

§ 58-44-100. Conduct of the mediation conference.

(a) The Commissioner may adopt rules, in addition to the provisions of this section and that are not in conflict with G.S. 7A-38.1 or the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions adopted by the Supreme Court of North Carolina pursuant to G.S. 7A-38.1 and G.S. 7A-38.2, for the conduct of mediation conferences under this Part. The rules adopted by the Commissioner shall include a requirement of the mediator to advise the parties of the mediation process and their rights and duties in the process.

(b) Repealed by Session Laws 2007-300, s. 4, effective October 1, 2007, and applicable to policies issued or renewed on or after that date.

(c) The mediator shall terminate the negotiations if the mediator determines that either party is unable or unwilling to participate meaningfully in the process or upon mutual agreement of the parties.

(d) Repealed by Session Laws 2007-300, s. 4, effective October 1, 2007, and applicable to policies issued or renewed on or after that date.

(e) The representative of the insurer attending the conference shall:

- (1) Bring, in paper or electronic medium, a copy of the policy and the entire claims file to the conference.
- (2) Know the facts and circumstances of the claim and be knowledgeable of the provisions of the policy.

(f) An insurer will be deemed to have failed to appear if the insurer's representative lacks authority to settle within the limits of the policy.

(g) The mediator shall be in charge of the conference and shall establish and describe the procedures to be followed. The mediator shall conduct the conference in accordance with the Standards of Professional Conduct for Mediators adopted by the Supreme Court of North Carolina and, where not inconsistent, with the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions adopted by the Supreme Court of North Carolina pursuant to G.S. 7A-38.1 and G.S. 7A-38.2. The Commissioner may refer any matter regarding the conduct of any mediator to the North Carolina Dispute Resolution Commission.

(h) All statements made and documents produced at a settlement conference shall be deemed settlement negotiations in anticipation of litigation. The provisions of G.S. 7A-38.1(j), (l), and (m) apply and are incorporated into this Part by reference. If the Commissioner or an employee or designee of the Commissioner attends a settlement conference, the Commissioner, employee, or designee shall not be compelled to testify about what transpired at the settlement conference or about any other matter in connection with the settlement conference.

(i) A party may move to disqualify a mediator for good cause at any time. The request shall be directed to the Administrator if the grounds are known before the mediation conference. Good cause consists of conflict of interest between a party and the mediator, inability of the mediator to handle the conference competently, or other reasons that would reasonably be expected to impair the conference. (2006-145, s. 1; 2007-300, s. 4.)