

DHHS Directive Number II-4

Title: Delegation of Authority to the Director, Office of General Counsel
Current Effective Date: November 3, 2008
Revision History: January 1, 2002; January 1, 2005
Authority: G.S. 143B-10

Purpose

The purpose of this directive is to delegate, clarify and specifically confirm certain authorities of the Secretary of the North Carolina Department of Health and Human Services (NC DHHS) to the Department's General Counsel who shall serve as the Director of the Office of General Counsel. The Office of General Counsel shall carry out certain monitoring functions related to legal activities affecting the department. This position shall report directly to the Secretary of the Department.

Delegation of Authority

As provided in G.S. 143B-10(a), the Secretary of the DHHS delegates the following functions and responsibilities concerning the management and administration to the Director of the Office of General Counsel, subject to state and departmental policy:

1. The functions of management, related to the Office of General Counsel, as defined in G.S. 143B-10 which include: planning, organizing, staffing, directing, coordinating, evaluating, reporting and budgeting.
2. The management and rulemaking authority to develop and carry out programs, including, but not limited to:
 - A. Monitoring, processing, approval of all departmental directives and the procedures under which they are adopted as described in DHHS Directive #1;
 - B. Monitoring the legal actions affecting the department;
 - C. Monitoring, processing, and approval of all rules contained in Title 10 of the NC Administrative Code and the procedures under which they are adopted;
 - D. Initial processing and monitoring of all contested cases wherein the department is a named party;

- E. Monitoring, processing, and approval of departmental requests for Attorney General opinions;
 - F. Monitoring, processing and approval of all departmental requests for Executive Orders before submission to the Governor's Office for the Governor's signature;
 - G. Rulemaking, for all rules adopted under the Secretary's authority except where that authority has been specifically delegated to a Division Director; and
 - H. Contested Case Proceedings, for all contested cases in which final decision-making authority rests with the Secretary, except where that authority has been specifically delegated to a Division Director, Board or Commission.
3. Management and oversight of the Equal Employment Opportunity Office, including the direct supervision of the Director of the Equal Employment Opportunity Office.
 4. Serve as departmental liaison with the Attorney General and Office of Administrative Hearings and shall provide legal advice, support and supervision to the divisions. All departmental requests for Attorney General Opinions shall be forwarded to the Secretary by the General Counsel in the format established by the General Counsel and outlined in the department's policy and procedures manual.
 5. Serve as Chair of the Audit Review Committee.

This delegation of authority shall not deprive the Secretary from performing, in lieu of the Director of the Office of General Counsel, any of the acts set forth above. This delegation of authority may be amended or withdrawn by the Secretary at any time and without notice. This delegation of authority shall not apply to any actions which by law, state policy, or Governor's Executive Order, may only be executed by the Secretary.

APPROVED

Dempsey Benton, Secretary
Department of Health and Human Services