

21 NCAC 32K .0209 is proposed for adoption as follows:

21 NCAC 32K .0209 REVIEW COMMITTEE

(a) A Review Committee is created for Participants to request reconsideration of PHP staff findings and recommendations in the following areas:

(1) General nature of diagnosis;

(2) Need for additional assessment beyond PHP;

(3) Need for treatment;

(4) Need for monitoring by PHP;

(5) Closure of file or loss of PHP advocacy;

(b) The Review Committee shall have three primary members and three alternate members. The PHP Executive Committee will nominate all potential members. The PHP Board of Directors shall appoint members to the Review Committee. Review Committee members shall not be current members of the PHP Compliance Committee, the PHP Board of Directors, or the North Carolina Medical Board, nor shall they have served in those organizations within two years of their appointment to the Review Committee.

(c) Two primary Review Committee members shall be clinicians, including one physician and one person with relevant clinical experience with substance use disorders. One Review Committee member, either primary or alternate, shall be a physician assistant.

(d) A Participant who wishes to challenge one of the matters included in subsection (a) of this Rule must deliver to the Chair of the Board of Directors a written request for review of the matter within ten days of being notified of the matter giving rise to the disagreement. Prior to the Review Committee considering the request, the Participant must:

(1) Sign a release allowing PHP staff to share all information with Review Committee members;

(2) Agree to abide by the finding of the Review Committee;

(3) Agree that all decisions by the Review Committee are final; and

(4) Sign a form releasing PHP and the Review Committee from legal liability for activities conducted in good faith consistent with the provisions of N.C. Gen. Stat. § 90-21.22(f).

(e) At any time prior to the Review Committee undertaking the request for reconsideration, the Participant and PHP staff are encouraged, but not required, to attempt to resolve the disagreement prior to the Review Committee meeting.

(f) The Chair of the Board of Directors shall empanel the three primary members of the Review Committee to act on the request for reconsideration. In the event one or more primary members are not available, the Chair of the Board of Directors shall select from the alternate members to constitute a panel of three members.

1 (g) The three-member panel of the Review Committee (“panel”) shall meet and the Participant and Program staff
2 shall appear via teleconference within 30 days after receipt of the written request for reconsideration.

3 (1) At least five days prior to the teleconference meeting, Program staff and the Participant shall furnish to
4 each other and to the panel any materials they believe are relevant for the panel to consider. However, information
5 provided to the Program from the Board regarding a Participant shall be provided pursuant to N.C. Gen. Stat. § 90-16(c),
6 and such information, including reports of investigation and attachments thereto, shall remain confidential and shall not
7 be provided to the Participant.

8 (2) The teleconference shall last no more than one hour.

9 (3) If the Participant is a physician assistant, a physician assistant member of the Review Committee must
10 be included in the panel.

11 (4) The panel, Participant and Program staff shall announce the names of all persons present on the phone
12 call prior to the teleconference commencing. The Participant shall be allowed not less than 15 minutes to make a
13 presentation followed by questions of the Participant and Program staff by panel members. A Participant is permitted to
14 be represented by counsel, and that counsel may participate in the meeting. The Review Committee process is not a
15 legal or quasi-judicial proceeding and is not governed by the Rules of Evidence, Rules of Civil Procedure or the
16 Administrative Procedures Act. Neither Participant nor Program staff has any right to question or otherwise examine
17 Program staff or Participant. Neither Participant nor Program staff have any right to question or otherwise examine
18 panel members.

19 (5) After the presentation and questioning, the panel members shall discuss the request for
20 reconsideration without the presence of the Participant or Program staff. After completing the discussion, the panel
21 shall announce its decision.

22 (6) The panel shall choose among the assessment, treatment and monitoring options provided by
23 Program staff and the Participant. The panel shall not consider options for assessment, treatment, or monitoring that
24 have not been previously considered by Program staff or the Participant unless significant new information is provided
25 to the panel.

26 (7) The panel shall reduce its decision to writing and provide a copy of its written decision to the
27 Participant and Program staff within five business days.

28 (8) The panel’s decision is binding upon the Program and the Participant.

29 (9) The Program staff shall make an official recording of the teleconference meeting and preserve the
30 recording. The Participant is allowed to make a recording of the meeting.

31 (h) After completion of the review, new or additional review requests may be made by the Participant only if there
32 are new findings or recommendations by PHP regarding the Participant.

1

2 *History Note:* *Authority G.S. 90-21.22;*