21.2 requires a rule-making body to notify certain individuals of its intent to adopt a permanent rule. It also requires notification of the date, time and location of the public hearing on the rule and any fiscal note that has been prepared in connection with the proposed rule.

As a result of the periodic review of rules in Subchapter 10A NCAC 14C, 39 rules determined as “Necessary With Substantive Public Interest” are required to be readopted. At this time, two rules are being proposed for readoption for Certificate of Need Regulations. In addition, the magnetic resonance imaging scanner need methodology was changed in the 2023 State Medical Facilities Plan (SMFP). Permanent amendments are now proposed to the existing Certificate of Need rule to complement or be made consistent with the 2023 SMFP. Accordingly, the DHHS/Director, DHSR has submitted form OAH 0300 to the Codifier of Rules, Office of Administrative Hearings, indicating its intent to proceed with the following rule-making actions:

Certificate of Need:

10A NCAC 14C .1401 Definitions (Readopt)

10A NCAC 14C .1403 Performance Standards (Readopt)

10A NCAC 14C .2703 Performance Standards (Amend)

In accordance with G.S. 150B-21.4, certification and approval of the fiscal note was received for these rules from the Office of State Budget and Management on May 15, 2023.

The proposed rule text is attached to this memo and was published in today’s July 17, 2023 edition of the N.C. Register which can be found at the Office of Administrative Hearings web site at <https://www.oah.nc.gov/rules-division/north-carolina-register>.

A public hearing is scheduled for August 15, 2023 at 10:00 a.m. in Room 026, Edgerton Building, 809 Ruggles Drive, Raleigh, NC 27603. The building is in the Dorothea Dix Park. Ms. Nadine Pfeiffer, DHSR Rule Review Manager, is accepting public comments on these rules

**NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION**

**OFFICE OF THE DIRECTOR**

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and fiscal note from July 17, 2023 through September 15, 2023, close of business. Comments will also be accepted in person at the public hearing. The proposed effective date of these rules is January 1, 2024.

A copy of the proposed rules, fiscal note, and instructions for submitting comment can be found at the Division of Health Service Regulation web site at <https://info.ncdhhs.gov/dhsr/ruleactions.html>.

Should you have questions related to this memorandum or the proposed rule and fiscal note, please feel free to contact the Certificate of Need Section at (919) 855-3873.

#### Enclosures

cc: Mark Payne, Director, Health Service Regulation  
Emery Milliken, Deputy Director, Health Service Regulation  
Raj Premakumar, Deputy General Counsel, DHHS  
Micheala Mitchell, Chief, Healthcare Planning and CON  
Lisa Pittman, Assistant Chief, CON