

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 10

ETHICAL STANDARDS FOR THE STATE HEALTH COORDINATING COUNCIL

WHEREAS, the State Health Coordinating Council (SHCC) is a public advisory body established by Executive Order No. 139 (March 3, 2008) for the purpose of advising the Governor on the statewide planning of health care facilities, equipment, and services provided under the Certificate of Need Law; and

WHEREAS, the SHCC works with the Department of Health and Human Services (DHHS) to prepare and recommend the State Medical Facilities Plan (SMFP) to the Governor for approval or amendment; and

WHEREAS, the advice and collective judgment of the SHCC has proven invaluable in ensuring that quality health care services are made available broadly to all citizens of this State regardless of whether they live in rural or urban areas, whether they have the means to pay for those services or whether they are insured by public or private payors; and

WHEREAS, to provide the expertise necessary to perform its complex advisory functions, the membership of the SHCC includes persons knowledgeable about healthcare services and delivery including medical educators, researchers, physicians, and representatives of professional associations; and

WHEREAS, because of the diversity of the SHCC membership, conflicts between competing economic interests are inherent in, but also beneficial to, the development of the SMFP; and

WHEREAS, the General Assembly has concluded that the State Government Ethics Act does not cover public entities that only have advisory authority, and the State Ethics Commission has determined that the SHCC only has advisory authority; and

WHEREAS, it is nevertheless important that the SHCC exercise its advisory responsibilities in a transparent manner so that the Governor and citizens will have full knowledge of the professional and economic interests that the members of the SHCC have as the

Governor evaluates their expert advice in adopting or amending the SMFP recommended by the SHCC; and

WHEREAS, the members of the SHCC in the past have voluntarily followed ethical standards; and

WHEREAS, this is a salutary practice, which should be formalized by Executive Order;

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED**:

1. The members of the SHCC shall always act in the best interests of the public and shall bring their particular knowledge and experience to the SHCC to serve the public interest as identified in the Certificate of Need Law, Chapter 131E, Article 9 of the General Statutes;
2. The following process shall be observed for all meetings of the SHCC and SHCC subcommittees at which the SHCC or SHCC subcommittee takes any action:
 - a. At the beginning of each meeting, the Chair shall remind all members of their duty to act always in the best interest of the public without regard for their own professional, institutional or financial interests and that they should recuse themselves from voting on any matter on which they cannot meet this standard.
 - b. Prior to conducting any business, each member shall disclose any professional or institutional interest he or she may have in any matter coming before the SHCC or SHCC subcommittee for action at that meeting. The Chair will determine if the member needs to recuse himself or herself from voting on the matter in order to ensure the integrity of the actions of the SHCC or SHCC subcommittee.
 - c. Prior to conducting any business, each member shall also disclose any financial benefit he or she may derive from any matter coming before the SHCC or SHCC subcommittee for action at that meeting. A member derives a financial benefit from a matter under consideration if the person or his/her spouse (i) has an ownership interest in an entity that is a party to the matter under consideration; (ii) will derive any income or commission as a direct result of action on the matter under consideration; or (iii) will acquire property as a direct result of action on the matter under consideration. When any member indicates that he or she will derive a financial benefit from a matter coming before the SHCC or any subcommittee, the member shall recuse himself or herself from voting on the matter.
 - d. A member who has recused himself or herself from voting is not prohibited from deliberating on the matter unless the Chair determines, after review, that participation by the member in deliberations would impair the integrity of the actions of the SHCC or SHCC subcommittee.

- e. The minutes of the SCHCC and its subcommittees will reflect all disclosures and recusals made pursuant to this section, and such minutes will be provided to the Governor for review with the SMFP.
 - f. A challenge to a member's participation in a vote on issues under this Executive Order may be raised only by a member of the SHCC or an employee of the Division of Health Services Regulation of DHHS. In such case where a challenge is made, the Chair, in consultation with the DHHS legal counsel, shall determine whether the challenge is valid and the action that should be taken.
 - g. For the purposes of this Executive Order, the term "Chair" means the Chair of the SHCC or the Chair of any SHCC subcommittee. In the absence of the Chair or if the professional, institutional, or financial interests of the Chair must be reviewed pursuant to this section, then the Vice-Chair of the SHCC or SHCC subcommittee shall make the determinations required by this section.
3. Members of the SHCC are expected to and should confer with DHHS on any matters that come before them in development of the SMFP. No member of the SHCC, however, shall improperly influence or attempt to influence DHHS in performing its role in developing the SMFP as to any provision in which the member has a direct, conflicting professional, institutional or financial interest;
 4. This Executive Order is for the Governor's purposes in reviewing and approving or amending the proposed SMFP submitted by the SHCC and DHHS. This Order does not and shall not be construed to create any rights, nor create claims, under the Certificate of Need Law, State Government Ethics Act, or otherwise.

This Executive Order is effective immediately and shall remain in effect until rescinded in writing.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this third day of March in the year of our Lord two thousand and nine, and of the Independence of the United States of America the two hundred and thirty-third.



Beverly Eaves Perdue

Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall

Elaine F. Marshall *by and through*
Secretary of State *Rodney Medlock*
Chief Deputy Secretary of State