

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

4

SENATE BILL 794
Commerce Committee Substitute Adopted 6/18/14
Third Edition Engrossed 6/19/14
Corrected Copy 6/23/14

Short Title: Disapprove Industrial Commission Rules.

(Public)

Sponsors:

Referred to:

May 20, 2014

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE CERTAIN RULES ADOPTED BY THE NORTH CAROLINA INDUSTRIAL COMMISSION, TO PROVIDE SPECIFIC DIRECTIONS TO THE INDUSTRIAL COMMISSION TO REPLACE THE RULES, AND TO AMEND CERTAIN PROVISIONS OF THE WORKERS' COMPENSATION LAW.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b1), 04 NCAC 10A .0605 (Discovery), 04 NCAC 10A .0701 (Review by the Full Commission), 04 NCAC 10C .0109 (Vocational Rehabilitation Services and Return to Work), 04 NCAC 10E .0203 (Fees Set by the Commission), 04 NCAC 10L .0101 (Form 21 – Agreement for Compensation for Disability), 04 NCAC 10L .0102 (Form 26 – Supplemental Agreement as to Payment of Compensation), and 04 NCAC 10L .0103 (Form 26A – Employer's Admission of Employee's Rights to Permanent Partial Disability), as adopted by the Industrial Commission on March 11, 2014, and approved by the Rules Review Commission on March 20, 2014, are disapproved.

SECTION 2. Pursuant to G.S. 150B-21.3(b1), 04 NCAC 10A .0609A (Medical Motions and Emergency Medical Motions), as adopted by the Industrial Commission on March 11, 2014, and approved by the Rules Review Commission on April 17, 2014, is disapproved.

SECTION 3. 04 NCAC 10A .0202 (Hearing Costs or Fees), as adopted by the Industrial Commission on March 11, 2014, and approved by the Rules Review Commission on March 20, 2014, is disapproved; and 04 NCAC 10A .0702 (Review of Administrative Decisions), as adopted by the Industrial Commission on September 20, 2012, and approved by the Rules Review Commission on October 18, 2012, is disapproved.

SECTION 4. G.S. 97-25 reads as rewritten:

"§ 97-25. Medical treatment and supplies.

(a) Medical compensation shall be provided by the employer.

(b) Upon the written request of the employee to the employer, the employer may agree to authorize and pay for a second opinion examination with a duly qualified physician licensed to practice in North Carolina, or licensed in another state if agreed to by the parties or ordered by the Commission. If, within 14 calendar days of the receipt of the written request, the request is denied or the parties, in good faith, are unable to agree upon a health care provider to perform a second opinion examination, the employee may request that the Industrial Commission order a second opinion examination. The expense thereof shall be borne by the employer upon the same terms and conditions as provided in this section for medical compensation.



* S 7 9 4 - V - 4 *

1 (c) Provided, however, if the employee so desires, an injured employee may select a
2 health care provider of the employee's own choosing to attend, prescribe, and assume the care
3 and charge of the employee's case subject to the approval of the Industrial Commission. In
4 addition, in case of a controversy arising between the employer and the employee, the
5 Industrial Commission may order necessary treatment. In order for the Commission to grant an
6 employee's request to change treatment or health care provider, the employee must show by a
7 preponderance of the evidence that the change is reasonably necessary to effect a cure, provide
8 relief, or lessen the period of disability. When deciding whether to grant an employee's request
9 to change treatment or health care provider, the Commission may disregard or give less weight
10 to the opinion of a health care provider from whom the employee sought evaluation, diagnosis,
11 or treatment before the employee first requested authorization in writing from the employer,
12 insurer, or Commission.

13 (d) The refusal of the employee to accept any medical compensation when ordered by
14 the Industrial Commission shall bar the employee from further compensation until such refusal
15 ceases, and no compensation shall at any time be paid for the period of suspension unless in the
16 opinion of the Industrial Commission the circumstances justified the refusal. Any order issued
17 by the Commission suspending compensation pursuant to G.S. 97-18.1 shall specify what
18 action the employee should take to end the suspension and reinstate the compensation.

19 (e) If in an emergency on account of the employer's failure to provide medical
20 compensation, a physician other than provided by the employer is called to treat the injured
21 employee, the reasonable cost of such service shall be paid by the employer if so ordered by the
22 Industrial Commission.

23 (f) In claims subject to G.S. 97-18(b) and (d), a party may file ~~an expedited,~~
24 ~~emergency, or other medical motion with the Office of the Chief Deputy Commissioner. The~~
25 ~~nonmoving party shall have the right to contest the motion. Motions and responses shall be~~
26 ~~submitted via electronic mail to the Commission, the opposing party and the opposing party's~~
27 ~~attorney, simultaneously. The Commission shall conduct an informal telephonic pretrial~~
28 ~~conference to determine if the motion warrants an expedited or emergency hearing. If the~~
29 ~~Commission determines that the motion does not warrant an expedited or emergency hearing,~~
30 ~~the motion shall be decided administratively within 60 days of the date the motion was filed~~
31 ~~pursuant to rules governing motions practices in contested cases. If the Commission determines~~
32 ~~that any party has acted unreasonably by initiating or objecting to a medical motion, the~~
33 ~~Commission may assess costs associated with any proceeding, including reasonable attorneys'~~
34 ~~fees and deposition costs, against the offending party.~~

35 (g) ~~If the Commission determines that a medical motion should be expedited, each~~
36 ~~party shall be afforded an opportunity to state its position and to submit documentary evidence~~
37 ~~at an informal telephonic hearing. The medical motion shall contain documentation and support~~
38 ~~of the request, including the most relevant medical records and a representation that informal~~
39 ~~means of resolving the issue have been attempted in good faith, and the opposing parties'~~
40 ~~position, if known. The Commission shall determine whether deposition testimony of medical~~
41 ~~and other experts is necessary and if so shall order that the testimony be taken within 35 days of~~
42 ~~the date the motion is filed. For good cause shown, the Commission may reduce or enlarge the~~
43 ~~time to complete depositions of medical and other experts. Transcripts of depositions shall be~~
44 ~~expedited and paid for by the administrator, carrier, or employer. Transcripts shall be submitted~~
45 ~~electronically to the Commission within 40 days of the date the motion is filed unless the~~
46 ~~Commission has reduced or enlarged the time to complete the depositions. The Commission~~
47 ~~shall render a decision on the motion within five days of the date transcripts are due to the~~
48 ~~Commission.~~

49 (h) ~~If the Commission determines that a medical motion is an emergency, the~~
50 ~~Commission shall make a determination on the motion within five days of receipt by the~~
51 ~~Commission of the medical motion. Motions requesting emergency medical relief shall contain~~

1 ~~the following:~~ a motion as set forth in this subsection regarding a request for medical
2 compensation or a dispute involving medical issues. The nonmoving party shall have the right
3 to contest the motion. Motions and responses shall be submitted contemporaneously via
4 electronic mail to the Commission and to the opposing party or the opposing party's attorney.

5 (1) A party may file a motion with the Executive Secretary for an administrative
6 ruling regarding a request for medical compensation or a dispute involving
7 medical issues. The motion shall be decided administratively pursuant to
8 rules governing motions practices in contested cases. The Commission shall
9 decide the motion within 30 days of the filing of the motion unless an
10 extension of time to respond to the motion has been granted for good cause
11 shown. Either party may file a motion for reconsideration of the
12 administrative order with the Executive Secretary. Either party may request
13 an expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of
14 this subsection to appeal the decision of the Executive Secretary approving
15 or denying the original motion or the motion for reconsideration. Within five
16 days of the filing of a request for an expedited formal hearing pursuant to
17 G.S. 97-84 and subdivision (2) of this subsection to appeal the decision of
18 the Executive Secretary, the Commission shall assign a Deputy
19 Commissioner to conduct the formal hearing. The decision shall not be
20 stayed during the pendency of an appeal pursuant to G.S. 97-84 and
21 subdivision (2) of this subsection except under those circumstances set out in
22 subdivision (4) of this subsection. A motion to stay shall be filed with the
23 Deputy Commissioner scheduled to conduct the formal hearing pursuant to
24 G.S. 97-84. Either party may appeal the decision of the Deputy
25 Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to
26 G.S. 97-85. The decision of the Deputy Commissioner shall not be stayed
27 during the pendency of an appeal except under those circumstances set out in
28 subdivision (4) of this subsection. A motion to stay the decision of the
29 Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair
30 of the Commission. The Full Commission shall render a decision on the
31 appeal of the Deputy Commissioner's decision on the motion within 60 days
32 of the filing of the notice of appeal.

33 (2) In lieu of filing a motion with the Executive Secretary for an administrative
34 ruling pursuant to subdivision (1) of this subsection, when appealing a ruling
35 made pursuant to subdivision (1) of this subsection or when appealing an
36 administrative ruling of the Chief Deputy or the Chief Deputy's designee on
37 an emergency motion, a party may request a full evidentiary hearing
38 pursuant to G.S. 97-84 on an expedited basis, limited to a request for
39 medical compensation or a dispute involving medical issues, by filing a
40 motion with the Office of the Chief Deputy Commissioner. The case will not
41 be ordered into mediation based upon a party's request for hearing on the
42 motion or appeal under this subdivision, except upon the consent of the
43 parties. The Commission shall set the date of the expedited hearing, which
44 shall be held within 30 days of the filing of the motion or appeal and shall
45 notify the parties of the time and place of the hearing on the motion or
46 appeal. Upon request, the Commission may order expedited discovery. The
47 record shall be closed within 60 days of the filing of the motion, or in the
48 case of an appeal pursuant to subdivisions (1) and (3) of this subsection,
49 within 60 days of the filing of the appeal, unless the parties agree otherwise
50 or the Commission so orders. Transcripts of depositions shall be expedited if
51 necessary and paid pursuant to rules promulgated by the Commission related

1 to depositions and shall be submitted electronically to the Commission. The
2 Commission shall decide the issue in dispute and make findings of fact
3 based upon the preponderance of the evidence in view of the entire record.
4 The award, together with a statement of the findings of fact, rulings of law,
5 and other matters pertinent to the questions at issue shall be filed with the
6 record of the proceedings within 15 days of the close of the hearing record,
7 and a copy of the award shall immediately be sent to the parties. Either party
8 may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84
9 to the Full Commission pursuant to G.S. 97-85. The decision of the Deputy
10 Commissioner pursuant to G.S. 97-84 shall not be stayed during the
11 pendency of an appeal except under those circumstances set out in
12 subdivision (4) of this subsection. A motion to stay the decision of the
13 Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair
14 of the Commission. The Full Commission shall render a decision on the
15 appeal of the Deputy Commissioner's decision on the motion within 60 days
16 of the filing of the notice of appeal.

17 (3) An emergency medical motion filed by either party shall be filed with the
18 Office of the Chief Deputy Commissioner. The Chief Deputy or Chief
19 Deputy's designee shall rule on the motion within five days of receipt unless
20 the Chief Deputy or Chief Deputy's designee determines that the motion is
21 not an emergency, in which case the motion shall be referred to the
22 Executive Secretary for an administrative ruling pursuant to subdivision (1)
23 of this subsection. Motions requesting emergency medical relief shall
24 contain all of the following:

25 (1)a. An explanation of the medical diagnosis and treatment
26 recommendation of the health care provider that requires emergency
27 attention.

28 (2)b. A specific statement detailing the time-sensitive nature of the request
29 to include relevant dates and the potential for adverse consequences
30 to the ~~employee-movant~~ if the recommended ~~treatment-relief~~ is not
31 provided emergently.

32 (3)c. An explanation of opinions known and in the possession of the
33 ~~employee-movant~~ of additional medical or other relevant experts,
34 independent medical examiners, and second opinion examiners.

35 (4)d. Documentation known and in the possession of the ~~employee-movant~~
36 in support of the request, including relevant medical records.

37 (5)e. A representation that informal means of resolving the issue have
38 been attempted.

39 Either party may appeal the decision of the Chief Deputy or the Chief
40 Deputy's designee on the emergency motion by requesting an expedited
41 formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection
42 to appeal the administrative decision of the Chief Deputy or the Chief
43 Deputy's designee on the emergency motion. Within five days of the filing
44 of a request for an expedited formal hearing pursuant to G.S. 97-84 and
45 subdivision (2) of this subsection, the Commission shall assign a Deputy
46 Commissioner to conduct the formal hearing. The decision of the Chief
47 Deputy or the Chief Deputy's designee shall not be stayed during the
48 pendency of an appeal of the administrative decision except under those
49 circumstances set out in subdivision (4) of this subsection. Any motion to
50 stay shall be filed with the Deputy Commissioner scheduled to conduct the
51 expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this

1 subsection. Either party may appeal the decision of the Deputy
2 Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to
3 G.S. 97-85. If so, the decision of the Deputy Commissioner shall not be
4 stayed during the pendency of an appeal except under those circumstances
5 set out in subdivision (4) of this subsection. Any motion to stay the decision
6 of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the
7 Chair of the Commission. The Full Commission shall render a decision on
8 the appeal of the Deputy Commissioner's decision on the motion within 60
9 days of the filing of the notice of appeal.

10 (4) The Commission shall consider, among other factors, all of the following
11 when determining whether to grant a motion to stay filed pursuant to this
12 subsection:

- 13 a. Whether there would be immediate and irreparable injury, harm, loss,
14 or damage to either party.
15 b. The nature and cost of the medical relief sought.
16 c. The risk for further injury or disability to the employee inherent in
17 the treatment or its delay.
18 d. Whether it has been recommended by an authorized physician.
19 e. Whether alternative therapeutic modalities are available and
20 reasonable.

21 (5) If the Commission determines that any party has acted unreasonably by
22 initiating or objecting to a motion filed pursuant to this section, the
23 Commission may assess costs associated with any proceeding, including any
24 reasonable attorneys' fees and deposition costs, against the offending party."

25 **SECTION 5.** G.S. 97-78(g)(2) reads as rewritten:

26 "(2) The total number of requests for, and disputes involving, medical
27 compensation under G.S. 97-25 in which final disposition was not made
28 within 45-75 days of the filing of the motion with the Commission, and, for
29 each such request or dispute, the date the motion or other initial pleading
30 was filed, the date on which final disposition was made and, where
31 reasonably ascertainable, the date on which any ordered medical treatment
32 was actually provided."

33 **SECTION 6.** The Industrial Commission shall adopt rules to replace the rules
34 disapproved by Sections 1, 2, and 3 of this act, in accordance with the following directions:

35 (1) With regard to 04 NCAC 10A .0605 (Discovery), the Commission shall
36 amend subsection (6) of the rule by deleting the following sentence: "Until a
37 matter is calendared for a hearing, parties may serve requests for production
38 of documents without leave of the Commission" and by inserting the
39 following sentence: "The parties may serve requests for production of
40 documents without leave of the Commission until 35 days prior to the date
41 of hearing"; and by changing the word "shall" to "may" in subsection (7) of
42 the rule.

43 (2) With regard to 04 NCAC 10A .0609A (Medical Motions and Emergency
44 Medical Motions), the Commission shall amend subsection (a) of the rule by
45 adding the word "either" between the word "before" and "the"; adding the
46 phrase "or the Executive Secretary" after the word "Commissioner";
47 changing the word "simultaneously" to "contemporaneously"; and changing
48 the word "and" that appears between the words "party" and "opposing" to
49 "or". Subsection (b) of the rule shall be amended by deleting the phrase
50 "Once notification has been received by the parties that a medical motion has
51 been assigned to a Deputy Commissioner, subsequent"; adding the word

1 "Subsequent" before the word "filings"; adding the word "electronically"
2 between the words "submitted" and "directly"; and adding the phrase "either
3 the Executive Secretary or" between the words "to" and "the". The
4 Commission shall amend subsection (c) of the rule by deleting the sentence
5 "Upon receipt of a medical motion, carriers, third-party administrators, and
6 employers shall immediately send notification of the name, email address,
7 telephone number and fax number of the attorney appearing on their behalf
8 to medicalmotions@ic.nc.gov." and deleting the word "also" from the
9 subsection. The Commission shall amend subsection (d)(2) of the rule by
10 substituting the word "employee" for the word "claimant" throughout. The
11 Commission shall amend subsection (d)(6) of the rule by substituting the
12 following phrase "if an attorney has been retained for the employer or
13 carrier, the attorney's" for the phrase "the counsel for employer and
14 carrier's." The Commission shall amend subsection (d)(8) of the rule by
15 adding the word "the" between the words "of" and "claimant"; by
16 substituting the word "employee" for "claimant"; by deleting the phrase "and
17 the treatment recommendation"; by adding the word "the" between the
18 words "and" and "name"; and by substituting the word "any" for the word
19 "the" that appears between the words "of" and "health". The Commission
20 shall add the phrase ", if any" after the word "request" in subsection (d)(10)
21 of the rule. The Commission shall amend subsection (d)(11) of the rule by
22 substituting the word "movant" for the word "employee"; and by substituting
23 the phrase "of additional medical or other" with the phrase "by any". In
24 subsection (d)(12) of the rule, the Commission shall substitute the word
25 "employee" for "plaintiff". The Commission shall substitute the word
26 "employee" for the word "claimant" throughout subsection (e)(2) of the rule.
27 The Commission shall amend subsection (e)(3) of the rule by adding the
28 phrase ", if known" after the word "code". The Commission shall amend
29 subsection (e)(8) of the rule by substituting the word "relief" for the word
30 "treatment". The Commission shall amend subsection (e)(9) of the rule by
31 substituting the word "movant" for the word "employee"; and substituting
32 the phrase "of additional medical or other" with the phrase "by any". The
33 Commission shall amend subsection (e)(11) of the rule by substituting the
34 word "documents" for the word "documentation"; and substituting the phrase
35 "employee in support of" with the phrase "movant relevant to". The
36 Commission shall amend the rule by deleting subsections (f), (g), and (i) of
37 the rule; former subsection (j) of the rule shall become new subsection (f) of
38 the rule; former subsection (k) of the rule shall become new subsection (i) of
39 the rule. The Commission shall amend subsection (h) of the rule by deleting
40 the phrase "deemed necessary by the Deputy Commissioner"; by adding the
41 phrase "pursuant to G.S. 97-25" between the words "order" and "within";
42 and by deleting the phrase "within 35 days of the date the motion is filed.
43 Transcripts of depositions shall be submitted electronically to the
44 Commission within 40 days of the date of the filing of the motion"; and by
45 adding the phrase "or upon agreement of the parties" after the phrase "for
46 good cause shown". The Commission shall amend the rule by adding a new
47 subsection (g) that shall read as follows: "(g) A party may appeal an order of
48 the Executive Secretary on a motion brought pursuant to G.S. 97-25(f)(1) or
49 receipt of a ruling on a motion to reconsider filed pursuant to Rule .0702(b)
50 of the Subchapter by giving notice of appeal to the Docket Section within 15
51 calendar days. A letter expressing an intent to appeal a decision of the

1 Executive Secretary shall be considered a request for an expedited hearing
2 pursuant to G.S. 97-25 and G.S. 97-84. The letter shall specifically identify
3 the order from which appeal is taken. After receipt of a notice of appeal, the
4 appeal shall be assigned to a Deputy Commissioner by the Docket Section,
5 and an order under the name of the Deputy Commissioner to which the
6 appeal is assigned shall be issued within three days of receipt of the notice of
7 appeal." The Commission shall amend the rule by adding a new subsection
8 (j) that shall read as follows: "(j) A party may appeal the administrative
9 decision of the Chief Deputy or the Chief Deputy's designee filed pursuant to
10 G.S. 97-25(f)(3) by giving notice of appeal to the Docket Section within 15
11 calendar days of receipt of the Order. A letter expressing an intent to appeal
12 the Chair or the Chair's designee's Order filed pursuant to G.S. 97-25(f)(3)
13 shall be considered a notice of appeal, provided that the letter specifically
14 identifies the Order from which appeal is taken. After receipt of notice of
15 appeal, the appeal shall be acknowledged by the Docket Section within three
16 days by sending an Order under the name of the Deputy Commissioner to
17 which the appeal is assigned. The appeal of the administrative decision of
18 the Chair or the Chair's designee shall be subject to G.S. 97-25(f)(2) and
19 G.S. 97-84." The Commission shall amend new subsection (i) of the rule by
20 substituting the phrase "the decision of a Deputy Commissioner, Chief
21 Deputy, or Chief Deputy's designee filed" for the phrase "a Deputy
22 Commissioner's Order on a motion brought"; by adding the phrase "(f)(2)"
23 between the words "G.S. 97-25" and "by"; by deleting the phrase "or receipt
24 of the ruling on a Motion to Reconsider the Order filed pursuant to Rule
25 .0702(b) of this Subchapter"; by substituting the word "filed" for the phrase
26 "on a motion brought"; by substituting the phrase "briefs and set the
27 schedule for filing." for the phrase "briefs and the schedule for filing them.
28 At the time the motion is set for informal hearing, the Chair of the Panel
29 shall also indicate to the parties if oral arguments are to be by telephone, in
30 person, or waived."; and by adding "A Full Commission hearing on an
31 appeal of a medical motion filed pursuant to G.S. 97-25(f)(1), 97-25(f)(2),
32 and 97-25(f)(3) shall be held telephonically and shall not be recorded unless
33 unusual circumstances arise and the Commission so orders."

34 (3) With regard to 04 NCAC 10A .701 (Review by the Full Commission), the
35 Commission shall amend subsection (b) of the rule by inserting the
36 sentences "Parties represented by counsel shall sign a joint certification
37 acknowledging receipt of the Form 44 Application for Review and the
38 official transcript and exhibits and submit the certification within ten days of
39 receipt of the Form 44 Application for Review and the official transcript and
40 exhibits. The certification shall stipulate the date the Form 44 Application
41 for Review and the official transcript and exhibits were received by the
42 parties and shall note the date the appellant's brief is due." after the sentence
43 that reads "The e-mail shall also provide instructions for the submission of
44 the parties' acknowledgement of receipt of the Form 44 Application for
45 Review and the official transcript and exhibits to the Commission."

46 (4) With regard to 04 NCAC 10C .0109 (Vocational Rehabilitation Services and
47 Return to Work), the Commission shall amend subsection (b) of the rule by
48 deleting the phrase "only toward prospective employers offering the
49 opportunity for suitable employment". The Commission shall change the
50 word "shall" to "should" in subsection (c) of the rule. The Commission shall
51 change subsection (d)(3) of the rule by substituting the phrase "the likely

1 duration until completion of the requested retraining or education, the
2 number of credits needed to complete the retraining or education, the course
3 names and schedules for the retraining or education, and which courses are
4 available on-line versus in person" for the phrase "the likely duration until
5 completion of the requested retraining or education and the likely class
6 schedules, class attendance requirements, and out-of-class time required for
7 homework and study". The Commission shall substitute the phrase "initiate
8 or continue placement activities" for the phrase "place the worker in suitable
9 employment" within subsection (j) of the rule.

- 10 (5) With regard to 04 NCAC 10E .0202 (Hearing Costs), the Commission shall
11 amend subsection (a) of the rule to insert the following phrase "other than
12 workers' compensation cases" after the word "Commission" effective July 1,
13 2015. The Commission shall amend the rule by deleting the following
14 sentence from subsection (a) of the rule effective July 1, 2015: "In workers'
15 compensation cases, these fees shall be paid by the employer unless the
16 Commission orders otherwise, except as specified in subsection (2) above."
17 (6) With regard to 04 NCAC 10E .0203 (Fees Set by the Commission), the
18 Commission shall delete subsection (a)(2) of the rule effective July 1, 2015.
19 (7) With regard to 04 NCAC 10L .0101 (Form 21 – Agreement for
20 Compensation for Disability), 04 NCAC 10L .0102 (Form 26 –
21 Supplemental Agreement as to Payment of Compensation), and 04 NCAC
22 10L .0103 (Form 26A – Employer's Admission of Employee's Rights to
23 Permanent Partial Disability), the Commission shall delete any references to
24 fees for processing agreements and the party responsible for payment of fees
25 effective July 1, 2015.
26 (8) With regard to 04 NCAC 10A .0702 (REVIEW OF ADMINISTRATIVE
27 DECISIONS), the Commission shall amend the rule by striking subdivision
28 (3) from subsection (a); by renumbering existing subdivisions (a)(4) and
29 (a)(5) as new subdivisions (a)(3) and (a)(4) respectively; and by adding a
30 new subsection (e) that reads, "This rule shall not apply to medical motions
31 filed pursuant to G.S. 97-25; provided, however, that a party may request
32 reconsideration of an administrative ruling on a medical motion, or may
33 request a stay, or may request an evidentiary hearing de novo, all as set forth
34 in G.S. 97-25."

35 **SECTION 7.** Notwithstanding G.S. 150B-21.2, the Industrial Commission shall
36 adopt permanent rules in accordance with the provisions of this act using the procedure and
37 time lines for temporary rules set forth in G.S. 150B-21.1(a3). Rules adopted by the Industrial
38 Commission in accordance with this section shall be subject to review by the Rules Review
39 Commission as provided by G.S. 150B-21.1(b); provided, however, that if the rules are
40 approved by the Rules Review Commission, they shall become effective as provided by
41 G.S. 150B-21.3(b). Rules adopted pursuant to this section shall not be subject to
42 G.S. 150B-19.1(h) or G.S. 150B-21.4. The Industrial Commission shall consult with the Office
43 of Administrative Hearings to ensure that rules adopted in accordance with this section are
44 submitted to the Rules Review Commission in time to be eligible for legislative disapproval in
45 the 2015 Regular Session of the 2015 General Assembly. The rules of the Industrial
46 Commission that were in effect on the effective date of S.L. 2011-287 shall remain in effect
47 with regard to rules disapproved by Sections 1, 2, and 3 of this act until rules adopted to replace
48 the disapproved rules become effective pursuant to this section.

49 **SECTION 8.** This act is effective when it becomes law.