

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0416

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - X Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

This Rule governs the billing procedures by insurers for automobile insurance. The two laws cited in the History Note, G.S. 58-9 and 58-248.34, do not exist. Staff notes that the Rule was last amended by the agency in 1989, so it is possible the citations were recodified in the past 30 years. However, staff cannot discern whether those laws ever existed or what they would be codified as in the current General Statutes.

As the agency has not presented any authority to promulgate this Rule, staff recommends objection for lack of statutory authority.

Amanda J. Reeder
Commission Counsel

