SUBCHAPTER 32K - NORTH CAROLINA PHYSICIANS HEALTH PROGRAM

SECTION .0100 - GENERAL INFORMATION

21 NCAC 32K .0101 DEFINITIONS

In addition to the terms set forth in G.S. 90-21.22, the following definitions apply to this Subchapter:

(1) "Compliance Committee" means the committee that meets to coordinate with the Board in its oversight of licensees in the Program. It includes members of the Program Board of Directors, members appointed by the Board, and a Physician Assistant member of the Program Board of Directors. The Board shall not appoint to the Compliance Committee a current member of the Board or a past member who has served on the Board within the past two years.

(2) "Impairment" means the inability to practice medicine or perform acts, tasks, and functions with skill and safety to patients by reasons of physical or mental illness or condition, including use of alcohol, drugs, chemicals, or any other type of material.

(3) "Impaired Practitioner" means a licensee of the Board who is or could be afflicted with a condition of impairment as defined in Item (2) of this Rule.

(4) "Licensee" means a person licensed by the Board.

(5) "Chief Executive Officer" means the person employed by the Program to coordinate the activities of the Program.

(6) "Participant" means a licensee of the Board who is permitted to participate and may receive services from the Program.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; May 1, 1989;
Readopted Eff. July 1, 2017.

21 NCAC 32K .0102 AUTHORITY

21 NCAC 32K .0103 PEER REVIEW AGREEMENTS

21 NCAC 32K .0104 DUE PROCESS

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. May 1, 1989;
Repealed Eff. April 1, 2009.

SECTION .0200 - GUIDELINES FOR PROGRAM ELEMENTS

21 NCAC 32K .0201 RECEIPT AND USE OF INFORMATION OF POTENTIAL IMPAIRMENT

Information concerning a Participant may be received by the Program through reports from any source. Upon receipt of information of a potential impairment, the Program shall conduct a screening interview of the Participant. This screening interview shall not create a physician-patient or other clinical relationship. The Program may conduct routine inquiries regarding potential impairments. Participants shall submit to interviews with Program staff. Records relating to the Participant's involvement with the Program shall not be medical records.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
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Readopted Eff. July 1, 2017.

21 NCAC 32K .0202 ASSESSMENT AND REFERRAL

When an initial screening interview reveals that assessment, treatment, or monitoring is indicated, the Program shall advise the Participant and referral source of the findings and recommendations. The Program shall develop a plan designed to ensure that the Participant is safe to practice.

History Note: *Authority G.S. 90-21.22;*

Eff. August 1, 1988;
Amended Eff. April 1, 2009; May 1, 1989;
Readopted Eff. July 1, 2017.

21 NCAC 32K .0203 MONITORING TREATMENT SOURCES

The Program shall monitor the cost of treatment. Treatment sources receiving referrals from the Program also shall be monitored as to their ability to provide:

(1) medical and non-medical staffing;
(2) treatment;
(3) facilities; and
(4) post-treatment support.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009;
Readopted Eff. July 1, 2017.

21 NCAC 32K .0204 MONITORING REHABILITATION AND PERFORMANCE

(a) If a Participant is referred to the Program by the Board, and if the Program finds that treatment or monitoring are appropriate, the Program shall ask the Participant to sign a monitoring contract. If the Participant chooses not to sign a monitoring contract, the Program shall refer the Participant to the Board.

(b) If a Participant is self-referred to the Program, and if the Program finds that treatment or monitoring are appropriate, the Program shall ask the Participant to sign a monitoring contract. The Program shall report the Participant to the Board as required by G.S. 90-21.22.

(c) Participants shall submit urine or other bodily specimens if requested by the Program.

(d) Participants shall submit to periodic interviews with the Program staff.

(e) Participants shall sign releases allowing their treatment providers, employers, or other individuals assigned by the Program to monitor the Participant in the workplace to submit reports regarding the Participant's rehabilitation and performance to the Program and to the Board if the Participant is known to the Board. Participants shall ensure the reports are provided to the Program and the Board if the Participant is known to the Board. The Program shall maintain case records for each Participant.

(f) When appropriate the Program shall require Participants to engage in post-treatment support. Post-treatment support includes family counseling, advocacy, after care support groups, self-help groups and other services and programs to improve recoveries. The Program shall monitor post-treatment support.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
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Readopted Eff. July 1, 2017.

21 NCAC 32K .0205 MONITORING POST-TREATMENT SUPPORT

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; May 1, 1989;
Repealed Eff. July 1, 2017.

21 NCAC 32K .0206 REPORTS OF INDIVIDUAL CASES TO THE BOARD

The Program shall submit a report to the Board on a bi-monthly basis regarding the status of all Participants known to the Board. The Program shall report immediately to the Board information about any licensee as required under G.S. 90-21.22(d).

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; May 1, 1989;
Readopted Eff. July 1, 2017.

21 NCAC 32K .0207 PERIODIC REPORTING OF STATISTICAL INFORMATION

On a quarterly basis and upon request by the Board, the Program shall provide statistical and demographic information concerning potential impairments, existing impairments, self-referrals, post-treatment support, and other demographic and substantive information collected through Program operations.

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. April 1, 2009; May 1, 1989;
Readopted Eff. July 1, 2017.

21 NCAC 32K .0208 CONFIDENTIALITY

History Note: *Authority G.S. 90-21.22;*
Eff. August 1, 1988;
Amended Eff. May 1, 1989;
Repealed Eff. July 1, 2017.

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.