

G.S. 150B-21.3A Report for 10A NCAC 14G, EXEMPTIONS FROM PROHIBITIONS OF SELF-REFERRALS BY HEALTH CARE PROVIDERS FOR UNDERSERVED AREAS

Agency - DHHS - Division of Health Service Regulation

Comment Period - 3/24/17-5/23/17

Date Submitted to APO - November 20, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 – GENERAL INFORMATION	10A NCAC 14G .0101	DEFINITIONS	Eff. April 1, 1995	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 14G .0102	APPLICATION	Eff. April 1, 1995	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 14G .0103	CRITERIA FOR AN UNDERSERVED AREA EXEMPTION - NEW ENTITY	Eff. April 1, 1995	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt
		10A NCAC 14G .0104	CRITERIA FOR AN UNDERSERVED AREA EXEMPTION - EXISTING ENTITY	Eff. April 1, 1995	Necessary with substantive public interest	No		Yes	Necessary with substantive public interest	RRC not required to review comment(s)	Necessary with substantive public interest and must be readopted	Agency must readopt

Periodic Rules Review and Expiration of Existing Rules
Subchapter 14G – Exemptions from Prohibitions of Self Referrals by Health Care Providers for Underserved Areas
Public Comments and Agency Response to Comments

Rule Citation & Title	Date	Commenter	Comment	Agency Response
1) 10A NCAC 14G .0101 – Definitions	3/22/17	1a) Erin Glendening, DHSR erin.glendening@dhhs.nc.gov	This is a test of the system to verify that everything is working.	This rule was determined as Necessary With Substantive Public Interest. The comment is about the test of the electronic comment reporting system. The Agency will not change the determination of this rule.
	3/23/17	1b)	What is the comment date range March 24,2017- March 23,2017??	This rule was determined as Necessary With Substantive Public Interest. The comment date range, March 24, 2017 to May 23, 2017, was correctly posted. The Agency will not change the determination of this rule.
	3/25/17	1c) Jeannie LeFrancois, Volunteer Disaster Health Service Nurse, American Red Cross, Greater Albemarle Area jean@popstats.net	I live in the farthest North Eastern Corner of the North Carolina Area and do NOT see any news paper for this area located in the papers you have listed. I live in South Mills, NC and represent the 9 counties comprising the North Eastern North Carolina the following County Areas to include, Bertie, Camden, Chowan, Currituck, Gates, Hertford, Northampton, Pasquotank, Perquimans	This rule was determined as Necessary With Substantive Public Interest. This comment raises an issue which will be taken into consideration when the rule is reviewed. The Agency will not change the determination of this rule.
	3/28/17	1d) Charles Koltz, lawyernurse@earthlink.net	Please inform NC Registered Nurses and the public how this Rule relates to our NC rank and file Registered Nurses on a day to day basis.	This rule was determined as Necessary With Substantive Public Interest.

Rule Citation & Title	Date	Commenter	Comment	Agency Response
				<p>This is not a comment on the Definitions in this rule, but rather a request for information.</p> <p>The Agency will not change the determination of this rule.</p>
2) 10A NCAC 14G .0102 – Application	3/23/17	2a)	Email could be included in demographics along with name address andphone	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>This comment raises an issue which will be taken into consideration when the rule is reviewed.</p> <p>The Agency will not change the determination of this rule.</p>
	3/23/17	2b) mary godwin, mary.godwin@conehealth.com	seems as a reasonable requirement and clarity	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>We agree that the rule is reasonable and clearly articulated. However, the Division’s physical and mailing addresses are no longer correct and should be changed.</p> <p>The Agency will not change the determination of this rule.</p>
	3/25/17	2c) Jeannie LeFrancois, Volunteer, American Red Cross and National Oceanic and Atmospheric Administration, CoCoRaSH and Skywarn jean@popstats.net	As a retired from employed nursing, Your rule does not provide a way in making an organization employer known if you are ONLY a volunteer nurse-any longer. Making this available, allows professional nurses that are retired or medically retired in some limited way, to continue to be of assistance through knowledge gained in 40 years of	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>This comment, while raising a number of issues, does not appear to be directly related to this rule.</p>

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>nursing experience. I am still only 58... but did start nursing in 1977 and volunteer disaster work in 1974. Thus, not only a BSN, RN, PHN but it also allows me to work under my masters School of Public Health Degree as an infectious disease epidemiologist with Environmental, Waterborne, Bloodborne, Bioterrorism, Chemical Terrorism, and any other thing an epidemiologist might cover. I am the only epidemiologist in this particular area, but would welcome more volunteer availability as I did retired as a Nursing Consultant II State of California, Heath and Human Service, Licencing and Certification. You do not include Master Public Health degrees which too you might like to capture information. However, I don't think I am the only retired master prepared retired nursing or public health person. I am located just 7 miles south of the largest Military Complex Area in the Whole USA and actually volunteer out of Elizabeth City which has the Largest Homeland Security, Coast Guard Facility. I do think the Eastern Southern North Carolina regions also have large Marine, and Army installations so you have a vast number of retired Military Nursing Population that can not volunteer and give a good representation of the statistical activity this part of your legislation might want to capture. I would also suggest here (only because I don't quite understand your legislation writing system in North Carolina) I have written 5 pieces of legislation in California during my tenure and have one that became California Law in 2001 and now is National Medicare Law in 2011. I would like a way to assist my new home and final residence in North Carolina as most of my Nursing Carrier was as a Military Wife and Public Civil Servant in not just California, but Texas, Florida, New Jersey, and</p>	<p>The Agency will not change the determination of this rule.</p>

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>Virginia. I might suggest one law the California BRN has (which the NC BRN may not have thought of as it is the most densely populated state in the US. Automatic Certification of Public Health Nursing (PHN) that is also complaint with RN, BSN active or retired nursing as long as their working is also in complaint with no BRN derogatory action such as chemical dependency on probation or minor criminal charges otherwise not related to their profession. ... be granted for Any And All Nurses with as BSN from an NLN (National League of Nursing) accredited college as the NLN regulates that all public health and school nursing (community nursing) is embedded in a baccalaureate degree program. Also National Masters in Public Health university are just north and south of you as Emory University and Johns Hopkins University Schools off Public Health and you have the National Institutes of Health in Maryland and Centers for Disease Control in Atlanta, as well as many Washington DC employees that live just 3 hours of here but retire in this area of NC both have equivalent level School of Public Health Programs that BSN nursing does not have. (I realize I had county wide in San Bernardo County CA where I worked in the county public health department while attending Loma Linda University School of Public Health which that county is larger then 11 states as it covers 20,105 sq miles; state wide jurisdiction in the third largest state, but also was initially trained in NLN LVN program out of Texas. I probably do not see distance by state lines quite the same because they are the second and third largest state.) However, with that said, respectfully I might add in my humble opinion, North Carolina is under utilizing the vast resources having been one of the original colonies and ivy league schools of</p>	

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>education just north and south of its borders however withing less the 8 hours drive which is what it takes me to drive from my home located in the outer banks regional inland area... to get to Charlotte respectfully. That does not even get me into the the Smokey Mountains that are the furthest west in NC... this state is much narrower north and south but close to 3.3 times (ratio) miles wider then it is length. However your state also has the largest number of military installations because of the Hampton Roads VA, Washington DC corridor. Thus I would suspect you have a large number of retired military officers and public national civil servants within your geographic area. Thus the caviot is, with a little effort from the BRN, you might be able to reach the Eastern most Regions such as Fayetteville, as far south as Myrtle Beach South Carolina, to Chesapeake/Virginia Beach/Norfolk, VA all the way to the Raleigh Durham Area with Highly Qualified Nurses in vast experience to cover a very rural area of the state. area called the Hampton Roads area of Virginia. With the Great Dismal Swamp out here being geographically fed by 7 rivers over 3 states NC, VA and Maryland to the Chesapeake Bay to the Albermarle sound, your state has Public Health Issues that this area can not and is not handling in Lead, Mercury and Coli Form contamination in the water tables from some issues such as Burial of Lead Based Paint from the Military regions in the 1974 out crop on the national ban on Lead Based issues for children, and less the 15 ccs of Mercury can contaminate all of Lake Michigan in the great lakes, and land fills out here have had Mercury Thermometers, and third is coli forms from fractures of septic systems frequently used because city sewer systems are not available for this water-shed. Water</p>	

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>problems probably identified because of more densely populated part of NC from industrial issues within the central areas are not the only water born public health issues for this state (That are being handled largely by Federal EPA and State agencies.) I am only new here of 4 years but I can tell you Nursing in Public Health is vastly unrepresented here. One call to Pasquotank County Public Health Nursing Supervisor made me also aware because of the migration of the population because of economic issues and the children are not staying in rural america (nationally) but moving to metropolitan areas... especially with computer based and now information based industrial complexes. Thus a Rural doctor program is also vastly need out here as there are not enough Family Practice or Primary Practice Physicians out here either and the Public Health Medical Director is an Environmental public health person so they are looking at fertilizer watershed issues of algae while neglected population based issues. This has been very surprising to me coming from the south and west as I have always know of the vast ivy league medical education of the Raleigh/Durham/Chapel Hill Area and you have Eastern Virginia Medical School (EVMS) just in Norfolk. However 100 years ago 80 percent of the population was rural and 20 percent urban... has changed to 17% rural and 83% urban... which is probably where this area has lost its health care professionals to. But a large issue here that the Nsg Sup of the PH Dept. is the mold... and the delaying of repairs because of economic issues. The US may have partially recovered from the 2001 and 2008 economic crisis but that is only because the shift in the demographics of your population. For Example, some of the Census information of 2010 shows parts</p>	

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>of Elizabeth City, in the male 16-55 year old at over 62% unemployment and getting worse. This is Creation huge health issues Nursing is known to address. Creating economic issues of NYC has asked NC Albemarle Sound area to take metropolitan trash by shipping to this state... bring even more public health issues. I am not aware that they actually accepted any of the proposals but NYC has a huge trash issue and you only need to look at the Number of Superfund Sites of New Jersey to know what Public Health issues NYC metro trash will bring to the neighboring states. (Borough of Manhattan has vastly enlarged built on trash on its borders.) These are only some of the Public Health issues that Nurses are Nationally known to bring forward over the 250 year history of this area. from the TB Epidemic of NYC (8 hours away) in 1910 and the American Red Cross from the outwork of the Civil War fought so greatly out here. Thus I will stop with my comments as I hope I have brought forward some of my knowledge and assessment over 4 years to the leaders of public health historically. As you can tell, I am proud to be a nurse, and proud to be in public health. I am working hard as a volunteer to help my new home state. While your renewing and reviewing this legislative piece I pray, I have brought forward some of the things Nursing Professionals have been known for. Your are our Hope to help stop the tide of public health issues here.</p>	
3) 10A NCAC 14G .0103 – Criteria for an Underserved Area Exemption – New Entity	3/23/17	3a)	<p>Decreasing the range from 15 miles to 10 miles does not seem necessary. 15 miles is not a great distance for service especially in rural areas nor urban areas. If the distance has been proven to be overly burdensome and not just speculated to be burdensome then it could be acceptable.</p>	<p>This rule was determined as Necessary With Substantive Public Interest.</p> <p>The comment raises an issue that will be taken into consideration when the rule is reviewed.</p>

Rule Citation & Title	Date	Commenter	Comment	Agency Response
				The Agency will not change the determination of this rule.
	3/25/17	3b) Jeannie LeFrancois, Retired State of CA, HHS, Licencing Nsg Consultant II implementation MDS/OASIS Coordinator and member for 3 years of the National HIPAA Steering Committee for CA 98-01... jean@popstats.net	See previous sections comments largely addressed this part in that areas comments. I am sorry I did not get them in the right places.	This rule was determined as Necessary With Substantive Public Interest. This comment, while raising a number of issues, does not appear to be directly related to this rule. The Agency will not change the determination of this rule.
	3/26/17	3c) Berkley Carter, monakinzer@gmail.com	I understand the need of rural areas that have little or. Health care services.Revision of the rule should somehow guarantee some form of access to health care. This will not if providers are not to practice due to certain federal restraints, such as , areas not socioeconomic able to support healthcare without investors. Give these investors the opportunity to help.	This rule was determined as Necessary With Substantive Public Interest. The comment raises an issue that will be taken into consideration when the rule is reviewed. The Agency will not change the determination of this rule.
4) 10A NCAC 14G .0104 – Criteria for an Underserved Area Exemption - Existing Entity	3/25/17	4a) Jeannie LeFrancois, jean@popstats.net	Please see comments under the second section. Additionally, the Water Rain issue for Wakefield VA NOAA site identified last 2016 precipitation has been over a 500 year flood class as they had the largest amount of water during this season with over 20 inches of rain over the whole year but vastly distributed over 3 hurricane/tropical storms of Hurricane Hurmenie, TS Joyce combining with a northern storm, and Hurricane Matthew in the Grater Dismal Swamp. Our ditches still have over 3-4 ft of water in them. It has come to my attention via HVAC technician that because of the boilers Installing/Service Repair heating ducts mostly under	This rule was determined as Necessary With Substantive Public Interest. This comment, while raising a number of issues, does not appear to be directly related to this rule. The Agency will not change the determination of this rule.

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>the floors in the crawl space, then the invention of centralized AC coming in the 1960s and 70s. The water saturated many ducts systems that in a more urban populations are in the attics. These ducts and 7 inch of insulation wrap, in crawl spaces then have had cooler weather of later October, November and December. The ducts them selves receded the water, However I greatly fear, the upcoming warmer seasons to bring to the east coast of all of NC a HUGE Mold Problem with toxic mold fumes going to complicated the population density sift of the last 100 years and the economic impact of the rural areas loosing from industrial economic to give way to commuter age and now economic age... problems. The X generation, Millennials and the Z generation are not here to take care of the aging baby-boomer population that has remained. This hurricane session will be recorded as being far worse then Hurricane Hazel of 1954 (last disastrous hurricane in this area) as the intensity was not in one hurricane that was powerful and fast moving but over 3 and over less then 5 weeks in distribution.... Planning needs to happen Now. The southern Eastern North Carolina and I and the HVAC were responsible for the late braking FEMA passage for Virginia Beach Area as he and I discovered it on Wednesday after the Hurricane Matthew. Norfolk ARC had already stated they had no National Disasters and had it was on Wednesday with my co ARC worker, noted the Windsor Wood, Virginia Beach Area and I contacted my Elizabeth City Greater Albemarle District of NENC ARC as we discovered it on Wednesday and the Governor of VA was notified and was there within 14 hours of us reporting (on Thursday morning to visit sight.and spreading telephone numbers to the 300 residents in that area... he worked</p>	

Rule Citation & Title	Date	Commenter	Comment	Agency Response
			<p>for a Chesapeake company HVAC, that serviced that area, but is was North Carolinian's that reported the disaster to Norfolk VA ARC. going accords state lines. Refer to this and many more articals. http://pilotonline.com/news/local/weather/storms/fema-emergency-officials-tour-windsor-woods-to-assess-damage/article_74f71f52-76c2-566d-82d4-1c5dd0eec68c.html However the impact is going (futur tense) to be the same for Currituck, Camden, Gates, Pasqutank, Persimmons, Bertie, Chowan and other surrounding counties... as right now your focus has been from the damage of the dam breaking in south eastern NC... but NENC got it too I fear. The impact should start being noticed in late April to October of this 2017 year that will show if that the mold in the crawls spaces will be and issue in older homes of the whole Eastern Section of NC. (I hope this information is helpful.)</p>	