

DHHS / OSBM Review
Permanent Rule Repeal and Adoption without Substantial Economic Impact

Agency Proposing Rule Change

North Carolina Medical Care Commission

Contact Persons

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Impact Summary:

These rule changes do not have a substantial impact.

State government:	Yes
Local government:	Minimal
Substantial impact:	No Impact
Federal government:	No Impact
Small businesses:	Positive Impact (Increase in Revenues)

Titles of Rule Changes and Statutory Citations

- SL 2011-37 caused proposed Rule .1508 (c) to be modified to address individuals listed on the NC Sex Offender and Public Protection Register.
- Gen. Stat. § 15A-1331A affects individuals convicted of a felony who have their EMS credential suspended under court order by the presiding judge. This statute is referenced in proposed Rule .1508 (a) and is consistent with other licensing boards' language (i.e. NC Board of Nursing).
- No other statutory changes affected the proposed rule actions.

See proposed text of these rules in Appendix A

10A NCAC 13P

Section .0700 – Enforcement

- 10A NCAC 13P .0701 Denial, Suspension, Amendment, or Revocation (Repeal)
- 10A NCAC 13P .0702 Procedures for Denial, Suspension, Amendment, or Revocation (Repeal)

Authorizing Statutes N/A

10A NCAC 13P

Section .1500 – Denial, Suspension, Amendment, or Revocation

- 10A NCAC 13P .1501 Enforcement Definitions (Adopt)
- 10A NCAC 13P .1502 Licensed EMS Providers (Adopt)

- 10A NCAC 13P .1503 Specialty Care Transport Programs (Adopt)
- 10A NCAC 13P .1504 Trauma Centers (Adopt)
- 10A NCAC 13P .1505 EMS Educational Institutions (Adopt)
- 10A NCAC 13P .1506 EMS Vehicle Permits (Adopt)
- 10A NCAC 13P .1507 EMS Personnel Credentials (Adopt)
- 10A NCAC 13P .1508 Summary Suspension (Adopt)
- 10A NCAC 13P .1509 Procedures for Denial, Suspension, Amendment, or Revocation (Adopt)

Authorizing Statutes

Gen. Stat. § 131E-155(13a)
 Gen. Stat. § 131E-155.1(d)
 Gen. Stat. § 131E-156(c),(d)
 Gen. Stat. § 131E-157(c)
 Gen. Stat. § 131E-159(f),(g)
 Gen. Stat. § 131E-162
 Gen. Stat. § 143-508(b),(d)(1),(d)(4),(d)(10),(d)(13)
 Gen. Stat. § 150B
 Gen. Stat. § 15A-1331A
 SL 2011-37

Background

Under the authority of Gen. Stat. §143-509, the Medical Care Commission (MCC) has the responsibility for the adoption of rules for the development of emergency medical and trauma services for the citizens of North Carolina. To ensure these rules are kept contemporary and conform to industry standards, the MCC routinely makes revisions to the EMS and Trauma rules in collaboration with stakeholders, clients, state and local officials, and members of the general public. This set of rules adoptions and repeals is the result of these on-going efforts and when codified, will strengthen the emergency medical regulations keeping the citizens and visitors of North Carolina safe and provided with the best possible health treatment and care.

Summary of Proposed Revisions and its Anticipated Fiscal Impact

Formatting and functional changes

The most apparent formatting changes involve the repeal of Section .0700 – Enforcement, and the creation of a new Section .1500 – Denial, Suspension, Amendment, or Revocation. These changes are intended to make the EMS and Trauma rules easier to use and understand. Under their current format, these rules are lengthy with multiple paragraphs. This makes it difficult to read and may be confusing to the reader, and it is also difficult to locate specific criteria among the lengthy verbiage. Although there are new criteria placed into each of these new rules, the new Section .1500 rules are virtually verbatim from their current language. The specific changes are discussed in detail in the “Programmatic Changes” section of this document.

Programmatic Changes

The repeal of **Rules .0701** and **.0702** are necessary to accommodate the movement of the enforcement standards to the newly created rules in Section .1500 – Denial, Suspension, Amendment, or Revocation.

Fiscal Impact Statewide

No fiscal impact associated with the repeal of these rules.

Section .1500 – Denial, Suspension, Amendment, or Revocation has been created to replace the repeal of the rules contained in Section .0700. The new rules adopted under Section .1500 are **Rules .1501 through .1510**. By creating this new section, it moves the enforcement standards to the end of the EMS and Trauma rules and separates each specific area into its own rule. Additionally, this change now enables the agency to allow for a focused review in lieu of revocation or denial for Specialty Care Transport Program Approval and EMS Educational Institution credentialing. This option is consistent with how the agency deals the Trauma Center designation or renewal, and has been desperately needed for these other regulated entities. Also in these new rules, the execution of a summary suspension under the authority of Gen. Stat. § 150-3(c) is clarified. This explains that the justification for a summary suspension action is based upon a confirmed “immediate threat” to the public health, safety, or welfare.

Rule .1501 – Enforcement Definitions identifies terms specific to Section .1500.

Fiscal Impact

No fiscal impact associated with the adoption of these rules.

Rule .1502 – Licensed EMS Providers maintains the language currently found in rule .0701.(f)–(j), with the exception of the addition in .1503(d) that expands the causes for revocation to include (6) “repeated deficiencies placed on the EMS Provider License in previous compliance site visits”; and (7) “altered, destroyed or attempted to destroy evidence needed for a complaint investigation.”

Fiscal Impact – State Government (Agency)

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Local (County) Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Federal Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Small Business / Licensed EMS Provider

With the inclusion of the additional grounds for revocation, it is possible that an EMS Provider License may be revoked. Currently there are two options available to enable the non-compliant EMS Provider to continue operations. First, if the agency determines the EMS Provider can become and remain compliant within a reasonable time the agency may issue a “Provisional” license and thereby authorize the provider to correct the deficiency while still providing services. Second, if the offense is egregious enough to pursue revocation, Gen. Stat. § 150B-22 requires a state agency to attempt to settle any administrative actions through a contested settlement agreement. This is the mechanism currently used to enable these providers to continue operations until the terms of the agreement have been satisfied. To date, there have been no instances of a licensed EMS Provider being revoked for non-compliance under the enforcement section of these rules.

Rule .1503 – Specialty Care Transport Programs is significantly different from the language currently found in rule .0701(m). Under new criteria established by this rule, a SCT programs may be eligible for a focused review in lieu of a denial of an initial or renewal application for program approval. This new option is intended to allow SCT programs additional time to reach full compliance with program approval criteria. The cause for revocation of an SCT program approval is more clearly defined in this new rule, and the lines of communication provided to all affected organizations and entities when administrative sanctions are imposed is clearly defined.

Fiscal Impact – State Government (Agency)

All of the functional duties associated with the adoption and application of this rule are managed within normal staff assignments and no additional administrative costs will be associated with the adoption of these rules. After review of the number of potential incidents that would occur and the amount of time necessary to address these occurrences, any fiscal impact absorbed into the agency’s administrative costs would be negligible.

Fiscal Impact – Local (County) Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Federal Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Small Business / Specialty Care Transport Programs

Since there are no fines associated with non-compliance with these rules, there is nothing fiscally relevant to the adoption of these rules. SCTP providers found to be non-compliant must correct any deficiencies serious enough to qualify for the focused review within 12 months or less, or face revocation of their program approval.

To date, no SCTP applicants have been determined ineligible for issuance of the program approval. However, since there is a trend developing whereby private and county owned licensed EMS Providers are applying for SCTP approval, there is a potential that eventually an applicant will be determined eligible for the focused review option. If this happens, the SCTP applicant will be able to initiate delivery of these services pending satisfying the conditions identified for focused review. This has the potential for increasing their revenue during the period of review. If these providers offer 3 to 4 SCTP transports per week at an estimated cost of \$1,200 per transport, the projected increase in revenue would be between \$187,000 and \$250,000 if the SCTP applicant took the entire year to become compliant.

Rule .1504 – Trauma Centers maintains the language currently found in rule .0701. subparagraphs (n) – (u), with the exception of the addition in .1505(c)(5) that expands the causes for revocation to include “altering, destroying or attempting to destroy evidence needed for a complaint investigation.”

Fiscal Impact

No significant fiscal impact associated with the adoption of these rules. Due to the rule change, there is a higher chance that Trauma Centers could have their permit revoked. Although, based on past experience, the probability of revocation would still be at the lower end of the scale.

Rule .1505 – EMS Educational Institutions is significantly different from the language currently found in rule .0701(k). Under new criteria established by this rule, an EMS Educational Institutions may be eligible for a focused review in lieu of a denial of an initial or renewal application for credentialing approval. This new option is intended to allow the educational institutions additional time to reach full compliance with credentialing approval criteria. The cause for revocation of an educational institution credential approval is more clearly defined in this new rule, and the lines of communication provided to all affected organizations and entities when administrative sanctions are imposed is clearly defined. An additional option not currently available is for the withdrawal of the credentials if the institution deems it in their best interest.

Fiscal Impact – State Government (Agency)

All of the functional duties associated with the adoption and application of this rule are managed within normal staff assignments and no additional administrative costs will be associated with the adoption of these rules. After review of the number of potential incidents that would occur and the amount of time necessary to address these occurrences, any fiscal impact absorbed into the agency’s administrative costs would be negligible.

Fiscal Impact – State Government (Community Colleges / Universities)

There are no fines associated with non-compliance with these rules. Under the proposed rules, EMS educational institutions found to be non-compliant may qualify for a focused review period that would allow them up to 12 months to correct any deficiencies, or face revocation of their credential. Since essentially all educational institutions are community colleges or universities, the time necessary to become eligible for credentialing will be significantly shortened, enabling

them to obtain faster state funding for the EMS courses than they would otherwise. The proposed changes have no bearing on whether after the focused review period the community college should be denied credentialing and lose the amount of funds made available by the state as a result of loss of offering EMS courses. EMS educational institutions would further benefit from the flexibility conferred through the withdrawal of credentials option. The benefit would be derived from the education institution's program not being tarnished by the state taking an enforcement action on the entity if there are any irregularities and from being able to maintain their enrollment numbers and funding.

Fiscal Impact – Local (County) Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Federal Government

No fiscal impact associated with the adoption of these rules.

Fiscal Impact – Small Business

No fiscal impact associated with the adoption of these rules.

Rule .1506 – EMS Vehicle Permits maintains the language currently found in rule .0701.(a)–(d), with the exception of the addition in .1507(a) that expands the causes for revocation to include (4) “has continued deficiencies identified as repeated from previous compliance site visits”; and (6) “altered, destroyed or attempted to destroy evidence needed for a complaint investigation.”

Fiscal Impact

No significant fiscal impact associated with the adoption of these rules. Due to the rule change, there is a higher chance that EMS vehicles could have their permit revoked. Although, based on past experience, the probability of revocation would still be at the lower end of the scale.

Rule .1507 – EMS Personnel Credentials maintains the language currently found in rule .0701.(e) except for the addition of the following:

- (a) An EMS credential which has been forfeited under G.S. 15A-1331A may not be reinstated until the person has successfully complied with the court's requirements, has petitioned the Department for reinstatement, has appeared before the EMS Disciplinary Committee, and has had reinstatement approved.
- (b) The Department shall amend, deny, suspend, or revoke the credentials of EMS personnel for any of the following reasons:
 - (4) tampering with or falsifying any record used in the process of obtaining an initial EMS credential or in the renewal of an EMS credential;

- (5) in any manner or using any medium, engaging in the stealing, manipulating, copying, reproducing or reconstructing of any written EMS credentialing examination questions or scenarios;
 - (6) cheating or assisting others to cheat while preparing to take or when taking a written EMS credentialing examination;
 - (14) performing as an EMT-I, EMT-P, or EMD in any EMS System in which the individual is not affiliated and authorized to function;
 - (23) altering, destroying or attempting to destroy evidence needed for a complaint investigation;
 - (24) as a condition to the issuance of an encumbered EMS credential with limited and restricted practices for persons in the chemical addiction or abuse treatment program;
- (c) Pursuant to the provisions of S.L. 2011-37, any person listed on the North Carolina Department of Justice Sex Offender and Public Protection Registry shall be denied initial or renewal EMS credentials.

Fiscal Impact

Little to no fiscal impact associated with the adoption of these rules. The rule change may decrease slightly the chances of some EMS personnel to obtain the credentials.

Rule .1508 – Summary Suspension has been created to provide the procedural steps involved with this enforcement action. Currently, the affected party must read Gen. Stat. § 150B, which is general in nature, to try and understand the specifics associated with a summary suspension of their license or credential.

Fiscal Impact

No fiscal impact associated with the adoption of these rules.

Rule .1509 – Procedures for Denial, Suspension, Amendment, or Revocation mandates the Department abide by the terms of Gen. Stat. § 150B when imposing administrative sanctions for violations of the 10A NCAC 13P rules. The language in this rule was proposed by legal counsel for the Rules Review Commission.

Fiscal Impact

No fiscal impact associated with the adoption of these rules.

Fiscal Impact Summary

These rules are used by state and local governments; hospitals; colleges and universities; paid and volunteer emergency medical service organizations; county and municipal law enforcement communications centers; small and private businesses; industrial complexes using emergency response and transport programs; and EMS and healthcare professionals to provide a structured, well managed emergency medical and trauma system to the citizens and visitors of North Carolina.

The proposed changes might have a small impact on state employees' time, as well as on the timing of disbursement of state funds; however, the overall impact on state government is not expected to be significant. The aggregate financial impact of these proposed permanent rules changes on all persons and entities affected is a possible increase in revenue between \$187,000 and \$250,000 for the Specialty Care Transport Program applicants. This projection does not meet the threshold for qualifying as a significant fiscal impact of more than \$500,000.