

**SUBCHAPTER 23C - NORTH CAROLINA INDUSTRIAL COMMISSION RULES FOR UTILIZATION
OF REHABILITATION PROFESSIONALS IN WORKERS' COMPENSATION CLAIMS**

SECTION .0100 – ADMINISTRATION

11 NCAC 23C .0101 APPLICABILITY OF THE RULES

(a) The rules in this Subchapter apply to:

- (1) cases in which the employer is obligated to provide medical compensation, and the injured worker is obligated to accept medical compensation under the Workers' Compensation Act, or in which such compensation is provided by agreement, and during any period when the employer is paying temporary total disability benefits without prejudice in accordance with G.S. 97-18(d); and
- (2) any rehabilitation professional as defined in Item (1) of Rule .0103 of this Subchapter, who is assigned under the Workers' Compensation Act and approved by the Commission pursuant to Rule .0105 of this Subchapter.

(b) Any rehabilitation professional who is not assigned under the Workers' Compensation Act and approved by the Commission pursuant to Rule .0105 of this Subchapter must disclose his or her role to the health care provider at the time of the initial contact and any other person from whom the non-approved rehabilitation professional seeks information about the case.

History Note: Authority G.S. 97-18(d); 97-25.4; 97-25.5; 97-32.2; 97-80;
Eff. January 1, 1996;
Recodified from 04 NCAC 10C .0103, Eff. April 17, 2000;
Amended Eff. November 1, 2014; June 1, 2000;
Recodified from 04 NCAC 10C .0101 Eff. June 1, 2018.

11 NCAC 23C .0102 PURPOSE OF THE RULES

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Eff. January 1, 1996;
Repealed Eff. November 1, 2014;
Recodified from 04 NCAC 10C .0102 Eff. June 1, 2018.

11 NCAC 23C .0103 DEFINITIONS

As used in this Subchapter:

- (1) "Rehabilitation professional" means a medical case manager, a coordinator of medical rehabilitation services, or a vocational rehabilitation professional providing vocational rehabilitation services, including state, private, or carrier based, whether on site, telephonic, or in or out of state. Physical therapists, occupational therapists, speech therapists, and other direct care providers are not rehabilitation professionals under the Rules in this Subchapter.
- (2) "Medical rehabilitation" means the planning and coordination of health care services by a medical case manager or coordinator, with the goal of assisting an injured worker to be restored as nearly as possible to the worker's pre-injury level of physical function. Medical case management includes:
 - (a) case assessment;
 - (b) development, implementation and coordination of a care plan with health care providers, the worker, and his or her family;
 - (c) evaluation of treatment results;
 - (d) planning for community re-entry and return to work; and
 - (e) referral for further vocational rehabilitation services.
- (3) "Vocational rehabilitation" means the delivery and coordination of services under an individualized written plan, with the goal of assisting the injured worker to return to suitable employment or participate in education or retraining, as defined by Item (5) of this Rule or applicable statute.
- (4) "Return to work" means placement of the injured worker into suitable employment, as defined by Item (5) of this Rule or applicable statute.

- (5) For claims arising before June 24, 2011, "suitable employment" means employment in the labor market or self-employment that is reasonably attainable and that offers an opportunity to restore the worker as soon as possible and as nearly as practicable to pre-injury wage, while giving due consideration to the worker's qualifications (age, education, work experience, physical and mental capacities), impairment, vocational interests, and aptitudes. No one factor shall be considered solely in determining suitable employment. For claims arising on or after June 24, 2011, the statutory definition of "suitable employment," G.S. 97-2(22), applies.
- (6) "Conditional rehabilitation professional" means a rehabilitation professional who has not met the requirements for qualified rehabilitation professionals under of Rule .0105(d) of this Subchapter and who desires to provide services as a rehabilitation professional in cases subject to the rules in this Subchapter.

History Note: Authority G.S. 97-2(22); 97-25.4; 97-25.5; 97-32.2; 97-80;
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11 NCAC 23C .0104 GOALS OF REHABILITATION

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 Eff. January 1, 1996;
 Repealed Eff. June 1, 2000;
 Recodified from 04 NCAC 10C .0104 Eff. June 1, 2018.

11 NCAC 23C .0105 QUALIFICATIONS REQUIRED

- (a) Rehabilitation professionals in cases subject to the rules in this Subchapter shall follow the Code of Ethics specific to their certification as well as any statutes specific to their occupation.
- (b) Rehabilitation professionals who are Registered Nurses providing medical rehabilitation services in North Carolina must have a North Carolina license to practice and are subject to the requirements of the North Carolina Nursing Practice Act. Rehabilitation professionals who are Registered Nurses providing medical rehabilitation services outside North Carolina must have a license to practice in the state in which the medical care is provided.
- (c) To provide medical rehabilitation services and vocational rehabilitation services in cases subject to the Rules in this Subchapter, rehabilitation professionals must either be a qualified rehabilitation professional or a conditional rehabilitation professional as set forth in this Rule.
- (d) To qualify as a qualified rehabilitation professional, a rehabilitation professional must:
 - (1) possess one of the following certifications:
 - (A) Certified Rehabilitation Counselor (CRC), as certified by the Commission on Rehabilitation Counselor Certification;
 - (B) Certified Registered Rehabilitation Nurse (CRRN), as certified by the Rehabilitation Nursing Certification Board;
 - (C) Certified Disability Management Specialist (CDMS), as certified by the Certification of Disability Management Specialists Commission;
 - (D) Certified Vocational Evaluator (CVE), as certified by the Commission on Rehabilitation Counselor Certification;
 - (E) Certified Occupational Health Nurse-Specialist (COHN-S), as certified by the American Board of Occupational Health Nurses;
 - (F) Certified Occupational Health Nurse (COHN), as certified by the American Board of Occupational Health Nurses;
 - (G) Orthopaedic Nurse Certified (ONC), as certified by the Orthopaedic Nurses Certification Board; or
 - (H) Certified Case Manager (CCM), as certified by the Commission for Case Manager Certification; or
 - (2) have prior employment within the North Carolina Department of Health and Human Services as a vocational rehabilitation provider.
- (e) A qualified rehabilitation professional must also:

- (1) possess two years of full-time work experience, or its equivalent, in workers' compensation case management, where at least 30 percent of the rehabilitation professional's time was spent managing medical or vocational rehabilitation services to persons with disabling conditions or diseases within the past 15 years; and
 - (2) complete the comprehensive course entitled, "*Workers' Compensation Case Management in NC: A Basic Primer for Medical and Vocational Case Managers*," provided by the Commission or the International Association of Rehabilitation Professionals of the Carolinas.
- (f) To maintain "qualified" status, a rehabilitation professional shall attend a two-hour refresher course every five years, beginning with the date of the original course completion. Rehabilitation professionals who completed the course in its pilot phase prior to March 17, 2011 have until July 1, 2016 to meet the refresher program mandate.
- (g) Effective July 1, 2013, any rehabilitation professional on the Commission's Registry of Workers' Compensation Rehabilitation Professionals who does not hold a certificate of completion for the mandated course shall lose "qualified" rehabilitation professional status and may work as a conditional rehabilitation professional under supervision of a qualified rehabilitation professional for no longer than six months before completing the required course.
- (h) After July 1, 2013, any rehabilitation professional who begins providing rehabilitation services in cases subject to the Rules in this Subchapter shall have six months to obtain a certificate of completion of the mandated course.
- (i) The Commission shall oversee the implementation and ongoing administration of the mandated course and training.
- (j) Conditional rehabilitation professionals permitted to provide services in cases subject to the rules in this Subchapter include:
- (1) individuals who possess one of the certifications for qualified rehabilitation professionals listed in Subparagraph (d) and (e) of this Rule, but who do not possess the workers' compensation case management experience required by the rules in this Subchapter;
 - (2) individuals with a post-baccalaureate degree in a health-related field from an institution accredited by an agency recognized by the United States Department of Education and one year of experience providing rehabilitation services to persons with disabling conditions or diseases;
 - (3) individuals with a baccalaureate degree in a health-related field from an institution accredited by an agency recognized by the United States Department of Education and two years of experience providing rehabilitation services to individuals with disabling conditions or diseases; and
 - (4) individuals with current North Carolina licensure as a registered nurse and three years of experience in clinical nursing providing care for adults with disabling conditions and diseases.
- (k) To provide services as a rehabilitation professional in cases subject to the rules in this Subchapter, a conditional rehabilitation professional must work under the direct supervision of a qualified rehabilitation professional, who shall ensure that the conditional rehabilitation professional's work meets the requirements of the rules in this Subchapter and any applicable statute, and whose name, address and telephone number shall be on all documents identifying the conditional rehabilitation professional.
- (l) As used in this Rule, direct supervision includes regular case review between the conditional rehabilitation professional and the qualified rehabilitation professional supervisor, review by the qualified rehabilitation professional supervisor of all reports, and periodic meetings that occur at least on a quarterly basis.
- (m) A rehabilitation professional may maintain conditional rehabilitation professional status for a period of two years only. To continue providing services as a rehabilitation professional in cases subject to the rules in this Subchapter beyond the two year period, the conditional rehabilitation professional must obtain the qualifications for a qualified rehabilitation professional listed under Paragraph (d) of this Rule.
- (n) Rehabilitation professionals shall, upon request, provide a resume of their qualifications and credentials during initial meetings with parties and health care providers.

History Note: Authority G.S. 97-25.4; 97-32.2; 97-25.5; 97-80;
 Eff. January 1, 1996;
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 Recodified from 04 NCAC 10C .0105 Eff. June 1, 2018.

11 NCAC 23C .0106 PROFESSIONAL RESPONSIBILITY OF THE REHABILITATION PROFESSIONAL IN WORKERS' COMPENSATION CLAIMS

- (a) A rehabilitation professional shall exercise independent professional judgment in making and documenting recommendations for medical and vocational rehabilitation for an injured worker, including any alternatives for

medical treatment and cost-effective return-to-work options. It is not the role of the rehabilitation professional to direct medical care.

(b) A rehabilitation professional shall inform the parties of his or her assignment and role in the case. Upon assignment, a rehabilitation professional shall disclose to health care providers and the parties any possible conflict of interest, including any compensation and the carrier's or employer's ownership of or affiliation with the rehabilitation professional.

(c) Subject to the provisions for medical care and treatment set forth in the Workers' Compensation Act, the medical rehabilitation professional may explain medical information to the worker and shall discuss with the worker all treatment options appropriate to the worker's conditions, but shall not advocate any one source for treatment or change in treatment.

(d) As case consultants or expert witnesses, rehabilitation professionals shall provide unbiased, objective opinions. The limits of their relationships shall be defined through written or oral means in accordance with the following, applicable professional codes of ethics or professional conduct, which are hereby incorporated by reference, including subsequent amendments and editions:

- (1) for Certified Rehabilitation Counselors and Certified Vocational Evaluators, the Commission on Rehabilitation Counselor Certification Code of Professional Ethics;
- (2) for Certified Registered Rehabilitation Nurses and Orthopaedic Nurse Certified, the Code of Ethics for Nurses;
- (3) for Certified Disability Management Specialists, the Certification of Disability Management Specialists Commission Code of Professional Conduct;
- (4) for Certified Occupational Health Nurses and Certified Occupational Health Nurse-Specialists, the American Association of Occupational Health Nurses, Inc. Code of Ethics; and
- (5) for Certified Case Managers, the Code of Professional Conduct for Case Managers.

(e) Copies of the codes of ethics or professional conduct listed in Subparagraphs (d)(1) through (d)(5) of this Rule may be obtained at no cost, either upon request at the offices of the Commission, located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, between the hours of 8:00 a.m. and 5:00 p.m., or at one of the following applicable websites:

- (1) for Certified Rehabilitation Counselors and Certified Vocational Evaluators, the Commission on Rehabilitation Counselor Certification Code of Professional Ethics), <http://www.crccertification.com/filebin/pdf/CRCCCodeOfEthics.pdf>;
- (2) for Certified Registered Rehabilitation Nurses and Orthopaedic Nurse Certified, the Code of Ethics for Nurses, <http://www.nursingworld.org/MainMenuCategories/EthicsStandards/CodeofEthicsforNurses/Code-of-Ethics.pdf>;
- (3) for Certified Disability Management Specialists, the Certification of Disability Management Specialists Commission Code of Professional Conduct, <http://new.cdms.org/docs/CDMS%20Code%20of%20Professional%20Conduct%2008012011.pdf>;
- (4) for Certified Occupational Health Nurses and Certified Occupational Health Nurse-Specialists, the American Association of Occupational Health Nurses, Inc. Code of Ethics, https://www.aaohn.org/dmdocuments/Code_of_Ethics_2009.pdf; and
- (5) for Certified Case Managers, the Code of Professional Conduct for Case Managers http://www.cmcertification.org/sites/default/files/downloads/2012/CCMC_Code_of_Conduct%202-22-12.pdf.

(f) Rehabilitation professionals shall practice only within the boundaries of their competence, based on their education, training, professional experience, and other professional credentials.

(g) A rehabilitation professional shall not conduct or assist any party in claims negotiation or investigative activities.

(h) A rehabilitation professional shall not advise the worker as to any legal matter including claims settlement options or procedures, monetary evaluation of claims, or the applicability to the worker of benefits of any kind under the Workers' Compensation Act during his or her assignment in the case. The rehabilitation professional shall advise the non-represented worker to direct such questions to the Information Specialists at the Commission, and the represented worker to direct questions to his or her attorney.

(i) Rehabilitation professionals shall not accept any compensation or reward from any source as a result of settlement.

History Note: Authority G.S. 97-25.4; 97-25.5; 97-32.2; 97-80;

Eff. January 1, 1996;
Amended Eff. November 1, 2014; June 1, 2000;
Recodified from 04 NCAC 10C .0106 Eff. June 1, 2018.

11 NCAC 23C .0107 COMMUNICATION

- (a) The insurance carrier shall notify the Commission and all parties on a Form 25N Notice to the Commission of Assignment of Rehabilitation Professional when a rehabilitation professional is assigned to a case and identify the purpose of the rehabilitation involvement.
- (b) At the initial meeting, the rehabilitation professional shall provide the injured worker with a copy of the Rules in this Subchapter, and shall inform the injured worker that the rehabilitation professional is required to share relevant medical and vocational rehabilitation information with the employer and insurance carrier and that the rehabilitation professional may be compelled to testify regarding any information obtained.
- (c) The rehabilitation professional shall timely inform injured workers that the Rehabilitation Professional will share relevant and material information with the employer and insurance carrier and that the Rehabilitation Professional may be compelled to testify regarding any information obtained.
- (d) In cases where the employer is paying medical compensation to a provider rendering treatment under the Workers' Compensation Act, the injured worker, if requested by a rehabilitation professional, shall sign a Form 25C Authorization for Rehabilitation Professional to Obtain Medical Records of Current Treatment authorizing the rehabilitation professional to obtain records of the current treatment.
- (e) The rehabilitation professional shall provide copies of all correspondence and reports contemporaneously to all parties by the same mode of transmission.
- (f) In preparing written and oral reports, the rehabilitation professional shall present only information relevant and material to the worker's medical rehabilitation and vocational rehabilitation and shall make every effort to avoid invasion of the worker's privacy.
- (g) The rehabilitation professional shall make periodic written reports documenting accurately and completely the substance of all activity in the case, including rehabilitation activity. The rehabilitation professional shall furnish a worker who is unrepresented by counsel with a copy of each periodic report, or, in the alternative, the rehabilitation professional shall advise the worker either orally or in writing (at least as often as reports are produced) as to the plan for and progress of the case, and that the worker has the right to request a copy of the reports under 11 NCAC 23A .0607.
- (h) Frequency and timing of periodic reports shall be determined at the time of referral and shall depend on the type of service provided. Communication of activity to all parties by telephone, facsimile, electronic media, or letter must occur when information relevant to the rehabilitation process is obtained, changes or revisions are recommended or occur in medical or vocational treatment plans, or on any other occasion when the worker's understanding and cooperation is critical to the implementation of the rehabilitation plan.
- (i) If requested by the injured worker or his or her attorney, the initial meeting of the injured worker and rehabilitation professional shall take place at the office of the worker's attorney and shall occur within 20 days of the request.
- (j) The rehabilitation professional may coordinate activities with the injured worker's attorney, and, at the employer or carrier's discretion, with the defense attorney.
- (k) If the rehabilitation professional believes the injured worker is not complying with the provision of rehabilitation services, the rehabilitation professional shall detail in writing the actions that the rehabilitation professional believes the injured worker is required to take to return to compliance. In determining whether the injured worker is in compliance with the provision of rehabilitation services, the rehabilitation professional shall rely on his or her independent professional judgment and training and shall focus on the overall effect that the worker's actions or inactions are having on the rehabilitation goals.

History Note: Authority G.S. 97-25.4; 97-25.5; 97-32.2; 97-2(19); 97-80;
Eff. January 1, 1996;
Amended Eff. November 1, 2014; June 1, 2000;
Recodified from 04 NCAC 10C .0107 Eff. June 1, 2018;
Amended Eff. November 1, 2022.

11 NCAC 23C .0108 INTERACTION WITH PHYSICIANS

- (a) At the initial visit with a physician the rehabilitation professional shall provide identification in the form of a company identification or business card and explain the rehabilitation professional's role in the case.

(b) In all cases, the rehabilitation professional shall advise the worker that the worker has the right to a private examination by the health care provider outside of the presence of the rehabilitation professional. If the worker prefers, he or she may request that the rehabilitation professional accompany him or her during the examination. However, if the worker or the worker's attorney notifies the rehabilitation professional in writing that the worker desires a private examination, no subsequent waiver of that right shall be effective unless the waiver is made in writing by the worker or, if represented, by the worker's attorney.

(c) If the rehabilitation professional needs to have an in-person conference with the physician following an examination, the rehabilitation professional shall reserve with the physician sufficient appointment time for the conference. The worker shall be offered the opportunity to attend the conference with the physician. If the worker or the physician does not consent to a joint conference, or if in the physician's opinion it is medically contraindicated for the worker to participate in the conference, the rehabilitation professional shall note this in his or her report, may communicate directly with the physician, and shall report the substance of the communication.

(d) When the rehabilitation professional determines that it is necessary to communicate with a physician other than at a joint meeting, the rehabilitation professional shall first notify the injured worker, or his or her attorney if represented, of the rehabilitation professional's intent to communicate and the reasons therefore. The rehabilitation professional is not required to obtain the injured worker's or his or her attorney's prior consent if:

- (1) The communication is limited to scheduling issues or requests for time-sensitive medical records;
- (2) A medical emergency is involved;
- (3) The injured worker's health or medical treatment would either be adversely affected by a delay or benefited by immediate action;
- (4) The communication is limited to advising the physician of the employer or carrier approval for recommended testing or treatment;
- (5) The injured worker or attorney has consented to the communications;
- (6) The communication is initiated by the physician; or
- (7) The injured worker failed to show up for a scheduled appointment or arrived at a time other than the scheduled appointment time.

When a rehabilitation professional communicates with a physician without the prior consent or presence of the injured worker, the rehabilitation professional must document the reasons for and the substance of the communication and report the reasons and substance to the injured worker or his or her attorney, if represented, pursuant to Rule .0106 of this Subchapter.

(e) The following requirements apply to interactions regarding impairment ratings, independent medical examinations, second opinions or consults:

- (1) When a party or health care provider requests a consult, second opinion, or independent medical examination that is authorized or ordered, the rehabilitation professional may, if requested, assemble and forward medical records and information, schedule and coordinate an appointment, and, if the worker consents, have a joint meeting with the health care provider and the worker after a private exam.
- (2) When any such exam is requested by the carrier, the worker shall receive at least 10 calendar days' notice of the appointment unless the parties agree otherwise or unless otherwise required by statute.

(f) The rehabilitation professional shall simultaneously send to the parties copies of all written communications with health care providers and shall accurately and completely record and report all oral communications.

*History Note: Authority G.S. 97-25.4; 97-25.5; 97-32.2; 97-80;
Eff. January 1, 1996;
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11 NCAC 23C .0109 VOCATIONAL REHABILITATION SERVICES AND RETURN TO WORK

(a) When performing the vocational assessment and formulating and drafting the individualized written rehabilitation plan for the employee required by G.S. 97-32.2(c), the vocational rehabilitation professional shall follow G.S. 97-32.2.

(b) Job placement activities may not be commenced until after a vocational assessment and an individualized written rehabilitation plan for vocational rehabilitation services specifying the goals and the priority for return-to-work options have been completed in the case in accordance with G.S. 97-32.2. Job placement activities shall be directed as defined by Rule .0103(5) of this Subchapter or by applicable statute.

- (c) Return-to-work options should be considered in the following order of priority:
- (1) current job, current employer;
 - (2) new job, current employer;
 - (3) on-the-job training, current employer;
 - (4) new job, new employer;
 - (5) on-the-job training, new employer;
 - (6) formal education or vocational training to prepare the worker for a job with current or new employer; and
 - (7) self-employment, only when its feasibility is documented with reference to the employee's aptitudes and training, adequate capitalization, and market conditions.
- (d) When an employee requests retraining or education as permitted in G.S. 97-32.2(a), the vocational rehabilitation professional shall provide a written assessment of the employee's request that includes an evaluation of:
- (1) the retraining or education requested;
 - (2) the availability, location, cost, and identity of providers of the requested retraining or education;
 - (3) the likely duration until completion of the requested retraining or education, the number of credits needed to complete the retraining or education, the course names and schedules for the retraining or education, and identification of which courses are available on-line versus in person;
 - (4) the current or projected availability of employment upon completion of the requested retraining or education; and
 - (5) the anticipated pay range for employment upon completion of the requested retraining or education.
- (e) The rehabilitation professional shall obtain a list of work restrictions from the health care provider that addresses the demands of any proposed employment. If ordered by a physician, the rehabilitation professional shall schedule an appointment with a third party provider to evaluate an injured employee's functional capacity, physical capacity, or impairments to work.
- (f) The rehabilitation professional shall refer the worker only to opportunities for suitable employment, as defined by Rule .0103(5) of this Subchapter or by applicable statute.
- (g) If the rehabilitation professional intends to utilize written or videotaped job descriptions in the return-to-work process, the rehabilitation professional shall provide a copy of the description to all parties for review before the job description is provided to the doctor. The employee or the employee's attorney shall have seven business days from the mailing of the job description to notify the rehabilitation professional, all parties, and the physician of any objections or amendments thereto. The job description and the objections or amendments, if any, shall be submitted to the physician simultaneously. This process shall be expedited when job availability is critical. This waiting period does not apply if the employee or the employee's attorney has given prior approval to the job description.
- (h) In preparing written job descriptions, the rehabilitation professional shall utilize standards including, but not limited to, the Dictionary of Occupational Titles and the Handbook for Analyzing Jobs published by the United States Department of Labor. These standards can be accessed at no cost at <https://www.dol.gov/agencies/oalj/topics/libraries/LIBDOT> and <https://skilltran.com/index.php/support-area/documentation/1991rhaj>, respectively. The Handbook for Analyzing Jobs may also be purchased from major online booksellers for approximately eighty-five dollars (\$85.00).
- (i) The rehabilitation professional may conduct follow-up after job placement to verify the appropriateness of the job placement.
- (j) The rehabilitation professional shall not initiate or continue placement activities that do not appear reasonably likely to result in placement of the injured worker in suitable employment. The rehabilitation professional shall report to the parties when efforts to initiate or continue placement activities do not appear reasonably likely to result in placement of the injured worker in suitable employment.

History Note: Authority G.S. 97-2(22); 97-25.5; 97-32.2; S.L. 2014-77, s. 6(4);
Eff. January 1, 1996;
Amended Eff. November 1, 2014; June 1, 2000;
Recodified from 04 NCAC 10C .0109 Eff. June 1, 2018;
Amended Eff. April 1, 2023.

11 NCAC 23C .0110 CHANGE OF REHABILITATION PROFESSIONAL

- (a) By agreement or stipulation of the parties, the rehabilitation professional may be changed.

(b) A rehabilitation professional may be removed from a case upon motion by either party or by the Commission for good cause. The motion shall be filed with the Executive Secretary's Office and served upon all parties and the rehabilitation professional. Any party or the rehabilitation professional may file a response to the motion within 10 days.

(c) A party or the rehabilitation professional may request reconsideration of a ruling or appeal from an order as provided in 11 NCAC 23A .0702 or pursuant to G.S. 97-83 and G.S. 97-84.

History Note: Authority G.S. 97-25.4; 97-25.5; 97-32.2; 97-80; 97-83; 97-84;
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SECTION .0200 – RULES OF THE COMMISSION

11 NCAC 23C .0201 WAIVER OF RULES

In the interests of justice or to promote judicial economy the Commission may, except as otherwise provided by the rules in this Subchapter, waive or vary the requirements or provisions of any of the rules in this Subchapter in a case pending before the Commission upon written application of a party or upon its own initiative only if the employee is not represented by counsel. Factors the Commission shall use in determining whether to grant the waiver are:

- (1) the necessity of a waiver;
- (2) the party's responsibility for the conditions creating the need for a waiver;
- (3) the party's prior requests for a waiver;
- (4) the precedential value of such a waiver;
- (5) notice to and opposition by the opposing parties; and
- (6) the harm to the party if the waiver is not granted.

History Note: Authority G.S. 97-25.4; 97-80;
Eff. November 1, 2014;
Recodified from 04 NCAC 10C .0201 Eff. June 1, 2018.