

21 NCAC 32K .0209 REVIEW COMMITTEE

(a) A Review Committee exists for Participants to request reconsideration of Program staff findings and recommendations in the following areas:

- (1) General nature of diagnosis;
- (2) Need for additional assessment beyond Program;
- (3) Need for treatment;
- (4) Need for monitoring by Program; or
- (5) Closure of file or loss of Program advocacy;

(b) The Review Committee shall have three primary members and three alternate members. The Program Executive Committee shall nominate all potential members. The Program Board of Directors shall appoint members to the Review Committee. Review Committee members shall not be current members of the Program Compliance Committee, the Program Board of Directors, or the North Carolina Medical Board, nor shall they have served in those organizations within two years of their appointment to the Review Committee.

(c) Two primary Review Committee members shall be clinicians, including one physician and one person with relevant clinical experience with substance use disorders. One Review Committee member, either primary or alternate, shall be a physician assistant.

(d) A Participant who wishes to challenge one of the matters included in Paragraph (a) of this Rule shall deliver to the Chair of the Board of Directors a written request for review of the matter within ten days of being notified of the matter giving rise to the disagreement. Prior to the Review Committee considering the request, the Participant shall:

- (1) Sign a release allowing Program staff to share all information with Review Committee members;
- (2) Agree to abide by the finding of the Review Committee;
- (3) Agree that all decisions by the Review Committee shall be final; and
- (4) Sign a form releasing Program and the Review Committee from legal liability for activities conducted in good faith consistent with the provisions of G.S. 90-21.22(f).

(e) At any time prior to the Review Committee undertaking the request for reconsideration, the Participant and Program staff may attempt to resolve the disagreement prior to the Review Committee meeting.

(f) The Chair of the Board of Directors shall empanel the three primary members of the Review Committee to act on the request for reconsideration. In the event one or more primary members are not available, the Chair of the Board of Directors shall select from the alternate members to constitute a panel of three members.

(g) The Review Committee shall meet and the Participant and Program staff shall appear by teleconference within 30 days after receipt of the written request for reconsideration.

- (1) At least five days prior to the teleconference meeting, Program staff and the Participant shall furnish to each other and to the Review Committee any materials they would like the Review Committee to consider. However, information provided to the Program from the Board regarding a Participant shall be provided pursuant to G.S. 90-16(c), and the information, including reports of investigation and attachments thereto, shall remain confidential and shall not be provided to the Participant.
- (2) The teleconference shall last no more than one hour.
- (3) If the Participant is a physician assistant, a physician assistant member of the Review Committee shall be included in the Review Committee.
- (4) The Review Committee, Participant, and Program staff shall announce the names of all persons present on the phone call prior to the teleconference commencing. The Participant shall be allowed not less than 15 minutes to make a presentation followed by questions of the Participant and Program staff by Review Committee members. A Participant is permitted to be represented by counsel, and that counsel may participate in the meeting. The Review Committee process is not a legal or quasi-judicial proceeding and shall not be governed by the Rules of Evidence, Rules of Civil Procedure, or the Administrative Procedures Act. Participant and Program staff have no right to question or examine Program staff or Participant. Participant and Program staff have no right to question or examine Review Committee members.
- (5) After the presentation and questioning, the Review Committee shall discuss the request for reconsideration without the presence of the Participant or Program staff. After completing the discussion, the Review Committee shall announce its decision.
- (6) The Review Committee shall choose among the assessment, treatment, and monitoring options provided by Program staff and the Participant. The Review Committee shall not consider options for assessment, treatment, or monitoring not provided by Program staff or the Participant, unless new information is provided to the Review Committee.

- (7) The Review Committee shall reduce its decision to writing and provide a copy of its written decision to the Participant and Program staff within five business days.
 - (8) The Review Committee's decision shall be binding upon the Program and the Participant.
 - (9) The Program staff shall make an official recording of the teleconference meeting and preserve the recording. The Participant shall be allowed to make a recording of the meeting.
- (h) After completion of the review, new or additional review requests may be made by the Participant if there are new findings or recommendations by the Program regarding the Participant.

History Note: Authority G.S. 90-21.22;
Eff. July 1, 2017.