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SENATE BILL 794
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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, TO AMEND CERTAIN PROVISIONS OF THE WORKERS' COMPENSATION LAW; AND TO ALLOW THE CONFERENCE OF CHIEF DISTRICT JUDGES TO PRESCRIBE UNIFORM STATEWIDE PRESUMPTIVE GUIDELINES FOR THE COMPUTATION OF RETROACTIVE CHILD SUPPORT OBLIGATIONS.

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



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1 perform a second opinion examination, the employee may request that the Industrial
2 Commission order a second opinion examination. The expense thereof shall be borne by the
3 employer upon the same terms and conditions as provided in this section for medical
4 compensation.

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

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

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

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

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

1 shall render a decision on the motion within five days of the date transcripts are due to the
2 Commission.

3 (h) ~~If the Commission determines that a medical motion is an emergency, the~~
4 ~~Commission shall make a determination on the motion within five days of receipt by the~~
5 ~~Commission of the medical motion. Motions requesting emergency medical relief shall contain~~
6 ~~the following:~~a motion as set forth in this subsection regarding a request for medical
7 compensation or a dispute involving medical issues. The nonmoving party shall have the right
8 to contest the motion. Motions and responses shall be submitted contemporaneously via
9 electronic mail to the Commission and to the opposing party or the opposing party's attorney.

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

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

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

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

30 ~~(1)~~a. An explanation of the medical diagnosis and treatment
31 recommendation of the health care provider that requires emergency
32 attention.

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

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

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

42 ~~(5)~~e. A representation that informal means of resolving the issue have
43 been attempted.

44 Either party may appeal the decision of the Chief Deputy or the Chief
45 Deputy's designee on the emergency motion by requesting an expedited
46 formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection
47 to appeal the administrative decision of the Chief Deputy or the Chief
48 Deputy's designee on the emergency motion. Within five days of the filing
49 of a request for an expedited formal hearing pursuant to G.S. 97-84 and
50 subdivision (2) of this subsection, the Commission shall assign a Deputy
51 Commissioner to conduct the formal hearing. The decision of the Chief

Deputy or the Chief Deputy's designee shall not be stayed during the pendency of an appeal of the administrative decision except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay shall be filed with the Deputy Commissioner scheduled to conduct the expedited formal hearing pursuant to G.S. 97-84 and subdivision (2) of this subsection. Either party may appeal the decision of the Deputy Commissioner pursuant to G.S. 97-84 to the Full Commission pursuant to G.S. 97-85. If so, the decision of the Deputy Commissioner shall not be stayed during the pendency of an appeal except under those circumstances set out in subdivision (4) of this subsection. Any motion to stay the decision of the Deputy Commissioner pursuant to G.S. 97-84 shall be directed to the Chair of the Commission. The Full Commission shall render a decision on the appeal of the Deputy Commissioner's decision on the motion within 60 days of the filing of the notice of appeal.

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

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

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

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

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

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

- (1) With regard to 04 NCAC 10A .0605 (Discovery), the Commission shall amend subsection (6) of the rule by deleting the following sentence: "Until a matter is calendared for a hearing, parties may serve requests for production of documents without leave of the Commission" and by inserting the following sentence: "The parties may serve requests for production of documents without leave of the Commission until 35 days prior to the date of hearing"; and by changing the word "shall" to "may" in subsection (7) of the rule.
- (2) With regard to 04 NCAC 10A .0609A (Medical Motions and Emergency Medical Motions), the Commission shall amend subsection (a) of the rule by adding the word "either" between the word "before" and "the"; adding the phrase "or the Executive Secretary" after the word "Commissioner";

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

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

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

- 1 (4) With regard to 04 NCAC 10C .0109 (Vocational Rehabilitation Services and
2 Return to Work), the Commission shall amend subsection (b) of the rule by
3 deleting the phrase "only toward prospective employers offering the
4 opportunity for suitable employment". The Commission shall change the
5 word "shall" to "should" in subsection (c) of the rule. The Commission shall
6 change subsection (d)(3) of the rule by substituting the phrase "the likely
7 duration until completion of the requested retraining or education, the
8 number of credits needed to complete the retraining or education, the course
9 names and schedules for the retraining or education, and which courses are
10 available on-line versus in person" for the phrase "the likely duration until
11 completion of the requested retraining or education and the likely class
12 schedules, class attendance requirements, and out-of-class time required for
13 homework and study". The Commission shall substitute the phrase "initiate
14 or continue placement activities" for the phrase "place the worker in suitable
15 employment" within subsection (j) of the rule.
- 16 (5) With regard to 04 NCAC 10E .0202 (Hearing Costs), the Commission shall
17 amend subsection (a) of the rule to insert the following phrase "other than
18 workers' compensation cases" after the word "Commission" effective July 1,
19 2015. The Commission shall amend the rule by deleting the following
20 sentence from subsection (a) of the rule effective July 1, 2015: "In workers'
21 compensation cases, these fees shall be paid by the employer unless the
22 Commission orders otherwise, except as specified in subsection (2) above."
- 23 (6) With regard to 04 NCAC 10E .0203 (Fees Set by the Commission), the
24 Commission shall delete subsection (a)(2) of the rule effective July 1, 2015.
- 25 (7) With regard to 04 NCAC 10L .0101 (Form 21 – Agreement for
26 Compensation for Disability), 04 NCAC 10L .0102 (Form 26 –
27 Supplemental Agreement as to Payment of Compensation), and 04 NCAC
28 10L .0103 (Form 26A – Employer's Admission of Employee's Rights to
29 Permanent Partial Disability), the Commission shall delete any references to
30 fees for processing agreements and the party responsible for payment of fees
31 effective July 1, 2015.
- 32 (8) With regard to 04 NCAC 10A .0702 (REVIEW OF ADMINISTRATIVE
33 DECISIONS), the Commission shall amend the rule by striking subdivision
34 (3) from subsection (a); by renumbering existing subdivisions (a)(4) and
35 (a)(5) as new subdivisions (a)(3) and (a)(4) respectively; and by adding a
36 new subsection (e) that reads, "This rule shall not apply to medical motions
37 filed pursuant to G.S. 97-25; provided, however, that a party may request
38 reconsideration of an administrative ruling on a medical motion, or may
39 request a stay, or may request an evidentiary hearing de novo, all as set forth
40 in G.S. 97-25."

41 **SECTION 7.** Notwithstanding G.S. 150B-21.2, the Industrial Commission shall
42 adopt permanent rules in accordance with the provisions of this act using the procedure and
43 time lines for temporary rules set forth in G.S. 150B-21.1(a3). Rules adopted by the Industrial
44 Commission in accordance with this section shall be subject to review by the Rules Review
45 Commission as provided by G.S. 150B-21.1(b); provided, however, that if the rules are
46 approved by the Rules Review Commission, they shall become effective as provided by
47 G.S. 150B-21.3(b). Rules adopted pursuant to this section shall not be subject to
48 G.S. 150B-19.1(h) or G.S. 150B-21.4. The Industrial Commission shall consult with the Office
49 of Administrative Hearings to ensure that rules adopted in accordance with this section are
50 submitted to the Rules Review Commission in time to be eligible for legislative disapproval in
51 the 2015 Regular Session of the 2015 General Assembly. The rules of the Industrial

1 Commission that were in effect on the effective date of S.L. 2011-287 shall remain in effect
2 with regard to rules disapproved by Sections 1, 2, and 3 of this act until rules adopted to replace
3 the disapproved rules become effective pursuant to this section.

4 **SECTION 8.** G.S. 50-13.4(c1) reads as rewritten:

5 "(c1) Effective July 1, 1990, the Conference of Chief District Judges shall prescribe
6 uniform statewide presumptive guidelines for the computation of child support ~~obligations~~
7 obligations, including retroactive support obligations, of each parent as provided in Chapter 50
8 or elsewhere in the General Statutes and shall develop criteria for determining when, in a
9 particular case, application of the guidelines would be unjust or inappropriate. Prior to May 1,
10 1990 these guidelines and criteria shall be reported to the General Assembly by the
11 Administrative Office of the Courts by delivering copies to the President Pro Tempore of the
12 Senate and the Speaker of the House of Representatives. The purpose of the guidelines and
13 criteria shall be to ensure that payments ordered for the support of a minor child are in such
14 amount as to meet the reasonable needs of the child for health, education, and maintenance,
15 having due regard to the estates, earnings, conditions, accustomed standard of living of the
16 child and the parties, the child care and homemaker contributions of each party, and other facts
17 of the particular case. The guidelines shall include a procedure for setting child support, if any,
18 in a joint or shared custody arrangement which shall reflect the other statutory requirements
19 herein.

20 Periodically, but at least once every four years, the Conference of Chief District Judges
21 shall review the guidelines to determine whether their application results in appropriate child
22 support award amounts. The Conference may modify the guidelines accordingly. The
23 Conference shall give the Department of Health and Human Services, the Administrative
24 Office of the Courts, and the general public an opportunity to provide the Conference with
25 information relevant to the development and review of the guidelines. Any modifications of the
26 guidelines or criteria shall be reported to the General Assembly by the Administrative Office of
27 the Courts before they become effective by delivering copies to the President Pro Tempore of
28 the Senate and the Speaker of the House of Representatives. The guidelines, when adopted or
29 modified, shall be provided to the Department of Health and Human Services and the
30 Administrative Office of the Courts, which shall disseminate them to the public through local
31 IV-D offices, clerks of court, and the media.

32 Until July 1, 1990, the advisory guidelines adopted by the Conference of Chief District
33 Judges pursuant to this subsection as formerly written shall operate as presumptive guidelines
34 and the factors adopted by the Conference of Chief District Judges pursuant to this subsection
35 as formerly written shall constitute criteria for varying from the amount of support determined
36 by the guidelines."

37 **SECTION 9.** This act is effective when it becomes law.