

- 
- MENTAL HEALTH
  - DEVELOPMENTAL  
DISABILITIES &
  - SUBSTANCE  
ABUSE

**NORTH CAROLINA**

**COUNCIL OF**

**COMMUNITY PROGRAMS**

<p><u>Status of Council Action:</u> <i>Developed by Rules Workgroup</i> <i>4/13/07: Endorsed by Area Directors Forum</i> <i>6/5/07: Adopted by Council Board of Directors</i></p>
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**Position Paper: Rulemaking Authority**

**Council Position:**

The NC Council membership supports all MH/DD/SA rules being promulgated by the Commission on MH/DD/SAS unless statute specifies that it will be done under the purview of the Secretary.

**Points about the Commission:**

1. The process used by the Commission on MH/DD/SAS ensures balanced consideration of local and State perspectives on issues.
2. The Commission membership consists of stakeholders from all perspectives.
3. The Commission's process allows for open dialogue amongst stakeholders that:
  - increases the opportunity to better understand all perspectives;
  - encourages compromises that serve the greater good; and
  - results in rules that are satisfactory to all.

**Issues with the Current Process:**

1. There is no clear way of determining when a rule falls under the purview of the Commission or the Secretary.
2. Although there is opportunity to give input into Secretary rules through the Commission, the dialogue is not necessarily with the State staff who can affect a change in the proposed rules.
3. Out of eight proposed rules since January 2007, only three have been designated as Commission rules.

4. Some of the proposed rules that are being processed are based on the original mental health reform legislation that was passed in 2001. Without rules in place, State policy has been the only standard for many aspects of the service delivery system.

**Recommendations:**

- Establish an independent staff position solely responsible for assisting the Commission on MH/DD/SA Services.
- Set a timeframe by which rules must be promulgated or the rules process must begin after legislation is passed.
- Specify in all new statute the rulemaking authority.