

1 4 NCAC 10C .0101 is proposed for amendment as follows:

2 **SUBCHAPTER 10C - NORTH CAROLINA INDUSTRIAL COMMISSION RULES FOR UTILIZATION**
3 **OF REHABILITATION PROFESSIONALS IN WORKERS' COMPENSATION CLAIMS**

4 **SECTION .0100 – ~~RULES ADMINISTRATION~~**

5 **4 NCAC 10C .0101 ~~APPLICATION~~ APPLICABILITY OF THE RULES**

6 (1) ~~These~~ The Rules in this Subchapter apply to:

7 (a) ~~All~~ cases in which the employer is obligated to provide, or is providing medical compensation,
8 and the injured worker is obligated to accept medical compensation under the Workers'
9 Compensation Act, or in which such compensation is provided by agreement, and during any
10 period when the employer is paying temporary total disability benefits "~~without prejudice,~~"
11 without prejudice in accordance with G.S. 97-18(d); and

12 (b) any rehabilitation professional (~~hereinafter RP~~) as defined in Item (a) of Rule .0103 of this
13 Subchapter, who is assigned under the Workers' Compensation Act and approved by the
14 Commission pursuant to ~~Section Rule VI. E.~~ Rule .0105 of this Subchapter.

15 (2) Any ~~RP~~ rehabilitation professional who is not assigned under the Workers' Compensation Act and approved by
16 the Commission pursuant to Rule .0105 of this Subchapter must disclose his or her role to ~~(4)~~ the medical provider
17 at the time of the initial contact and ~~(2)~~ any other person from whom the non-approved ~~RP~~ rehabilitation
18 professional seeks information about the case.

19 *History Note:* Authority G.S. 97-18(d); 97-25.4; 97-25.5; 97-32.2; 97-80;
20 Eff. January 1, 1996;
21 Recodified from 4 NCAC 10C .0103, Eff. April 17, 2000;
22 Amended Eff. January 1, 2013; June 1, 2000.
23

1 4 NCAC 10C .0102 is proposed for amendment as follows:

2 **4 NCAC 10C .0102** **PURPOSE OF THE RULES**

3 ~~(a) The purpose of these Rules is to foster professionalism in the provision of rehabilitation services in Industrial~~
4 ~~Commission cases, such that in all cases the primary concern and commitment of the RP is to the medical and~~
5 ~~vocational rehabilitation of the injured worker rather than to the personal or pecuniary interests of the parties.~~

6 ~~(b) To this end, these Rules are to be interpreted to promote frank and open cooperation among parties in the~~
7 ~~rehabilitation process, and to discourage the pursuit of plans or purposes which impede or conflict with the parties'~~
8 ~~progress toward that goal.~~

9 *History Note:* *Authority* G.S. 97-25.4;

10 *Eff.* January 1, 1996;

11 *Repealed Eff.* January 1, 2013.

1 4 NCAC 10C .0103 is proposed for amendment as follows:

2 **4 NCAC 10C .0103 APPLICATION OF THE RULES DEFINITIONS**

3 As used in this Subchapter:

4 ~~(a) (1) RPs are~~ "Rehabilitation professional" means a medical case managers manager and a coordinators
5 coordinator of medical rehabilitation services, and/or or a vocational rehabilitation professional providing vocational
6 rehabilitation services, including but not limited to, state, private, or carrier based, whether on site, telephonic, or in
7 or out of state. RPs do not include direct care providers, e.g., physical therapists, occupational therapists, or speech
8 therapists. Physical therapists, occupational therapists, speech therapists, and other direct care providers are not
9 rehabilitation professionals under the Rules in this Subchapter.

10 ~~(b) The "parties" are the worker, the worker's attorney, the employer, the workers' compensation carrier (including~~
11 ~~claims administrator, third party administrator), and the employer or carrier's attorney(s).~~

12 ~~(c) "Physician" means medical doctor, chiropractor, other physician, and, where the context requires, other health~~
13 ~~care providers.~~

14 ~~(d) (2) "Medical rehabilitation" refers to~~ means the planning and coordination of health care services. services by a
15 medical case manager or coordinator, with the goal of assisting an injured worker to be restored. The goal of
16 medical rehabilitation is to assist in the restoration of injured workers as nearly as possible to the workers' worker's
17 pre-injury level of physical function. Medical case management may include but is not limited to includes:

- 18 (a) ~~case assessment; assessment, including a personal interview with the injured worker;~~
19 (b) ~~development, implementation and coordination of a care plan with health care providers, and with~~
20 ~~the worker, and his or her family;~~
21 (c) ~~evaluation of treatment results;~~
22 (d) ~~planning for community re-entry; re-entry and return to work; with the employer of injury and/or~~
23 ~~and~~
24 (e) ~~referral for further vocational rehabilitation services.~~

25 ~~(e) (3) "Vocational rehabilitation" refers to~~ means the delivery and coordination of services under an individualized
26 written plan, with the goal of assisting the injured workers worker to return to suitable employment. employment, as
27 defined by Item (5) of this Rule or applicable statute, and to substantially increase the employee's wage-earning
28 capacity.

29 ~~(1) Specific vocational rehabilitation services may include, but are not limited to: vocational assessment,~~
30 ~~vocational exploration, counseling, job analysis, job modification, job development and placement, labor~~
31 ~~market survey, vocational or psychometric testing, analysis of transferable skills, work adjustment~~
32 ~~counseling, job seeking skills training, on the job training and retraining, and follow up after re-~~
33 ~~employment.~~

34 ~~(2) The vocational assessment is based on the RP's evaluation of the worker's social, medical, and~~
35 ~~vocational standing, along with other information significant to employment potential and on a face to face~~
36 ~~interview between the worker and the RP, to determine whether the worker can benefit from vocational~~
37 ~~rehabilitation services, and, if so, to identify the specific type and sequence of appropriate services. It~~

1 ~~should include an evaluation of the worker's expectations in the rehabilitation process, an evaluation of any~~
2 ~~specific requests by the worker for medical treatment or vocational training, and a statement of the RP's~~
3 ~~conclusion regarding the worker's need for rehabilitation services, benefits expected from services, and a~~
4 ~~description of the proposed rehabilitation plan.~~

5 ~~(3) Job placement activities may be commenced after completion of a vocational assessment and~~
6 ~~formulation of an individualized plan for vocational services which specifies its goals and the priority for~~
7 ~~return to work options in each case. Placement shall only be directed toward prospective employers~~
8 ~~offering the opportunity for suitable employment, as defined herein.~~

9 ~~(4)~~ (4) "Return to work" means placement of the injured worker into suitable employment, as defined herein by
10 Item (5) of this Rule or applicable statute. Return to work options generally should be considered in the following
11 priority:

12 ~~(1) Current job, current employer;~~

13 ~~(2) New job, current employer;~~

14 ~~(3) On the job training, current employer;~~

15 ~~(4) New job, new employer;~~

16 ~~(5) On the job training, new employer;~~

17 ~~(6) Formal vocational training to prepare worker for job with current or new employer.~~

18 ~~(7) Due to the high risk of small business failure, self employment should be considered only when its~~
19 ~~feasibility is documented with reference to worker's aptitudes and training, adequate capitalization, and~~
20 ~~market conditions.~~

21 ~~(5)~~ (5) For claims arising before June 24, 2011, "suitable employment" means employment in the local labor market
22 or self-employment which is reasonably attainable and which offers an opportunity to restore the worker as soon as
23 possible and as nearly as practicable to pre-injury wage, while giving due consideration to the worker's
24 qualifications (age, education, work experience, physical and mental capacities), impairment, vocational interests,
25 and aptitudes. No one factor shall be considered solely in determining suitable employment. For claims arising on
26 or after June 24, 2011, the statutory definition of "suitable employment," G.S. 97-2(22), applies.

27 (6) "Conditional rehabilitation professional" means a rehabilitation professional who has not met the requirements
28 for qualified rehabilitation professionals under Paragraph (d) of Rule .0105 of this Subchapter and who desires to
29 provide services as a rehabilitation professional in cases subject to the Rules in this Subchapter.

30 *History Note:* Authority G.S. 97-2(22); 97-25.4; 97-25.5; 97-32.2; 97-80;
31 Eff. January 1, 1996;
32 Recodified from 4 NCAC 10C .0101, Eff. April 17, 2000;
33 Amended Eff. January 1, 2013; June 1, 2000.

1 4 NCAC 10C .0105 is proposed for amendment as follows:

2 **4 NCAC 10C .0105 QUALIFICATIONS REQUIRED**

3 (a) ~~RP~~ Rehabilitation professionals in cases subject to ~~these~~ the Rules in this Subchapter shall follow the Code of
4 Ethics specific to their certification (i.e. ~~CRC, CDMS, CVE, CRRN, COHN, ONC, and CCM~~) as well as any
5 statutes specific to their occupation.

6 (b) ~~RP~~ Rehabilitation professionals who are Registered Nurses providing medical rehabilitation services in North
7 Carolina must have a North Carolina license to practice and are subject to the requirements of the North Carolina
8 Nursing Practice Act. Rehabilitation professionals who are Registered Nurses providing medical rehabilitation
9 services outside North Carolina must have a license to practice in the state in which the medical care is provided.

10 (c) ~~RP~~ who are Licensed Professional Counselors are subject to the requirements of the North Carolina Licensed
11 Professional Counselor's Act.

12 (c) To provide medical rehabilitation services and vocational rehabilitation services in cases subject to the Rules in
13 this Subchapter, rehabilitation professionals must either be a qualified rehabilitation professional or a conditional
14 rehabilitation professional as set forth in this Rule.

15 (d) ~~RP~~ rendering services in cases subject to these Rules shall meet the following criteria, and shall upon request
16 provide a resume of their qualifications and credentials during initial meetings with parties and health care
17 providers.

18 (1) ~~Requirements for Qualified Rehabilitation Professionals (QRPs):~~

19 (A) ~~Two years of full time work experience, or its equivalent, in workers' compensation case~~
20 ~~management, where a minimum of 30 percent of the time was spent in managing medical and/or~~
21 ~~vocational rehabilitation services to persons with disabling conditions or diseases. This experience~~
22 ~~should have been within the past 15 years; AND one of the following credentials, or a similar~~
23 ~~credential determined by the Industrial Commission as a substantial equivalent thereto:~~

24 (i) ~~Certified Rehabilitation Counselor (CRC);~~

25 (ii) ~~Certified Registered Rehabilitation Nurse (CRRN);~~

26 (iii) ~~Certified Disability Management Specialist (CDMS);~~

27 (iv) ~~Certified Vocational Evaluator (CVE);~~

28 (v) ~~Certified Occupational Health Nurse (COHN);~~

29 (vi) ~~Orthopaedic Nurse Certified (ONC);~~

30 (vii) ~~Certified Case Manager (CCM); or~~

31 (B) ~~Employed within the North Carolina Department of Human Resources as a Vocational~~
32 ~~Rehabilitation Provider;~~

33 (C) ~~The Commission may, through its Minutes, modify the list of credentials contained in~~
34 ~~subsection (a) above to add or delete appropriate credentials.~~

35 (2) ~~Requirements for Conditional Rehabilitation Professionals (CRPs):~~

36 (A) ~~A CRP is defined as a person who does not meet the requirements for QRP and who~~
37 ~~wishes to work as an RP in cases subject to this rule, including the following:~~

1 ~~(i) — CRC, CRRN, CDMS, CVE, COHN, ONC or CCM without the workers'~~
2 ~~compensation case management experience required;~~

3 ~~(ii) — A post baccalaureate degree in a health related field from an accredited~~
4 ~~institution, plus one year of experience in the provision of rehabilitation services to~~
5 ~~persons with disabling conditions or diseases;~~

6 ~~(iii) — A baccalaureate degree in a health related field from an accredited institution,~~
7 ~~plus two years experience in the provision of rehabilitation services to individuals with~~
8 ~~disabling conditions or diseases; or~~

9 ~~(iv) — Current North Carolina licensure as a registered nurse and three years~~
10 ~~experience in clinical nursing providing care for adults with disabling conditions and~~
11 ~~diseases.~~

12 ~~(B) — In order to work as an RP, a CRP will work under the direct supervision of a QRP until~~
13 ~~qualifications for a QRP are fulfilled. The supervisor must meet the requirements for providing~~
14 ~~workers' compensation case management services in North Carolina. Supervision shall include~~
15 ~~regular case staffing between the CRP and the QRP supervisor, detailed review by the QRP~~
16 ~~supervisor of all reports, and periodic meetings no less frequently than quarterly. The name,~~
17 ~~address and telephone number of the supervisor shall be on all documents identifying the CRP.~~
18 ~~The QRP is responsible to assure that the work of the CRP shall meet all requirements including~~
19 ~~those of this rule.~~

20 ~~(C) — Once an RP meets certification eligibility requirements, an RP may maintain CRP status~~
21 ~~for a period of two years only~~

22 (d) To qualify as a qualified rehabilitation professional, a rehabilitation professional must:

23 (1) possess one of the following certifications:

24 (A) Certified Rehabilitation Counselor (CRC), as certified by the Commission on
25 Rehabilitation Counselor Certification;

26 (B) Certified Registered Rehabilitation Nurse (CRRN), as certified by the Rehabilitation
27 Nursing Certification Board;

28 (C) Certified Disability Management Specialist (CDMS), as certified by the Certification of
29 Disability Management Specialists Commission;

30 (D) Certified Vocational Evaluator (CVE), as certified by the Commission on Rehabilitation
31 Counselor Certification;

32 (E) Certified Occupational Health Nurse-Specialist (COHN-S), as certified by the American
33 Board of Occupational Health Nurses;

34 (F) Certified Occupational Health Nurse (COHN), as certified by the American Board of
35 Occupational Health Nurses;

36 (G) Orthopaedic Nurse Certified (ONC), as certified by the Orthopaedic Nurses Certification
37 Board; or

1 (H) Certified Case Manager (CCM), as certified by the Commission for Case Manager
2 Certification.

3 (2) have prior employment within the North Carolina Department of Health and Human Services as a
4 vocational rehabilitation provider.

5 (e) A qualified rehabilitation professional must also:

6 (1) possess two years of full-time work experience, or its equivalent, in workers' compensation case
7 management, where at least thirty percent of the rehabilitation professional's time was spent
8 managing medical or vocational rehabilitation services to persons with disabling conditions or
9 diseases within the past fifteen years; and

10 (2) complete the comprehensive course entitled, "Workers' Compensation Case Management in NC:
11 A Basic Primer for Medical and Vocational Case Managers," provided by the Commission or the
12 International Association of Rehabilitation Professionals of the Carolinas.

13 (f) To maintain "qualified" status, a rehabilitation professional shall attend a two-hour refresher course every five
14 years, beginning with the date of the original course completion. Rehabilitation professionals who completed the
15 course in its pilot phase prior to March 17, 2011 have until July 1, 2016 to meet the refresher program mandate.

16 (g) Effective July 1, 2013, any rehabilitation professional on the Commission's Registry of Workers' Compensation
17 Rehabilitation Professionals who does not hold a certificate of completion for the mandated course shall lose
18 "qualified" rehabilitation professional status and may to work as a conditional rehabilitation professional under
19 supervision of a qualified rehabilitation professional for no longer than six months before completing the required
20 course.

21 (h) After July 1, 2013, any rehabilitation professional who begins providing rehabilitation services in cases subject
22 to the Rules in this Subchapter shall have six months to obtain a certificate of completion of the mandated course.

23 (i) The Commission shall oversee the implementation and ongoing administration of the mandated course and
24 training.

25 (j) Conditional rehabilitation professionals permitted to provide services in cases subject to the Rules in this
26 Subchapter include:

27 (1) individuals who possesses one of the certifications for qualified rehabilitation professionals listed
28 in Subparagraph (d) and (e) of this Rule, but who does not possess the workers' compensation
29 case management experience required by the Rules in this Subchapter;

30 (2) individuals with a post-baccalaureate degree in a health-related field from an institution accredited
31 by an agency recognized by the United States Department of Education and one year of
32 experience providing rehabilitation services to persons with disabling conditions or diseases;

33 (3) individuals with a baccalaureate degree in a health-related field from an institution accredited by
34 an agency recognized by the United States Department of Education and two years of experience
35 providing rehabilitation services to individuals with disabling conditions or diseases; and

36 (4) individuals with current North Carolina licensure as a registered nurse and three years of
37 experience in clinical nursing providing care for adults with disabling conditions and diseases.

1 (k) To provide services as a rehabilitation professional in cases subject to the Rules in this Subchapter, a conditional
2 rehabilitation professional must work under the direct supervision of a qualified rehabilitation professional, who
3 shall ensure that the conditional rehabilitation professional's work meets the requirements of the Rules in this
4 Subchapter and any applicable statute, and whose name, address and telephone number shall be on all documents
5 identifying the conditional rehabilitation professional.

6 (l) As used in this Rule, direct supervision includes regular case review between the conditional rehabilitation
7 professional and the qualified rehabilitation professional supervisor, review by the qualified rehabilitation
8 professional supervisor of all reports, and periodic meetings that occur at least on a quarterly basis.

9 (m) A rehabilitation professional may maintain conditional rehabilitation professional status for a period of two
10 years only. To continue providing services as a rehabilitation professional in cases subject to the Rules in this
11 Subchapter beyond the two year period, the conditional rehabilitation professional must obtain the qualifications for
12 a qualified rehabilitation professional listed under Paragraph (d) of this Rule.

13 (n) Rehabilitation professionals shall, upon request, provide a resume of their qualifications and credentials during
14 initial meetings with parties and health care providers.

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

16 *Eff.* January 1, 1996;

17 *Amended Eff.* January 1, 2013; June 1, 2000.

1 4 NCAC 10C .0106 is proposed for amendment as follows:

2 **4 NCAC 10C .0106** **PROFESSIONAL RESPONSIBILITY OF THE REHABILITATION**
3 **PROFESSIONAL IN WORKERS' COMPENSATION CLAIMS**

4

5 (a) ~~The RP~~ A rehabilitation professional shall exercise independent professional judgment in making and
6 documenting recommendations for medical and vocational rehabilitation for ~~the an~~ injured worker, including any
7 alternatives for medical treatment and cost-effective return-to-work options including retraining or retirement. ~~The~~
8 ~~RP shall realize that the attending physician directs the medical care of an injured worker. It is not the role of the~~
9 rehabilitation professional to direct medical care.

10 (b) ~~The RP~~ A rehabilitation professional shall inform the parties of his or her assignment and ~~proposed~~
11 case. ~~At the outset of the case, the RP~~ Upon assignment, a rehabilitation professional shall disclose to health care
12 providers and the parties any possible conflict of interest, including any compensation and the carrier's or
13 employer's ownership of or affiliation with the RP- rehabilitation professional.

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

18 (d) As case consultants or expert witnesses, ~~RPs~~ rehabilitation professionals ~~have an obligation to~~ shall provide
19 unbiased, objective opinions. The limits of their relationships shall be ~~clearly~~ defined through written or oral means
20 in accordance with ~~(CRCC) Code of Professional Ethics, Canon 2, Rule 2.4, or through similar provisions in the~~
21 applicable code of ethics, if any. the following, applicable professional codes of ethics or professional conduct,
22 which are hereby incorporated by reference, including subsequent amendments and editions:

23 (1) for Certified Rehabilitation Counselors and Certified Vocational Evaluators, the Commission on
24 Rehabilitation Counselor Certification Code of Professional Ethics;

25 (2) for Certified Registered Rehabilitation Nurses and Orthopaedic Nurse Certifieds, the Code of
26 Ethics for Nurses;

27 (3) for Certified Disability Management Specialists, the Certification of Disability Management
28 Specialists Commission Code of Professional Conduct;

29 (4) for Certified Occupational Health Nurses and Certified Occupational Health Nurse-Specialists, the
30 American Association of Occupational Health Nurses, Inc. Code of Ethics; and

31 (5) for Certified Case Managers, the Code of Professional Conduct for Case Managers.

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

- 1 (1) for Certified Rehabilitation Counselors and Certified Vocational Evaluators, the Commission on
2 Rehabilitation Counselor Certification Code of Professional Ethics),
3 <http://www.crccertification.com/filebin/pdf/CRCCCodeOfEthics.pdf>;
4 (2) for Certified Registered Rehabilitation Nurses and Orthopaedic Nurse Certified, the Code of
5 Ethics for Nurses,
6 <http://www.nursingworld.org/MainMenuCategories/EthicsStandards/CodeofEthicsforNurses/Code>
7 [-of-Ethics.pdf](http://www.nursingworld.org/MainMenuCategories/EthicsStandards/CodeofEthicsforNurses/Code);
8 (3) for Certified Disability Management Specialists, the Certification of Disability Management
9 Specialists Commission Code of Professional Conduct,
10 <http://new.cdms.org/docs/CDMS%20Code%20of%20Professional%20Conduct%2008012011.pdf>;
11 (4) for Certified Occupational Health Nurses and Certified Occupational Health Nurse-Specialists, the
12 American Association of Occupational Health Nurses, Inc. Code of
13 Ethics,https://www.aaohn.org/dmdocuments/Code_of_Ethics_2009.pdf; and
14 (5) for Certified Case Managers, the Code of Professional Conduct for Case Managers
15 http://www.ccmcertification.org/sites/default/files/downloads/2012/CCMC_Code_of_Conduct%2
16 [02-22-12.pdf](http://www.ccmcertification.org/sites/default/files/downloads/2012/CCMC_Code_of_Conduct%2).

17 ~~(e) (f) There may be parts of the rehabilitation process for which an RP may not be qualified. The RP has the~~
18 ~~responsibility to refrain from those activities which do not fall within his or her qualifications. RPs Rehabilitation~~
19 ~~professionals shall practice only within the boundaries of their competence, based on their education, training,~~
20 ~~appropriate professional experience, and other professional credentials.~~

21 ~~(f) Prohibited Conduct:~~

22 ~~(1) (g) RPs A rehabilitation professional shall not conduct or assist any party in claims negotiation, negotiation or~~
23 ~~investigative activities, or perform any other non-rehabilitation activity; activity during his or her assignment in the~~
24 ~~case.~~

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

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

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

33 *Eff.* January 1, 1996;

34 *Amended Eff.* January 1, 2013; June 1, 2000.

1 4 NCAC 10C .0107 is proposed for amendment as follows:

2 **4 NCAC 10C .0107** **COMMUNICATION**

3 (a) The insurance carrier shall notify the Commission and all parties on a Form 25N *Notice to the Commission of*
4 *Assignment of Rehabilitation Professional* when a rehabilitation professional is assigned to a case and identify the
5 purpose of the rehabilitation involvement.

6 ~~(a)~~ (b) At their first the initial meeting, RPs the rehabilitation professional shall provide the injured worker with a
7 copy of these the Rules in this Subchapter, or a summary of the rules approved by the Commission, and shall inform
8 the injured worker that the rehabilitation professional is required to share relevant medical and vocational
9 rehabilitation information with the employer and insurance carrier and that the rehabilitation professional may be
10 compelled to testify regarding any information obtained.

11 ~~(b)~~ RPs shall timely inform injured workers that the RP Rehabilitation Professional will share relevant and material
12 information with the employer and insurance carrier and that the RP may be compelled to testify regarding any
13 information obtained.

14 (c) In cases where the employer is paying medical compensation to a provider rendering treatment under the
15 Workers' Compensation Act, the injured worker, if requested by ~~an RP~~ a rehabilitation professional, shall sign a
16 Form 25C ~~Consent~~ *Authorization for Rehabilitation Professional to Obtain Medical Records of Current Treatment*
17 authorizing the RP rehabilitation professional to obtain records of such the current treatment. Refusal to sign the
18 consent may be deemed by the Commission to be noncompliance with rehabilitation and may result in the
19 suspension of benefits.

20 (d) The rehabilitation professional shall provide copies of all correspondence and reports electronically to all parties
21 and by mail or facsimile to all parties without email on the same day.

22 ~~(d)~~ (e) In preparing written and oral reports, the RP rehabilitation professional shall present only information
23 relevant and material to the worker's medical rehabilitation and/or and vocational rehabilitation and shall make
24 every effort to avoid ~~undue~~ invasion of the worker's privacy.

25 ~~(e)~~ The carrier shall promptly notify the Industrial Commission and all parties on a Form 25N when an RP is
26 assigned to a case and identify the purpose of the rehabilitation involvement.

27 (f) ~~The RP shall provide copies of all correspondence simultaneously to all parties to the extent possible, making~~
28 every effort to effectuate prompt service.

29 ~~(g)~~ (f) The RP rehabilitation professional shall make periodic written reports documenting accurately and
30 completely the substance of all significant activity in the case, including the rehabilitation activity, defined above,
31 which reports shall be provided to all parties at the same time. A worker not represented by counsel shall be
32 furnished The rehabilitation professional shall furnish a worker who is unrepresented by counsel with a copy of
33 each periodic report, or, in the alternative, the RP rehabilitation professional shall advise the worker either orally or
34 in writing (at least as often as reports are produced) as to the plan for and progress of the case, and shall advise the
35 worker that he or she the worker has the right to request a copy of the reports under Industrial Commission Rule 4
36 NCAC 10A .0607.

1 ~~(h)~~ (g) Frequency and timing of periodic reports ~~will~~ shall be determined at the time of referral and ~~will~~ shall
2 depend ~~upon~~ on the type of service provided. ~~However, prompt~~ Communication of significant activity to all parties
3 by telephone, ~~telecopier, facsimile,~~ electronic media, or letter ~~should~~ must occur when information ~~pertinent~~ relevant
4 to the rehabilitation process is obtained, ~~when~~ changes or revisions are recommended or occur in medical or
5 vocational treatment plans, or on any other occasion when the worker's understanding and cooperation is ~~important~~
6 critical to the implementation of the rehabilitation plan.

7 ~~(f) Communication with worker's attorney.~~

8 ~~(+)~~ (h) If requested by the injured worker or his or her attorney, the first initial meeting of the injured worker and
9 RP rehabilitation professional shall, if requested, shall take place at the office of the worker's ~~attorney.~~ attorney and
10 shall occur within 20 days of the request. If this location is requested, it shall not delay the meeting more than (20)
11 calendar days.

12 ~~(2)~~ (i) ~~To promote cooperation among the parties, The RP rehabilitation professional shall~~ may coordinate activities
13 with the injured worker's attorney, and, at the employer or carrier's discretion, with the defense attorney. ~~If the RP~~
14 ~~believes that the worker is not cooperating with the provision of rehabilitation services, the RP shall advise all~~
15 ~~parties and shall describe what cooperative action on the part of the worker is sought.~~

16 (j) If the rehabilitation professional believes the injured worker is not complying with the provision of rehabilitation
17 services, the rehabilitation professional shall detail in writing the actions that the rehabilitation professional believes
18 the injured worker is required to take to return to compliance. In determining whether the injured worker is in
19 compliance, the rehabilitation professional shall rely on his or her independent professional judgment and training
20 and shall focus on the overall effect that the worker's actions or inactions are having on the rehabilitation goals.

21 *History Note:* Authority G.S. 97-25.4; 97-25.5, 97-32.2, 97-2(19), 97-80;
22 Eff. January 1, 1996;
23 Amended Eff. January 1, 2013; June 1, 2000.

1 4 NCAC 10C .0108 is proposed for amendment as follows:

2 **4 NCAC 10C .0108 INTERACTION WITH PHYSICIANS**

3 (a) At the initial visit with a physician the RP rehabilitation professional shall provide ~~professional~~ identification
4 and ~~shall~~ explain the RP's rehabilitation professional's role in the case.

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

11 (c) If the RP rehabilitation professional ~~wishes~~ needs to have an personal in-person conference with the physician
12 following an examination, the RP rehabilitation professional ~~should~~ shall reserve with the physician sufficient
13 appointment time for a the conference. The worker ~~must~~ shall be offered the opportunity to attend ~~this~~ the
14 conference with the physician. If the worker or the physician does not consent to a joint conference, or if in the
15 physician's opinion it is medically contraindicated for the worker to participate in the conference, the RP
16 rehabilitation professional ~~will~~ shall note this in his or her report, ~~and may in such case~~ communicate directly with
17 the physician, and shall report the substance of the communication.

18 (d) When the RP rehabilitation professional determines that it is necessary to communicate with a physician other
19 than at a joint meeting, the RP rehabilitation professional shall first notify the injured worker, or ~~his/her~~ his or her
20 attorney if represented, of the RP's rehabilitation professional's intent to communicate and the reasons therefore.
21 The RP rehabilitation professional ~~need is not required~~ to obtain the injured worker's or his or her attorney's prior
22 consent ~~for the following types of communication:~~ if:

- 23 (1) The communication is limited to scheduling issues or requests for time-sensitive medical records;
- 24 (2) A medical emergency is involved;
- 25 (3) The injured worker's health or medical treatment would either be adversely affected by a delay or
26 benefited by immediate action;
- 27 (4) The communication is limited to advising the physician of the employer or carrier approval for
28 recommended testing or treatment
- 29 (5) The injured worker or attorney has consented to ~~such~~ the communications; ~~through a valid, current~~
30 ~~authorization;~~
- 31 (6) The communication is initiated by the physician; or
- 32 (7) The injured worker failed to show up for a scheduled appointment or arrived at a time other than
33 the scheduled appointment time.

34 ~~Whenever an RP~~ When a rehabilitation professional communicates with a physician without the prior consent or
35 presence of the injured worker, the RP rehabilitation professional must ~~promptly~~ document the reasons for and the
36 substance of the communication and ~~promptly~~ report ~~such~~ the reasons and substance to the injured worker or his or
37 her attorney, if represented, pursuant to Rule ~~VI.~~ .0106 of this Subchapter.

1 ~~(e) The RP may assist in scheduling second opinions requested by the treating physician, as well as supporting~~
2 ~~treatment. In such case, the worker shall receive at least 10 calendar days notice of an appointment for a second~~
3 ~~opinion unless otherwise agreed by the parties or required by statute.~~

4 ~~(f) The RP may assist in obtaining from the treating physician an opinion as to the degree of permanent partial~~
5 ~~impairment retained by the worker at maximum medical improvement. The decision to obtain a second physician's~~
6 ~~opinion on the degree of impairment is not within the practice of rehabilitation. However, if requested by the party~~
7 ~~who desires a second opinion, the RP may assemble information, schedule, coordinate, and, with the worker's~~
8 ~~consent, attend the appointment with that physician.~~

9 ~~(g) If a party requests a second opinion or an independent medical examination, the RP's involvement is limited to~~
10 ~~assembling and forwarding medical records and information, and scheduling, coordinating, and, with the worker's~~
11 ~~consent, attending the appointment with that physician.~~

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

14 (1) Rehabilitation professionals shall not initiate a request for impairment ratings, second opinions or
15 independent medical examinations. Rehabilitation professionals may communicate the requests to
16 medical providers, injured workers and carriers, and shall clearly communicate the source of the
17 requests.

18 (2) When a party or medical provider requests a consult, second opinion or independent medical
19 examination, the rehabilitation professional may assemble and forward medical records and
20 information, schedule and coordinate an appointment, and, if the worker consents, have a joint
21 meeting with the medical provider and the worker after a private exam, if requested.

22 (3) When any such exam is requested by the carrier, the worker shall receive at least 10 calendar days'
23 notice of the appointment unless the parties agree otherwise or unless otherwise required by
24 statute.

25 ~~(h) (f) The RP rehabilitation professional shall simultaneously send copies to the parties copies of all written~~
26 ~~communications to with medical care providers, providers and shall accurately and completely record and report all~~
27 ~~oral communications.~~

28 *History Note:* Authority G.S. 97-25.4; 97-25.5; 97-32.2; 97-80;
29 *Eff.* January 1, 1996;
30 *Amended Eff.* January 1, 2013; June 1, 2000.

1 4 NCAC 10C .0109 is proposed for amendment as follows:

2 **4 NCAC 10C .0109** **VOCATIONAL REHABILITATION SERVICES AND RETURN TO**
3 **WORK**

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

7 (b) Job placement activities may not be commenced until after a vocational assessment and an individualized
8 written rehabilitation plan for vocational rehabilitation services specifying the goals and the priority for return-to-
9 work options have been completed in the case in accordance with G.S. 97-32.2. Job placement activities shall be
10 directed only toward prospective employers offering the opportunity for suitable employment, as defined by Item (5)
11 of Rule .0103 of this Subchapter or by applicable statute.

12 (c) Return-to-work options shall be considered in the following order of priority:

- 13 (1) current job, current employer;
- 14 (2) new job, current employer;
- 15 (3) on-the-job training, current employer;
- 16 (4) new job, new employer;
- 17 (5) on-the-job training, new employer;
- 18 (6) formal education or vocational training to prepare worker for job with current or new employer;
19 and
- 20 (7) self-employment, only when its feasibility is documented with reference to the employee's
21 aptitudes and training, adequate capitalization, and market conditions.

22 (d) When an employee requests retraining or education as permitted in G.S. 97-32.2(a), the vocational rehabilitation
23 professional shall provide a written assessment of the employee's request, which includes an evaluation of:

- 24 (1) the retraining or education requested;
- 25 (2) the availability, location, cost, and identity of providers of the requested retraining or education;
- 26 (3) the likely duration until completion of the requested retraining or education and the likely class
27 schedules, class attendance requirements, and out-of-class time required for homework and study;
- 28 (4) the current or projected availability of employment upon completion; and
- 29 (5) the anticipated pay range for employment upon completion.

30 ~~(e)~~ (e) The RP rehabilitation professional shall obtain from the medical provider work restrictions which that fairly
31 address the demands of any proposed employment. If ordered by a physician, the RP rehabilitation professional
32 ~~should shall obtain~~ schedule an appointment with a third party provider to evaluate an injured worker's functional
33 capacity evaluation (FCE) or physical capacity, or impairments to work evaluation. (PCE). Any FCE or PCE
34 ~~obtained should measure the worker's capacities and impairments.~~

35 ~~(f)~~ (f) The RP Rehabilitation Professional shall refer the worker only to opportunities for suitable employment, as
36 defined herein by Item (5) of Rule .0103 of this Subchapter or by applicable statute.

1 ~~(e)~~ (g) If the RP rehabilitation professional intends to utilize written or videotaped job descriptions in the return-to-
2 work process, the RP rehabilitation professional shall provide a copy of the description to all parties for review
3 before the job description is provided to the doctor. The worker or the worker's attorney shall have seven business
4 days from the mailing of the ~~description,~~ description to notify the RP, rehabilitation professional, all parties, and the
5 physician of any objections or amendments ~~to the job description.~~ thereto. The job description and the objections or
6 amendments, if any, shall be submitted to the physician simultaneously. This process ~~may~~ shall be expedited ~~on~~
7 ~~occasions~~ when job availability is critical. This waiting period does not apply if the worker or the worker's attorney
8 has pre-approved the job description.

9 ~~(d)~~ (h) In preparing written job descriptions, the RP rehabilitation professional shall utilize ~~recognized standards,~~
10 ~~which may include but not be limited to~~ the Dictionary of Occupational Titles ~~and/or~~ and the Handbook for
11 Analyzing Jobs published by the U.S. United States Department of Labor. ~~Labor,~~ which are recognized as national
12 ~~standard references for use in vocational rehabilitation.~~

13 ~~(e)~~ (i) In identifying proposed employment for the injured worker, the RP rehabilitation professional ~~should~~ shall
14 consider the worker's transportation requirements.

15 ~~(f)~~ (j) The rehabilitation professional may conduct follow-up after job placement ~~may be carried out~~ to verify the
16 appropriateness of the job placement.

17 ~~(g)~~ (k) The RP rehabilitation professional shall not initiate or continue placement activities ~~which~~ that do not appear
18 reasonably likely to result in placement of the injured worker in suitable employment. The RP rehabilitation
19 professional shall report to the parties when efforts to place the worker in suitable employment do not appear
20 reasonably likely to result in placement of the injured worker in suitable employment.

21 *History Note:* Authority G.S. 97-25.4; 97-25.5; 97-32.2; 97-2(22);
22 Eff. January 1, 1996;
23 Amended Eff. January 1, 2013; June 1, 2000.

1 4 NCAC 10C .0110 is proposed for amendment as follows:

2 **4 NCAC 10C .0110** **MOTION FOR CHANGE OF RP: REHABILITATION PROFESSIONAL**
3 **SANCTIONS**

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

5 ~~(a)~~ (b) An RP A rehabilitation professional may be removed from a case upon motion by either party ~~for good cause~~
6 ~~shown~~ or by the ~~Industrial Commission in its own discretion~~ to prevent manifest injustice. The motion shall be filed
7 with the Executive Secretary's Office and served upon all parties and the ~~RP~~ rehabilitation professional. Any party
8 or the ~~RP~~ rehabilitation professional may file a response to the motion within 10 days. ~~The Industrial Commission~~
9 ~~shall then determine whether to remove the RP from the case. The parties are referred to Industrial Commission~~
10 ~~Rule 4 NCAC 10A .0609.~~

11 (b) ~~If the employer/carrier chooses to do so and the worker consents, the employer/carrier may replace the RP, in~~
12 ~~which case the moving party shall notify the Industrial Commission that the motion does not need to be decided.~~

13 (c) ~~For good cause, including ineffective delivery of rehabilitation services, failure to comply with applicable laws,~~
14 ~~rules or regulations, or failure to timely respond to lawful orders of the Commission or other regulatory authorities,~~
15 ~~the Commission may prohibit or restrict an RP, or group of RPs, further participation by particular workers,~~
16 ~~employers, or health care providers, groups or classes of them, or all of them. As provided in Industrial Commission~~
17 ~~Rule 4 NCAC 10A .0802, the Commission may impose appropriate sanctions for violation of these Rules.~~

18 ~~(d)~~ (c) A party or the rehabilitation professional may request reconsideration of a ruling or appeal from an order as
19 provided in ~~Rule 4 NCAC 10A .0703~~ .0702 or pursuant to ~~G.S. 97-83; G.S. 97-83 and G.S. 97-84.~~

20 *History Note:* *Authority* G.S. 97-25.4; 97-25.5; 97-32.2; 97-80; 97-83 97-84;
21 *Eff.* January 1, 1996;
22 *Amended Eff.* January 1, 2013; June 1, 2000.
23

1 4 NCAC 10C .0201 is proposed for amendment as follows:

2 **SECTION .0200 - RULES OF THE COMMISSION**

3 **4 NCAC 10C .0201 SUSPENSION OF RULES**

4 To prevent manifest injustice to a party, or to expedite a decision in the public interest, the Commission may, except
5 as otherwise provided by the Rules in this Subchapter, suspend or vary the requirements or provisions of any of the
6 Rules in this Subchapter in a case pending before the Commission upon application of a party or upon its own
7 initiative, and may order proceedings in accordance with its directions.

8 *History Note:* Authority G.S. 97-25.4; 97-80;

9 *Eff.* January 1, 2013.

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11

1 4 NCAC 10C .0101 is proposed for amendment as follows:

2 **4 NCAC 10C .0202** **SANCTIONS**

3 (a) For ineffective delivery of rehabilitation services, failure to comply with applicable laws, rules or regulations, or
4 failure to respond to lawful orders of the Commission or other regulatory authorities, the Commission shall prohibit
5 or restrict a rehabilitation professional, or group of rehabilitation professionals, further participation by particular
6 workers, employers, or health care providers, groups or classes of them, or all of them.

7 (b) As provided in 4 NCAC 10A .0802, the Commission shall impose appropriate sanctions for violation of the
8 Rules in this Subchapter.

9 *History Note:* *Authority* G.S. 97-25.4; 97-25.5; 97-32.2; 97-80; 97-84;

10 *Eff.* January 1, 2013.

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