

NORTH CAROLINA REGISTER

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September 17, 2018

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NORTH CAROLINA REGISTER
 Publication Schedule for January 2018 – December 2018

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
32:13	01/02/18	12/06/17	01/17/18	03/05/18	03/20/18	04/19/18	05/01/18	09/29/18
32:14	01/16/18	12/19/17	01/31/18	03/19/18	03/20/18	04/19/18	05/01/18	10/13/18
32:15	02/01/18	01/10/18	02/16/18	04/02/18	04/20/18	05/17/18	06/01/18	10/29/18
32:16	02/15/18	01/25/18	03/02/18	04/16/18	04/20/18	05/17/18	06/01/18	11/12/18
32:17	03/01/18	02/08/18	03/16/18	04/30/18	05/21/18	06/21/18	07/01/18	11/26/18
32:18	03/15/18	02/22/18	03/30/18	05/14/18	05/21/18	06/21/18	07/01/18	12/10/18
32:19	04/02/18	03/09/18	04/17/18	06/01/18	06/20/18	07/19/18	08/01/18	12/28/18
32:20	04/16/18	03/23/18	05/01/18	06/15/18	06/20/18	07/19/18	08/01/18	01/11/19
32:21	05/01/18	04/10/18	05/16/18	07/02/18	07/20/18	08/16/18	09/01/18	01/26/19
32:22	05/15/18	04/24/18	05/30/18	07/16/18	07/20/18	08/16/18	09/01/18	02/09/19
32:23	06/01/18	05/10/18	06/16/18	07/31/18	08/20/18	09/20/18	10/01/18	02/26/19
32:24	06/15/18	05/24/18	06/30/18	08/14/18	08/20/18	09/20/18	10/01/18	03/12/19
33:01	07/02/18	06/11/18	07/17/18	08/31/18	09/20/18	10/18/18	11/01/18	03/29/19
33:02	07/16/18	06/22/18	07/31/18	09/14/18	09/20/18	10/18/18	11/01/18	04/12/19
33:03	08/01/18	07/11/18	08/16/18	10/01/18	10/22/18	11/15/18	12/01/18	04/28/19
33:04	08/15/18	07/25/18	08/30/18	10/15/18	10/22/18	11/15/18	12/01/18	05/12/19
33:05	09/04/18	08/13/18	09/19/18	11/05/18	11/20/18	12/13/18	01/01/19	06/01/19
33:06	09/17/18	08/24/18	10/02/18	11/16/18	11/20/18	12/13/18	01/01/19	06/14/19
33:07	10/01/18	09/10/18	10/16/18	11/30/18	12/20/18	01/17/19	02/01/19	06/28/19
33:08	10/15/18	09/24/18	10/30/18	12/14/18	12/20/18	01/17/19	02/01/19	07/12/19
33:09	11/01/18	10/11/18	11/16/18	12/31/18	01/22/19	02/21/19	03/01/19	07/29/19
33:10	11/15/18	10/24/18	11/30/18	01/14/19	01/22/19	02/21/19	03/01/19	08/12/19
33:11	12/03/18	11/07/18	12/18/18	02/01/19	02/20/19	03/21/19	04/01/19	08/30/19
33:12	12/17/18	11/26/18	01/01/19	02/15/19	02/20/19	03/21/19	04/01/19	09/13/19

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services intends to readopt without substantive changes the rules cited as 10A NCAC 26D .1104, .1105, .1202, .1203, .1204, .1206.

Pursuant to G.S. 150B-21.2(c)(1), the text of rules to be readopted without substantive changes are not required to be published. The text of the rules is available on the OAH website: http://reports.oah.nc.us/ncac.asp.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.ncdhhs.gov/divisions/mhddsas/councils-commissions/rulemakingprocess/proposedrules

Proposed Effective Date: January 1, 2019

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): An agency must hold a public hearing on a rule it proposes to adopt if the agency publishes the text of the proposed rule in the North Carolina Register and the agency receives a written request for a public hearing on the proposed rule within 15 days after the notice of text is published. A request for a public hearing must be submitted in writing to dmhddsasrules@dhhs.nc.gov.

Reason for Proposed Action: These rules must be readopted per the requirements of G.S. 150B-21.3A as they were determined necessary with substantive public interest during the periodic review process.

Comments may be submitted to: W. Denise Baker, 3001 Mail Service Center, Raleigh, NC 27699-3001; email dmhddsasrules@dhhs.nc.gov

Comment period ends: November 16, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery

service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
Local funds affected
Substantial economic impact (≥\$1,000,000)
Approved by OSBM
No fiscal note required by G.S. 150B-21.4
No fiscal note required by G.S. 150B-21.3A(d)(2)

CHAPTER 26 - MENTAL HEALTH, GENERAL

SUBCHAPTER 26D - NORTH CAROLINA DEPARTMENT OF CORRECTION: STANDARDS FOR MENTAL HEALTH AND MENTAL RETARDATION

SECTION .1100 – MEDICATION SERVICES

10A NCAC 26D .1104 INVOLUNTARY ADMINISTRATION OF PSYCHOTROPIC MEDICATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 26D .1105 PSYCHOTROPIC MEDICATION EDUCATION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .1200 - PROTECTIONS REGARDING CERTAIN PROCEDURES

10A NCAC 26D .1202 USE OF SECLUSION (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 26D .1203 USE OF RESTRAINT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 26D .1204 PROTECTIVE DEVICES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

10A NCAC 26D .1206 INVOLUNTARY REFERRALS AND TRANSFERS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to adopt the rule cited as 10A NCAC 67A .0301.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www2.ncdhhs.gov/dss/sscommission/index.htm>

Proposed Effective Date: March 1, 2019

Public Hearing:

Date: November 14, 2018

Time: 10:00 a.m.

Location: NC Department of Social Services, 820 Boylan Avenue, McBryde Building 1st Floor, Room 151, Raleigh, NC 27603

Reason for Proposed Action: Session Law 2017-41 requires that the Social Services Commission shall adopt rules governing the obligations of counties to contribute financially to regional social services departments in accordance with G.S. 108A-15.3A(e).

NC Session Law 2017-41 (House Bill 630), Rylan's Law/Family/Child Protection and Accountability Act requires the Department of Health and Human Services (DHHS) to establish a regional system for supervision of county departments of social services to improve accountability and state oversight of social services programs. Specific emphasis is placed upon improving outcomes for families and children involved with child welfare services. Recent federal and statewide reviews have identified troubling gaps and flaws in North Carolina's child welfare system that place children's safety at risk and transforming the child welfare systems is necessary to better ensure the safety, permanency, and well-being of children and families. The evaluations of the child welfare system have concluded that counties require performance improvement in several areas.

Additionally, county social services agencies are facing significant resource and administration challenges in areas other than child welfare, such as public assistance and adult services, and are not meeting standards for timeliness and accuracy.

Among a host of other provisions to improve child welfare and other social services programs, Rylan's Law gives counties authority to voluntarily consolidate programs or whole departments of social services. If one or more counties choose to consolidate, this option creates a regional department of social services (RDSS). Pursuant to N.C.G.S. 108A-15.3A(a), "a regional social services department, including more than one county, may be formed upon agreement of the county boards of commissioners and, if applicable, either the county board of social services or consolidated human services board having jurisdiction over each of the counties involved."

A RDSS will be its own governmental entity and function separately from the counties. The option to create a RDSS allows counties the flexibility to combine resources to improve the provision of social services amongst more than one county.

Proposed Rule 10A NCAC 67A .0301 is responsive to the overarching goal of giving counties maximum flexibility to meet the administrative and programmatic needs of their social services agencies and regions. The proposed rule considers the myriad of potential options to combine county resources to improve the provision of services to citizens in their respective regions.

Comments may be submitted to: Belivia Spaulding, 820 South Boylan Avenue, MSC 2402, Raleigh, NC 27603; phone (919) 527-6335; fax (919) 334-1198; email SSCommission@dhhs.nc.gov

Comment period ends: November 16, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
Local funds affected
Substantial economic impact (>=\$1,000,000)
Approved by OSBM
No fiscal note required by G.S. 150B-21.4

CHAPTER 67 - SOCIAL SERVICES - PROCEDURES

SUBCHAPTER 67A - GENERAL ADMINISTRATION

SECTION .0300 - REGIONAL SOCIAL SERVICES DEPARTMENTS

10A NCAC 67A .0301 REGIONAL DEPARTMENTS OF SOCIAL SERVICES FINANCIAL OBLIGATIONS OF COUNTIES

Counties creating or joining a regional social services department pursuant to G.S. 108A-15.7, shall enter into a written agreement that sets forth, at a minimum, the following financial obligations and the amount or method in which each county will appropriate funds to the regional social services department for:

- (1) the administration of programs of social services and public assistance;
(2) the county share of public assistance program costs;
(3) any recoupments following fiscal or program monitoring or audit findings.

Authority G.S. 108A-15.7; 143B-153(9).

TITLE 11 - DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Industrial Commission intends to adopt the rules cited as 11 NCAC 23A .0109, .0620, amend the rules cited as 11 NCAC 23A .0501, .0502, .0604, .0609, .0617, .0619, .0701, .0702, .0801; 23B .0206, .0503, and repeal the rule cited as 11 NCAC 23B .0207.

Pursuant to G.S. 150B-21.17, the codifier has determined to impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The Text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): <http://www.ic.nc.gov/proposedGroup2Rules.html>

Proposed Effective Date: January 1, 2019

Public Hearing:

Date: October 31, 2018

Time: 10:00 a.m.

Location: Room 240, 2nd Floor, Department of Insurance, Albemarle Building, 325 North Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: On its own initiative, the Industrial Commission ("Commission") conducted an internal review of its workers' compensation rules and sought informal stakeholder feedback on rules in 11 NCAC 23A. The proposed adoptions and amendments reflect changes necessary to clarify the rules, provide for increased efficiency, or update the rules to current reflect practices.

The Commission also conducted an internal review of its rules governing State tort claims. The proposed amendments to 11 NCAC 23B reflect changes necessary to clarify the rules, provide for increased efficiency, or update the rules to reflect current practices.

The Commission proposes to repeal Rule 11 NCAC 23B .0207 because the necessary contents of the rule are proposed to be added to Rule 11 NCAC 23B .0206.

Comments may be submitted to: Ashley B. Snyder, 1233 Mail Service Center, Raleigh, NC 27699-1233; phone (919) 807-2524; email Ashley.snyder@ic.nc.gov

Comment period ends: November 16, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule.

The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected 11 NCAC 23A .0109, .0501, .0502, .0609, .0619, .0620, .0701, .0702, .0801; 23B .0206
- Environmental permitting of DOT affected Analysis submitted to Board of Transportation
- Local funds affected 11 NCAC 23A .0109, .0501, .0502, .0609, .0619, .0620, .0701, .0702, .0801
- Substantial economic impact (≥\$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4 11 NCAC 23A .0604, .0617; 23B .0207, .0503

CHAPTER 23 – INDUSTRIAL COMMISSION

SUBCHAPTER 23A – WORKERS COMPENSATION RULES

SECTION .0100 - ADMINISTRATION

11 NCAC 23A .0109 CONTACT INFORMATION

(a) "Contact information" for purposes of this Rule shall include telephone number, facsimile number, email address, and mailing address.

(b) All attorneys of record with matters before the Commission shall inform the Commission in writing of any change in the attorney's contact information via email to dockets@ic.nc.gov.

(c) All unrepresented persons or entities with matters pending before the Commission shall advise the Commission upon any change to their contact information in the following manner:

- (1) All employees who are not represented by counsel shall inform the Commission of any change in contact information by filing a written notice via the Commission's Electronic Document Filing Portal ("EDFP"), electronic mail, facsimile, U.S. Mail, private courier service, or hand delivery.
- (2) All non-insured employers that are not represented by counsel shall inform the Commission of any change in contact information by filing a written notice via the Commission's Electronic Document Filing Portal ("EDFP"), electronic mail, facsimile, U.S. Mail, private courier service, or hand delivery.

Authority G.S. 97-80.

SECTION .0500 – AGREEMENTS

11 NCAC 23A .0501 AGREEMENTS FOR PROMPT PAYMENT OF COMPENSATION

(a) To facilitate the payment of compensation within the time prescribed in G.S. 97-18, the Commission shall accept memoranda of agreements on Commission forms.

(b) No agreement for permanent disability shall be approved until the relevant medical and vocational ~~records~~ records, including a job description if the employee has permanent work restrictions and has returned to work for the employer of injury, known to exist in the case have been filed with the Commission. When requested by the Commission, the parties shall file any additional documentation necessary to determine whether the employee is receiving the disability compensation to which he or she is entitled and that an employee qualifying for disability compensation under G.S. 97-29 or G.S. 97-30, and G.S. 97-31 has the benefit of the more favorable remedy.

(c) All memoranda of agreements shall be submitted to the Commission. Agreements conforming to the provisions of the Workers' Compensation Act shall be approved by the Commission and a copy returned to the employer, carrier, or administrator, and a copy sent to the employee, unless amended by an award, in which event the Commission shall return the award with the agreement.

(d) The employer, carrier, administrator, or the attorney of record, if any, shall provide the employee, beneficiary, or attorney of record ~~employee's attorney of record or the employee,~~ if any, unrepresented, a copy of a Form 21 Agreement for Compensation for Disability, a Form 26 Supplemental Agreement as to Payment of Compensation, a Form 26A Employer's Admission of Employee's Right to Permanent Partial Disability, a Form 26D Agreement for Payment of Unpaid Compensation in Unrelated Death Cases, and a Form 30 Agreement for Compensation for Death, ~~when the employee or appropriate beneficiary signs the forms,~~ upon submission to the Commission of the executed form or agreement.

(e) All memoranda of agreements for cases that are calendared for hearing before a Commissioner or Deputy Commissioner shall be addressed sent directly to that Commissioner or Deputy ~~Commissioner.~~ Commissioner, and filed in accordance with Rule .0108 of this Subchapter. Before a case is calendared, or once a case has been continued or removed, or after the filing of an Opinion and Award, all memoranda of agreements shall be ~~directed~~ addressed to the Claims Section of the ~~Commission.~~ Commission, and filed in accordance with Rule .0108 of this Subchapter.

(f) After the employer, carrier, or administrator has received a memorandum of agreement that has been signed by the employee and the employee's attorney of record, if any, the employer, carrier, or administrator has 20 days within which to submit the memorandum of agreement to the Commission for review and approval or within which to show cause for not submitting the memorandum of agreement signed only by the employee.

Authority G.S. 97-18; 97-80(a); 97-82.

11 NCAC 23A .0502 COMPROMISE SETTLEMENT AGREEMENTS

(a) The Commission shall not approve a compromise settlement agreement unless it contains the following information:

- (1) The employee knowingly and intentionally waives the right to further benefits under the Workers' Compensation Act for the injury that is the subject of this agreement.
- (2) ~~The employer, carrier, or administrator will pay all costs incurred.~~ The parties' agreement, if any, as to the payment of the costs due to the Commission pursuant to 11 NCAC 23E .0203, and any mediation costs pursuant to 11 NCAC 23G .0107. If there is no agreement as to the payment of some or all of these costs, the compromise settlement agreement shall include the credits, including the amounts, to be applied by the employer or carrier against the settlement proceeds.
- (3) No rights other than those arising under the provisions of the Workers' Compensation Act are compromised or released by this agreement.
- (4) ~~The~~ Whether the employee has, or has not, returned to work, a job or position at the same or a greater average weekly wage as was being earned prior to the injury or occupational disease.
- (5) If the employee has returned to work, whether the employee is earning the same or greater average weekly wage.
- ~~(5)(6)~~ Where If the employee has not returned to work a job or position at the same or a greater wage at a lower average weekly wage, as was being earned prior to the injury or occupational disease, the employee has, or has not, returned to some other job or position and, if so, the a description of the particular job or position, the name of the employer, and the average weekly wage earned. This Subparagraph does not apply where the employee or counsel certifies that partial wage loss due to an injury or occupational disease is not being claimed; if the employee is represented by counsel or if the employee certifies that partial wage loss due to an injury or occupational disease is not being claimed.
- ~~(6)(7)~~ Where If the employee has not returned to work, a job or position at the same or a greater average weekly wage as was being earned prior to the injury or occupational disease, a summary of the employee's age, educational level, past vocational training, past work experience, and any emotional, mental, or physical impairment that predates the current injury or occupational disease. This Subparagraph does not apply upon a showing of: if:
 - (A) it places an unreasonable burden upon the parties;
 - (B) the employee is represented by counsel; or
 - (C) even if the employee is not represented by counsel, where the employee or

~~counsel~~ certifies that total wage loss due to an injury or occupational disease is not being claimed.

(b) No compromise settlement agreement shall be considered by the Commission unless the following requirements are met:

- (1) The relevant medical, vocational, and rehabilitation reports known to exist, including those pertinent to the employee's future earning capacity, are submitted with the agreement to the Commission by the employer, carrier, administrator, or the attorney for the employer.
- (2) The parties and all attorneys of record employee, the employee's attorney of record, if any, and an attorney of record or other representative who has been given the authority to sign for the employer, carrier and administrator, have signed the agreement.
- (3) In a claim where liability is admitted or otherwise has been established, the employer, carrier, or administrator has undertaken to pay all medical expenses for the compensable injury to the date of the settlement agreement.
- (4) In a claim in which the employer, carrier, or administrator has not agreed to pay all medical expenses of the employee related to the injury up to the date of the settlement agreement, the settlement agreement contains a list of all known medical expenses of the employee related to the injury to the date of the settlement agreement. agreement, including medical expenses that the employer, carrier, or administrator disputes, when the employer or insurer has not agreed to pay all medical expenses of the employee related to the injury up to the date of the settlement agreement. This list shall include:
 - (A) All known medical expenses that have been paid by the employer, carrier, or administrator;
 - (B) All known medical expenses that the employer, carrier, or administrator disputes;
 - (C) All known medical expenses that have been paid by the employee;
 - (D) All known medical expenses that have been paid by a health benefit plan;
 - (E) All known unpaid medical expenses that will be paid by the employer, carrier, or administrator;
 - (F) All known unpaid medical expenses that will be paid by the employee.
- (5) ~~The settlement agreement contains a list of the unpaid medical expenses, if known, that will be paid by the employer, carrier, or administrator, if there are unpaid medical expenses that the employer or carrier has agreed to pay. The settlement agreement also contains a list of unpaid medical expenses, if known, that will be paid by the employee, if there are unpaid~~

~~medical expenses that the employee has agreed to pay.~~

- ~~(6)~~(5) The settlement agreement provides that a party who has agreed to pay a disputed unpaid medical expense will notify ~~in writing~~ in writing the unpaid health care provider in writing of the party's responsibility to pay the unpaid medical expense. Other unpaid health care providers will be notified in writing of the completion of the settlement by the party specified in the settlement agreement:
 - (A) when the employee or the employee's attorney has notified the unpaid health care provider in writing under G.S. 97-90(e) not to pursue a private claim against the employee for the costs of medical treatment, or
 - (B) when the unpaid health care provider has notified ~~in writing~~ in writing the employee or the employee's attorney in writing of its claim for payment for the costs of medical treatment and has requested notice of a settlement.
- ~~(7)~~(6) Any obligation of any party to pay an unpaid disputed medical expense pursuant to a settlement agreement does not require payment of any medical expense in excess of the maximum allowed under G.S. 97-26.
- ~~(8)~~(7) The settlement agreement contains a finding that the positions of the parties to the agreement are reasonable as to the payment of medical expenses.
 - (c) When a settlement has been reached, the written agreement shall be submitted to the Commission upon execution in accordance with Rule .0108 of this Subchapter. All compromise settlement agreements shall be ~~directed to the Office of the Executive Secretary for review or distribution~~ distributed for review in accordance with Paragraphs (a) through (c) of Rule .0609 of this Subchapter. Any changes or addenda to the agreement submitted to the Commission shall be served upon the opposing party contemporaneously with submission to the Commission.
 - (d) ~~Once a compromise settlement agreement has been approved by the Commission, the~~ The employer, carrier, or administrator shall furnish an executed copy of the agreement to the employee's attorney of record or the employee, if unrepresented.
 - (e) An employee's attorney seeking that seeks fees in connection with a ~~Compromise Settlement Agreement~~ compromise settlement agreement shall submit ~~to the Commission~~ a copy of the attorney's fee agreement between the employee and the employee's previous attorney, then with the client. at the time of submission of a compromise settlement agreement, the employee's current attorney shall advise the Commission of the employee's fee agreement with the previous attorney and note whether an agreement has been reached between counsel as to the division of attorney's fees.

Authority G.S. 97-17; 97-80(a); 97-82.

SECTION .0600 – CLAIMS ADMINISTRATION AND PROCEDURES

11 NCAC 23A .0604 APPOINTMENT OF GUARDIAN AD LITEM

(a) Minors or incompetents may bring an action only through their guardian ad litem. Upon the written application on a Form 42 Application for Appointment of Guardian Ad Litem, Ad Litem, the Commission shall appoint the person as guardian ad litem, if the Commission determines it to be in the best interest of the minor or incompetent. The Commission shall appoint the guardian ad litem only after due inquiry as to the fitness of the person to be appointed.

(b) No compensation due or owed to ~~the minor or an~~ incompetent shall be paid directly to the guardian ad ~~litem~~. litem, unless the guardian ad litem has authority to receive the money pursuant to an Order from the General Courts of Justice. No compensation due or owed to a minor shall be paid directly to the guardian ad litem, except that a parent, legal guardian, or legal custodian may receive compensation on behalf of a minor in his or her capacity as parent, legal guardian, or legal custodian.

(c) The Commission may assess a fee to be paid by the employer or the insurance carrier to an attorney who serves as a guardian ad litem for actual services rendered upon receipt of an affidavit of actual time spent in representation of the minor or incompetent as part of the costs.

Authority G.S. 97-50; 97-79(e); 97-80(a); 97-80(b); 97-91.

11 NCAC 23A .0609 MOTIONS PRACTICE IN CONTESTED CASES

(a) Motions and responses before a Deputy Commissioner:

- (1) in cases that are currently calendared for hearing before a Deputy Commissioner shall be filed in accordance with Rule .0108 of this Subchapter.
- (2) to reconsider or amend an Opinion and Award, made prior to giving notice of appeal to the Full Commission, shall be addressed to the Deputy Commissioner who authored the Opinion and Award and filed in accordance with Rule .0108 of this Subchapter.

(b) Motions and responses shall be filed with the Office of the Executive Secretary in accordance with Rule .0108 of this Subchapter:

- (1) when a case is not calendared before a Deputy Commissioner;
- (2) once a case has been continued or removed from a Deputy Commissioner's calendar; or
- (3) after the filing of an Opinion and Award when the time for taking appeal has run.

(c) Motions and responses before the Full Commission:

- (1) in cases calendared for hearing before the Full Commission shall be addressed to the Chair of the Full Commission panel and filed in accordance with Rule .0108 of this Subchapter.
- (2) filed after notice of appeal to the Full Commission has been given but prior to the calendaring of the case shall be addressed to the

(3) Chair of the Commission and filed in accordance with Rule .0108 of this Subchapter. in cases continued from the Full Commission hearing docket, shall be addressed to the Chair of the panel of Commissioners who ordered the continuance and filed in accordance with Rule .0108 of this Subchapter.

(4) filed after the filing of an Opinion and Award by the Full Commission but prior to giving notice of appeal to the Court of Appeals or the expiration of the period allowed to give notice of appeal to the Court of Appeals shall be addressed to the Commissioner who authored the Opinion and Award and filed in accordance with Rule .0108 of this Subchapter.

(d) Motions requesting an award of attorney's fees from ongoing compensation pursuant to G.S. 97-90 that are not required to be filed with a Deputy Commissioner or the Full Commission pursuant to Paragraphs (a) and (c) of this Rule shall be filed with the Commission's Claims Administration Section in accordance with Rule .0108 of this Subchapter.

~~(d)(e)~~ All motions motions and responses ~~thereto thereto~~, including requests for extensions of time and requests to withdraw motions, shall include a caption containing the Industrial Commission file number(s), party names, and a title identifying the nature of the motion or response. Motions and responses set forth in the body of electronic mail correspondence or contained in a brief will not be accepted for filing by the Commission. This Paragraph does not apply to parties without legal representation.

~~(e)(f)~~ A motion shall state with particularity the grounds on which it is based, the relief sought, and the opposing party's ~~position, if known~~ position or that there has been a reasonable attempt to contact the opposing party and ascertain its position. Service shall be made on all opposing attorneys of record, or on all opposing parties if not represented.

~~(f)(g)~~ Motions to continue or remove a case from the hearing calendar on which the case is set shall be made as much in advance as possible of the scheduled hearing and may be made in written or oral form. In all cases, the moving party shall provide the basis for the motion and state that the other parties have been advised of the motion and relate the ~~position, if known~~ position of the other parties regarding the ~~motion~~ motion, or that there has been a reasonable attempt to contact the opposing party and ascertain its position regarding the motion. ~~Oral motions shall be followed with a written motion from the moving party.~~

(h) Oral motions shall be followed with a written motion from the moving party, if requested by a hearing officer.

~~(g)(i)~~ The responding party to a motion shall have 10 days after a motion is served during which to file and serve copies of a response in opposition to the motion. The Commission may shorten or extend the time for responding to any motion in the interests of justice or to promote judicial economy. Parties in agreement may submit a written stipulation to a single extension of time for responding to any motion, except for medical motions pursuant to Rule .0609A of this Section. The parties submitting a stipulation shall agree to an extension of a reasonable time, not to exceed 30 days.

~~(h)(j)~~ A party who has not received actual notice of a motion or who has not filed a response at the time action is taken and who

is adversely affected by the action may request that it be reconsidered, vacated, or modified. Motions shall be determined without oral argument unless the Commission determines that oral argument is necessary for a complete understanding of the issues.

(i) ~~Where correspondence relative to a case before the Commission is sent to the Commission, copies of such correspondence shall be contemporaneously sent by the same method of transmission to the opposing party or, if represented, to opposing counsel. Written communications, whether addressed directly to the Commission or copied to the Commission, may not be used as an opportunity to introduce new evidence or to argue the merits of the case, with the exception of the following:~~

- ~~(1) written communications, such as a proposed order or legal memorandum, prepared pursuant to the Commission's instructions;~~
- ~~(2) written communications relative to emergencies, changed circumstances, or scheduling matters that may affect the procedural status of a case such as a request for a continuance due to the health of a litigant or an attorney;~~
- ~~(3) written communications sent to the tribunal with the consent of the opposing lawyer or opposing party, if unrepresented; and~~
- ~~(4) any other communication permitted by law or the Rules of the Commission.~~

~~(j)(k)~~ All motions and responses thereto shall include a proposed Order in Microsoft Word format to be considered by the Commission. The proposed Order shall include:

- (1) the IC File Number;
- (2) the case caption;
- (3) the subject of the proposed Order;
- (4) the procedural posture; and
- (5) the party appearances or contact information. If a party is represented by counsel, then the appearance should include the attorney and firm name, email address, telephone number, and fax number. If a party is unrepresented, then the proposed Order should include the party's email address, telephone number, and fax number, if available.

Authority G.S. 97-79(b); 97-80(a); 97-84; 97-91.

11 NCAC 23A .0617 ATTORNEYS RETAINED FOR PROCEEDINGS

(a) Any attorney who is retained by a party in a proceeding before the Commission shall comply with the applicable rules of the North Carolina State Bar. A copy of a notice of representation shall be served upon all other counsel and all unrepresented parties, parties, and submitted to the Commission in accordance with Rule .0108 of this Subchapter. Thereafter, all notices required to be served on a party shall be served upon the attorney. No direct contact or communication concerning contested matters may be made with a represented party by the opposing party or any person on its his or her behalf, without the attorney's permission except as permitted by G.S. 97-32 or other applicable law.

(b) Any attorney who wishes to withdraw from representation in a proceeding before the Commission shall file with the Commission, in writing, a Motion to Withdraw that contains a statement of reasons for the request and that the request has been served on the client. The attorney shall make reasonable efforts to ascertain the ~~last known address~~ last known contact information as defined in Rule .0109 of this Subchapter of the client and shall include this information in the motion. A Motion to Withdraw before an award is made shall state whether the withdrawing attorney requests an attorney's fee from the represented party once an award of compensation is made or approved.

(c) An attorney may withdraw from representation only by written order of the Commission. The issuance of an award of the Commission does not release an attorney as the attorney of record.

(d) An attorney withdrawing from representation whose client wishes to appeal an Order, Decision, or Award to the Full Commission shall timely file a notice of appeal, as set out by this Subchapter, on behalf of his or her client either before or with his or her Motion to Withdraw.

(e) Motions to Withdraw shall be submitted in accordance with Rule .0108 of this Subchapter. The Motion to Withdraw shall include a proposed Order in Microsoft Word format that includes, in the appearances, the last known address of any pro se party or the contact information of new counsel if such counsel has been retained. The proposed Order shall include fax numbers for all parties, if known.

Authority G.S. 97-80(a); 97-90; 97-91.

11 NCAC 23A .0619 FOREIGN LANGUAGE AND SIGN LANGUAGE INTERPRETERS

(a) When a person who does not speak or understand the English language or who is speech or hearing impaired is either called to testify in a hearing, other than in an informal hearing conducted pursuant to G.S. 97-18.1, or appears unrepresented before the Full Commission for an oral argument, the person, whether a party or a witness, shall be assisted by a qualified ~~foreign language interpreter.~~ interpreter upon request.

(b) To qualify as a foreign language interpreter, a person shall possess sufficient experience and education, or a combination of experience and education, speaking and understanding English and the foreign language to be interpreted, to qualify as an expert witness pursuant to G.S. 8C-1, Rule 702. For Spanish language interpretation, the interpreter must be "Level A" certified by the North Carolina Administrative Office of the Courts. A person qualified as an interpreter under this Rule shall not be interested in the claim and shall make a declaration under oath or affirmation to interpret accurately, truthfully and without any additions or deletions, all questions propounded to the witness and all responses thereto.

(c) To qualify as a sign language interpreter, a person shall possess a license from the North Carolina Interpreter and Transliterator Licensing Board, under G.S. 90D. It is preferred that sign language interpreters obtain an SC:L legal certification.

~~(e)(d)~~ Any party who is unable to speak or understand English, or who is speech or hearing impaired, or who intends to call as a witness a person who is unable to speak or understand English, or who is speech or hearing impaired, shall so notify the Commission and the opposing party, in writing, not less than 21

days prior to the date of the hearing. The notice shall state the language(s) that shall be interpreted for the Commission.

~~(d)~~(e) Upon receiving or giving the notice required in Paragraph ~~(e)~~(d) of this Rule, the employer or insurer shall retain a disinterested interpreter who possesses the qualifications listed in Paragraph (b) or (c) of this Rule to appear at the hearing and interpret the testimony or oral argument of all persons for whom the notice in Paragraph ~~(e)~~(d) of this Rule has been given or received.

~~(e)~~(f) The interpreter's fee shall constitute a cost as contemplated by G.S. 97-80. A qualified interpreter who interprets testimony or oral argument for the Commission is entitled to payment of the fee agreed upon by the interpreter and employer or insurer that retained the interpreter. Except in cases where a claim for compensation has been prosecuted without reasonable ground, the fee agreed upon by the interpreter and employer or insurer shall be paid by the employer or insurer. Where the Commission ultimately determines that the request for an interpreter was unfounded, attendant costs shall be assessed against the movant.

~~(f)~~(g) Foreign language interpreters shall abide by the Code of Conduct and Ethics of Foreign Language Interpreters and Translators, contained in Part 4 of Policies and Best Practices for the Use of Foreign Language Interpreting and Translating Services in the North Carolina Court System and promulgated by the North Carolina Administrative Office of the Courts, and shall interpret, as word for word as is practicable, without editing, commenting, or summarizing, testimony or other communications. The Code of Conduct and Ethics of Foreign Language Interpreters and Translators is hereby incorporated by reference and includes subsequent amendments and editions. A copy may be obtained at no charge from the North Carolina Administrative Office of the Court's website, <http://www.nccourts.org/Citizens/CPrograms/Foreign/Document/s/guidelines.pdf>, or upon request, at the offices of the Commission, located in the Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, between the hours of 8:00 a.m. and 5:00 p.m.

(h) Sign language interpreters shall interpret, as word for word as is practicable, without editing, commenting, or summarizing, testimony or other communications. Sign language interpreters shall abide by the ethical standards communicated in the training required by G.S. 90D-8.

Authority G.S. 97-79(b); 97-80(a).

11 NCAC 23A .0620 WRITTEN COMMUNICATIONS WITH THE COMMISSION

(a) This Rule applies to written communications relative to a case before the Commission that are not governed by statute or another Rule in this Subchapter.

(b) Written communications sent to the Commission shall be contemporaneously sent by the same method of transmission, where possible, to the opposing party or, if represented, to opposing counsel.

(c) Written communications, whether addressed directly to the Commission or copied to the Commission, may not be used as an opportunity to introduce new evidence or to argue the merits of the case.

Authority G.S. 97-80(a).

SECTION .0700 - APPEALS

11 NCAC 23A .0701 REVIEW BY THE FULL COMMISSION

(a) Notice of Appeal. Application for review shall be made to the Commission within 15 days from the date when notice of the Deputy Commissioner's Opinion and Award shall have been given. A letter expressing a request for review is considered an application for review to the Full Commission within the meaning of G.S. 97-85, provided that the letter specifies the Order or Opinion and Award from which appeal is taken.

(b) Motions to Reconsider to the Deputy Commissioner. A motion to reconsider or to amend the decision of a Deputy Commissioner shall be filed with the Deputy Commissioner within 15 days of receipt of notice of the award. The time for filing a request for review from the decision of a Deputy Commissioner under the rules in this Subchapter shall be tolled until a motion to reconsider or to amend the decision has been ruled upon by the Deputy Commissioner. However, if either party files a letter requesting review of the decision as set forth in Paragraph (a) of this Rule after a motion to reconsider or to amend has been filed with the Deputy Commissioner, jurisdiction shall be transferred to the Full Commission. Any party who had a pending motion to reconsider or amend the decision of the Deputy Commissioner may file a motion with the Chair of the Commission requesting remand to the Deputy Commissioner with whom the motion was pending. Upon remand, jurisdiction will be transferred to the Deputy Commissioner. Following the Deputy Commissioner's ruling on the motion to reconsider or amend the decision, a party requesting review of the initial decision of the Deputy Commissioner or the ruling on the motion to reconsider or amend the decision shall file a letter requesting review as set forth in Paragraph (a) of this Rule to transfer jurisdiction of the matter back to the Full Commission.

~~(b)(c) Acknowledging Receipt; Form 44; Joint Certification.~~ After receipt of a request for review, the Commission shall acknowledge the request for review by letter. The Commission shall prepare the official transcript and exhibits, if any, and provide them along with a Form 44 Application for Review to the parties involved in the appeal at no charge within 30 days of the acknowledgement letter. ~~The official transcript and exhibits and a Form 44 Application for Review shall be provided to the parties electronically, where possible. In such cases, the Commission shall send an e-mail to the parties containing a link to the secure File Transfer Protocol (FTP) site where the official transcript and exhibits may be downloaded. The e-mail shall also provide instructions for the submission of the parties' acknowledgement of receipt of the Form 44 Application for Review and the official transcript and exhibits to the Commission. Parties represented by counsel shall sign a joint certification acknowledging receipt of the Form 44 Application for Review and the official transcript and exhibits and submit the certification within ten days of receipt of the Form 44 Application for Review and the official transcript and exhibits. The certification shall stipulate the date the Form 44 Application for Review and the official transcript and exhibits were received by the parties and shall note the date the appellant's brief is due. The Commission~~

shall save a copy of the parties' acknowledgements in the file for the claim to serve as record of the parties' electronic receipt of the Form 44 Application for Review and the official transcript and exhibits. In cases where it is not possible to provide a party with the official transcript and exhibits electronically, the Commission shall provide the official transcript and exhibits and a Form 44 Application for Review via certified U.S. Mail, with return receipt requested. The Commission shall save a copy of the return receipt to serve as record of the party's receipt of the official transcript and exhibits and Form 44 Application for Review.

(1) The official transcript and exhibits and a Form 44 Application for Review shall be provided electronically to parties represented by counsel. In such cases, the Commission shall send an e-mail to the parties with directions on how to obtain an electronic copy of the official transcript and exhibits. The e-mail shall also provide instructions for the submission of the parties' acknowledgement of receipt of the Form 44 Application for Review and the official transcript and exhibits to the Commission. Parties represented by counsel shall sign a joint certification acknowledging receipt of the Form 44 Application for Review and the official transcript and exhibits and submit the certification within ten days of receipt of the Form 44 Application for Review and the official transcript and exhibits. The certification shall stipulate the date the Form 44 Application for Review and the official transcript and exhibits were received by the parties and shall note the date the appellant's brief is due. The Commission shall save a copy of the parties' acknowledgements in the file for the claim to serve as record of the parties' electronic receipt of the Form 44 Application for Review and the official transcript and exhibits.

(2) In cases where it is not possible to provide a party with the official transcript and exhibits electronically, the Commission shall serve the official transcript and exhibits and a Form 44 Application for Review via any class of U.S. Mail that is fully prepaid.

~~(c) A motion to reconsider or to amend the decision of a Deputy Commissioner shall be filed with the Deputy Commissioner within 15 days of receipt of notice of the award with a copy to the Docket Director. The time for filing a request for review from the decision of a Deputy Commissioner under the rules in this Subchapter shall be tolled until a motion to reconsider or to amend the decision has been ruled upon by the Deputy Commissioner. However, if either party files a letter requesting review as set forth in Paragraph (a) of this Rule, jurisdiction shall be transferred to the Full Commission, and the Docket Director shall notify the Deputy Commissioner. Upon transfer of jurisdiction to the Full Commission, any party who had a pending motion to reconsider or amend the decision of the Deputy Commissioner may file a motion with the Chairman of the Commission requesting remand to the Deputy Commissioner with whom the motion was pending.~~

~~Within the Full Commission's discretion, the matter may be so remanded. Upon the Deputy Commissioner's ruling on the motion to reconsider or amend the decision, either party may thereafter file a letter requesting review of the Deputy Commissioner's decision as set forth in Paragraph (a) of this Rule.~~

~~(d) Appellant's Form 44. The appellant shall submit a Form 44 Application for Review upon which appellant shall state stating with particularity all assignments of error and grounds for review, the grounds for the review. The grounds shall be stated with particularity, including the errors allegedly committed by the Commissioner or Deputy Commissioner and, when applicable, including, where applicable, the pages in the transcript or the record on which the alleged errors are recorded. Grounds for review and assignments of error not set forth in the Form 44 Application for Review are deemed abandoned, and argument thereon shall not be heard before the Full Commission.~~

~~(e) Timing Requirements. The appellant shall file the Form 44 Application for Review and brief in support of the grounds for review with the Commission with a certificate of service on the appellee within 25 days after receipt of the transcript or receipt of notice that there will be no transcript. The appellee shall have 25 days from service of the Form 44 Application for Review and appellant's brief to file a responsive brief with the Commission. The appellee's brief shall include a certificate of service on the appellant. When an appellant fails to file a brief, an appellee shall file its brief within 25 days after the appellant's time for filing the Form 44 Application for Review and appellant's brief has expired. A party who fails to file a brief shall not participate in oral argument before the Full Commission. If multiple parties request review, each party shall file an appellant's brief and appellee's brief on the schedule set forth in this Paragraph. If the matter has not been calendared for hearing, ~~any~~ a party may ~~file with the Docket Director~~ obtain a single extension of time not to exceed 15 days by filing a written stipulation pursuant to Rule .0108 of this Subchapter. to a single extension of time not to exceed 15 days. In no event shall the cumulative extensions of time exceed 30 days.~~

~~(f) Brief Requirements. Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. In no event shall attachments be used to circumvent the 35-page limit. No page limit applies to the length of attachments. Briefs shall be prepared using a 12 point proportional font and serif typeface, shall be double spaced, and shall be prepared with non-justified right margins. Each page of the brief shall be numbered at the bottom of the page. When a party quotes or paraphrases testimony or other evidence from the appellate record in the party's brief, the party shall include, at the end of the sentence in the brief that quotes or paraphrases the testimony or other evidence, a parenthetical entry that designates the source of the quoted or paraphrased material and the page number within the applicable source. The party shall use "T" to refer to the transcript of hearing testimony and "Ex" for exhibit. For example, if a party quotes or paraphrases material located in the hearing transcript on page 11, the party shall use the following format "(T 11)," and if a party quotes or paraphrases material located in an exhibit on page 12, the party shall use the following format "(Ex 12)." When a party quotes or paraphrases testimony in the transcript of a deposition in the party's brief, the party shall include the last name of the deponent and the page on which such testimony is located. For~~

example, if a party quotes or paraphrases the testimony of John Smith, located on page 11 of such deposition, the party shall use the following format "(Smith 11)." Parties shall not discuss matters outside the record, assert personal opinions or relate personal experiences, or attribute wrongful acts or motives to opposing counsel or members of the Commission.

(g) Reply Briefs. Within 10 days of service of the appellee's brief, a party may request by motion to file a reply brief. The motion shall not contain a reply brief. A reply brief may only be filed if ordered by the Full Commission. Reply briefs shall not exceed 15 pages, excluding attachments. Reply briefs shall be prepared in accordance with the requirements of Paragraph (f) of this Rule. Any reply brief filed shall be limited to a concise rebuttal of arguments set out in the appellee's brief, and shall not reiterate arguments set forth in the appellant's principal brief.

(h) Citations. Case citations shall be to the North Carolina Reports, the North Carolina Court of Appeals Reports, or the North Carolina Reporter, and when possible, to the South Eastern Reporter. An unpublished appellate decision does not constitute controlling legal authority. If a party believes that an unpublished opinion has precedential or persuasive value to a material issue in the case and that there is no published opinion that would serve as well, the party may cite the unpublished opinion. When citing an unpublished opinion, a party shall indicate the opinion's unpublished status. If no reporter citation is available at the time a brief is filed, the party citing to the case shall attach a copy of the case to its brief.

~~(i)~~ Motions. After a request for review has been submitted to the Full Commission, any motions related to the issues for review shall be filed with the Full Commission, with service on the other parties. Motions related to the issues for review including motions for new trial, to supplement the record, including documents from offers of proof, or to take additional evidence, filed during the pendency of a request for review to the Full Commission, shall be argued before considered by the Full Commission at the time of the hearing of the request for review, review of the appeal, except motions related to the official transcript and exhibits. The Full Commission, for good cause shown, may rule on such motions prior to oral argument.

~~(g)~~ Case citations shall be to the North Carolina Reports, the North Carolina Court of Appeals Reports, or the North Carolina Reporter, and when possible, to the South Eastern Reporter. If no reporter citation is available at the time a brief is filed or if an unpublished decision is referenced in the brief, the party citing to the case shall attach a copy of the case to its brief. Counsel shall not discuss matters outside the record, assert personal opinions or relate personal experiences, or attribute wrongful acts or motives to opposing counsel or members of the Commission.

~~(h)~~ Upon the request of a party or on its own motion, the Commission may waive oral argument in the interests of justice or to promote judicial economy. In the event of such waiver, the Full Commission shall file an award based on the record and briefs.

(j) Oral Argument.

- (1) Each appellant shall have twenty minutes to present oral argument and may reserve any amount of the twenty-minute total allotment for rebuttal, unless otherwise specified by Order of the Commission. Each appellee shall also have

twenty minutes to present oral argument, unless otherwise specified by Order of the Commission; however, the appellee(s) may not reserve rebuttal time. In the case of cross-appeals, each appealing party may reserve rebuttal time.

- (2) Any party may request additional time to present oral argument in excess of the standard twenty-minute allowance. Such requests shall be made in writing and submitted to the Full Commission no less than ten days prior to the scheduled hearing date. The written request for additional time shall state with specificity the reason(s) for the request of additional time and the amount of additional time requested.

- (3) An employee appealing the amount of a disfigurement award shall personally appear before the Full Commission to permit the Full Commission to view the disfigurement.

- (4) A party may waive oral argument at any time with approval of the Commission. Upon the request of a party or on its own initiative, the Commission may review the case and file an Order or Award without oral argument.

- (5) If any party fails to appear before the Full Commission upon the call of the case, the Commission may disallow the party's right to present oral argument. If neither party appears upon the call of the case, the Full Commission may decide the case upon the record and briefs on appeal, unless otherwise ordered.

- (6) Parties shall not discuss matters outside the record, assert personal opinions, relate personal experiences, or attribute wrongful acts or motives to opposing counsel or members of the Commission.

~~(i) Briefs to the Full Commission shall not exceed 35 pages, excluding attachments. No page limit applies to the length of attachments. Briefs shall be prepared using a 12-point type, shall be double spaced, and shall be prepared with non-justified right margins. Each page of the brief shall be numbered at the bottom of the page. When a party quotes or paraphrases testimony or other evidence from the appellate record in the party's brief, the party shall include, at the end of the sentence in the brief that quotes or paraphrases the testimony or other evidence, a parenthetical entry that designates the source of the quoted or paraphrased material and the page number within the applicable source. The party shall use "T" to refer to the transcript of hearing testimony, "Ex" for exhibit, and "p" for page number. For example, if a party quotes or paraphrases material located in the hearing transcript on page 11, the party shall use the following format "(T p 11)," and if a party quotes or paraphrases material located in an exhibit on page 12, the party shall use the following format "(Ex p 12)." When a party quotes or paraphrases testimony in the transcript of a deposition in the party's brief, the party shall include the last name of the deponent and the page on which such testimony is located. For example, if a party quotes or paraphrases the testimony of John Smith, located on page 11 of such~~

~~deposition, the party shall use the following format "(Smith p 11)."~~

~~(j) An employee appealing the amount of a disfigurement award shall personally appear before the Full Commission to permit the Full Commission to view the disfigurement.~~

Authority G.S. 97-80(a); 97-85; S.L. 2014-77.

11 NCAC 23A .0702 REVIEW OF ADMINISTRATIVE DECISIONS

(a) Administrative decisions include orders, decisions, and awards made in a summary manner, without findings of fact, including decisions on the following:

- (1) applications to approve agreements to pay compensation and medical bills;
- (2) applications to approve the termination or suspension or the reinstatement of compensation;
- (3) applications to change the interval of payments; and
- (4) applications for lump sum payments of compensation.

~~(b) Administrative decisions made in cases not set for hearing before a Commissioner or Deputy Commissioner or before the Full Commission for review shall be reviewed upon the filing of a Motion for Reconsideration. Reconsideration, upon a request for hearing on the administrative decision, or upon request for hearing on the ruling on a Motion for Reconsideration. A Motion for Reconsideration shall be filed within 15 days of receipt of the administrative decision and addressed to the Administrative Officer who made the decision. A request for hearing shall be filed within 15 days of the administrative decision or a ruling on a Motion for Reconsideration, with the Commission addressed to the Administrative Officer who made the decision or may be reviewed by requesting a hearing within 15 days of receipt of the decision or receipt of the ruling on a Motion to Reconsider. These issues may also Notwithstanding the provisions above, issues addressed by an administrative decision may be raised and determined at a subsequent hearing.~~

~~(c) Motions for Reconsideration shall not stay the effect of the order, decision, or award; provided that Administrative Officer making the decision or a Commissioner may enter an order staying its effect pending the ruling on the Motion for Reconsideration or pending a decision by a Commissioner or Deputy Commissioner following a formal hearing. In determining whether or not to grant a stay, the Commissioner or Administrative Officer shall consider whether granting the stay will frustrate the purposes of the order, decision, or award. Motions to Stay shall not be filed with both the Administrative Officer and a Commissioner.~~

~~(d) Any request for a hearing to review an administrative decision pursuant to Paragraph (b) of this Rule shall be made to the Commission and filed with the Commission's Docket Director, Office of the Clerk. The Commission shall designate a Commissioner or Deputy Commissioner to hear the review. The Commissioner or Deputy Commissioner hearing the matter shall consider all issues de novo, and no issue shall be considered moot solely because the order has been fully executed during the pendency of the hearing.~~

(e) Any request for review by the Full Commission of an administrative decision by a Commissioner or Deputy Commissioner made during the pendency of a case assigned to them pursuant to G.S. 97-84 shall be filed with the Office of the Clerk. If the administrative decision made by the authoring Commissioner or Deputy Commissioner is a final judgment as to one or more issues or parties and the administrative decision contains a certification that there is no just reason for delay, the request for review shall be referred directly to a panel of the Full Commission. If the administrative decision contains no certification, requests for review will be referred to the Chair of the Commission for a determination regarding the right to immediate review, and the parties shall address the grounds upon which immediate review shall be allowed.

~~(f) Orders filed by a single Commissioner, Commissioner in matters before the Full Commission for review pursuant to G.S. 97-85, including orders dismissing reviews to the Full Commission or denying the right of immediate request for review to the Full Commission, are administrative orders and are not final determinations of the Commission. As such, an order filed by a single Commissioner is not appealable to the North Carolina Court of Appeals. A one-signature order filed by a single Commissioner may be reviewed by:~~

- (1) filing a Motion for Reconsideration addressed to the Commissioner who filed the order; or
- (2) requesting a review to a Full Commission panel by requesting a hearing within 15 days of receipt of the order or receipt of the ruling on a Motion for Reconsideration.

~~(g) This Rule shall not apply to medical motions filed pursuant to G.S. 97-25; provided, however, that a party may request reconsideration of an administrative ruling on a medical motion, or may request a stay, or may request an evidentiary hearing de novo, all as set forth in G.S. 97-25.~~

Authority G.S. 97-79(g); 97-80(a); 97-85; S.L. 2014-77.

SECTION .0800 – RULES OF THE COMMISSION

11 NCAC 23A .0801 WAIVER OF RULES

In the interests of justice or to promote judicial economy, the Commission may, except as otherwise provided by the rules in this Subchapter, waive or vary the requirements or provisions of any of the rules in this Subchapter in a case pending before the Commission upon ~~written application~~ request of a party or upon its own initiative only if the employee is not represented by counsel. Notwithstanding oral requests made during a hearing before the Commission, all requests shall be submitted in writing and served upon all opposing parties contemporaneously. By order of the Commission, oral requests shall be submitted in writing within five days of the request. Responses to requests considered pursuant to this Rule may be submitted in accordance with Rule .0609 of this Subchapter within five days of service of the original request. Citation to this Rule or use of the term "waiver" is not required for requests considered pursuant to this Rule. Factors the Commission shall use in determining whether to grant the waiver are:

- (1) the necessity of a waiver;

- (2) the party's responsibility for the conditions creating the need for a waiver;
- (3) the party's prior requests for a waiver;
- (4) the precedential value of such a waiver;
- (5) notice to and opposition by the opposing parties; and
- (6) the harm to the party if the waiver is not granted.

Authority G.S. 97-80(a).

SUBCHAPTER 23B – TORT CLAIMS RULES

SECTION .0200 - CLAIMS PROCEDURES

11 NCAC 23B .0206 HEARINGS

(a) The Commission may, on its own motion, order a hearing, rehearing, or pre-trial conference of any tort claim in dispute. The Commission shall set the date, time, and location of the hearing, and provide notice of the hearing to the parties. Within the Commission's discretion, any pre-trial conference, as well as hearings of claims in which the plaintiff is incarcerated at the time of the hearing, may be conducted via videoconference or telephone conference. The date and time of the hearing shall not be limited by the business hours of the Commission. Where a party has not notified the Commission of the attorney representing the party prior to the mailing of calendars for hearing, notice to that party constitutes notice to the party's attorney. Any scheduled hearings shall proceed to completion unless recessed, continued, or removed by Order of the Commission.

(b) When an attorney is notified to appear for a pre-trial conference, motion hearing, hearing, or any other appearance the attorney shall, consistent with ethical requirements, appear or have a partner, associate, or other attorney appear. Counsel for each party or any party without legal representation shall remain in the hearing room throughout the course of the hearing, unless released by the Commission.

(c) A motion for a continuance shall be allowed only by the Commissioner or Deputy Commissioner before whom the case is set in the interests of justice or to promote judicial economy.

(d) In cases involving property damage of less than five hundred dollars (\$500.00), the Commission may, upon its own motion or upon the motion of either party, order a videoconference or telephone conference hearing on the matter.

(e) Unless otherwise ordered by the Commission, in the event of inclement weather or natural disaster, hearings set by the Commission shall be cancelled or delayed when the proceedings before the General Courts of Justice in that county are cancelled or delayed.

(f) Unless otherwise ordered or waived by the Commission, applications for issuance of a writ of habeas corpus ad testificandum requesting the appearance of witnesses incarcerated by the North Carolina Division of Adult Corrections, shall be filed in accordance with Rule .0104 of this Subchapter, with a copy to the opposing party or counsel, for review by the Commission in accordance with G.S. 143-296.

(b) ~~The Commission shall set a contested case for hearing in a location deemed convenient to witnesses and the Commission, and conducive to an early and just resolution of disputed issues.~~

~~(c) The Commission may issue writs of habeas corpus ad testificandum in cases arising under the Tort Claims Act. Requests for issuance of a writ of habeas corpus ad testificandum shall be sent to the Docket Section of the Commission if the case has not been set on a calendar for hearing. If the case has been set on a hearing calendar, the request shall be sent to the Commissioner or Deputy Commissioner before whom the case is set.~~

~~(d) The Commission shall give notice of a hearing in every case. A motion for a continuance shall be allowed only by the Commissioner or Deputy Commissioner before whom the case is set in the interests of justice or to promote judicial economy. Where a party has not notified the Commission of the attorney representing the party prior to the mailing of calendars for hearing, notice to that party constitutes notice to the party's attorney.~~

~~(e) In cases involving property damage of less than five hundred dollars (\$500.00), the Commission shall, upon its own motion or upon the motion of either party, order a telephonic hearing on the matter.~~

~~(f) All subpoenas shall be issued in accordance with Rule 45 of the North Carolina Rules of Civil Procedure, with the exception that production of public records or hospital records as provided in Rule 45(e)(2), shall be served upon the Commissioner or Deputy Commissioner before whom the case is calendared, or upon the Docket Section of the Commission should the case not be calendared.~~

~~(g) In the event of inclement weather or natural disaster, hearings set by the Commission shall be cancelled or delayed when the proceedings before the General Court of Justice in that county are cancelled or delayed.~~

Authority G.S. 143-296; 143-300.

11 NCAC 23B .0207 HEARINGS OF CLAIMS BY PRISON INMATES

Authority G.S. 97-101.1; 143-296; 143-300.

SECTION .0500 – RULES OF THE COMMISSION

11 NCAC 23B .0503 SANCTIONS

The Commission may, on its own initiative or motion of a party, impose a sanction against a party, attorney, government entity, or any combination thereof, or attorney or both, when the Commission determines that such party, ~~or attorney, government entity, or any combination thereof, or both~~ failed to comply with the Rules in this Subchapter. Subchapter, an Order of the Commission, or other applicable rules, laws, or regulations. The Commission may impose sanctions of the type and in the manner prescribed by Rule 37 of the North Carolina Rules of Civil Procedure.

Authority G.S. 1A-1, Rule 37; 143-291; 143-296; 143-300.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission

intends to amend the rules cited as 12 NCAC 09B .0101 and 09G .0302.

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

Link to agency website pursuant to G.S. 150B-19.1(c): http://ncdoj.gov/getdoc/82ec95af-b758-4888-b831-8fdd5cc9beb4/Public-Hearing-02-14-17.aspx

Note: The text in italics is pending approval by the RRC at the September 20, 2018 RRC meeting.

Proposed Effective Date: February 1, 2019

Public Hearing:

Date: November 28, 2018

Time: 10:00 a.m.

Location: Wake Technical Community College-Public Safety Training Center, 321 Chapanoke Rd. Raleigh, NC 27603

Reason for Proposed Action: To provide clarity regarding criminal process notification requirements for officers and agencies.

Comments may be submitted to: Charminique Williams, PO Drawer 149, Raleigh, NC 27602; phone (919) 779-8206; fax (919) 779-8210; email cdwilliams@ncdoj.gov

Comment period ends: November 28, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
Environmental permitting of DOT affected Analysis submitted to Board of Transportation
Local funds affected
Substantial economic impact (>=\$1,000,000)
Approved by OSBM
No fiscal note required by G.S. 150B-21.4

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE OFFICERS

Every criminal justice officer employed by an agency in North Carolina shall:

- (1) be a citizen of the United States;
(2) be at least 20 years of age;
(3) be of good moral character pursuant to G.S. 17C-10 and as evidenced by the following:
(a) not having been convicted of a felony;
(b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;
(c) not having been convicted of an offense that, under 18 U.S.C. 922, incorporated by reference with subsequent amendments and editions (found at no cost at (http://www.gpo.gov/fdsys/pkg/USC ODE-2011-title18-part1-chap44-sec922.pdf), would prohibit the possession of a firearm or ammunition;
(d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at (https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list);
(e) submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;
(f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;
(g) not having pending or outstanding felony charges that, if convicted of

- such charges, would disqualify the applicant from holding such certification, pursuant to North Carolina General Statute 17C-13; and
- (h) not engage in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: re Willis, ~~299~~ 288 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); in re State v. Harris, 216 N.C. 746, 6 S.E. 2d 854 (1940); in re Legg, 325 N.C. 658, 386 S.E. 2d 174(1989); in re Applicants for License, 143 N.C. 1, 55 S.E. 635 (1906); in re Dillingham, 188 N.C. 162, 124 S.E. 130 (1924); State v. Benbow, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority.
- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
- (5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to properly fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications:
 - (a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory tests as may, from time to time, be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
 - (b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
 - (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
 - (d) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments
- and editions (found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>);
- (e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment;
- (f) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples;
- (6) have been administered a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces within one year prior to employment by the employing agency to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position;
- (7) have been interviewed personally by the Department head or his representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate;
- (8) make the following notifications:
 - (a) within 5 business days notify the Standards Division and the appointing agency head in writing of all criminal offenses that the officer is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty, ~~guilty of as well as Domestic Violence Orders (SOB) that are issued by a judicial official.~~ This shall include all criminal offenses except minor traffic offenses and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense for which the maximum punishment allowable by law is 60 days or less. Other offenses under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of drugs), G.S. 20-

28(b)(driving while license permanently revoked or permanently suspended), and G.S. 20-166 (duty to stop in event of accident); ~~The notifications required under this Subparagraph shall be in writing and shall specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the final disposition, and the date thereof. The notifications required under this Subparagraph shall be received by the Standards Division within 30 days of the date of arrest or charge and of case disposition. The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applicants for certification. Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court.~~

- (b) In addition, within five business days of service, officers shall notify the Standards Division of all Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer as well as any notifications received from a District Attorney or other source that an officer is not fit to testify before court (i.e. Giglio);
- (c) within 20 days of the date the case was disposed of in court, notify the executive officer of the adjudication of these criminal charges, Domestic Violence Orders (G.S. 50B) and Civil No Contact Orders (G.S. 50C);
- (d) within 30 days of the date the case was disposed of in court, the executive officer, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of all arrests or criminal charges and final disposition, Domestic Violence Orders (50B) and Civil No Contact Orders (G.S. 50C); dispositions within 30 days of the date the case was disposed of in court.
- (e) the required notifications in this section shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal

charge, or service of the order, the final disposition, and shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication;

- (f) the requirements of this Subparagraph shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification;
- (g) Receipt receipt by the Standards Division of a single notification, from either the officer or the executive officer, shall be sufficient notice for compliance with this Subparagraph.

Authority G.S. 17C-6; 17C-10.

**SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS
EMPLOYMENT, TRAINING, AND CERTIFICATION**

**SECTION .0300 - CERTIFICATION OF
CORRECTIONAL OFFICERS, PROBATION/PAROLE
OFFICERS, AND INSTRUCTORS**

**12 NCAC 09G .0302 NOTIFICATION OF CRIMINAL
CHARGES/CONVICTIONS**

(a) Every person employed and certified as a correctional officer or probation/parole officer shall make the following notifications:

- (1) within 5 business days notify the Standards Division and the appointing agency head in writing notify the Standards Division of all criminal offenses for which the officer is charged, arrested, pleads no contest, pleads guilty, or of which the officer is found guilty. Criminal offenses shall include all felony offenses and shall include those misdemeanor offenses delineated in 12 NCAC 09G .0102. This shall include all criminal offenses except minor traffic offenses and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense for which the maximum punishment allowable by law is 60 days or less. Other offenses under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of drugs), G.S. 20-28(b)(driving while license permanently revoked or permanently suspended), and G.S. 20-166 (duty to stop in event of accident);

(b) ~~The notifications required under this Rule shall be in writing, specify the nature of the offense, the court in which the case was handled, the date of arrest or criminal charge, the final disposition,~~

and the date thereof. The notifications required under this Paragraph shall be received by the Standards Division within 30 days of the date the case was disposed of in court.

(2) In addition, within five business days of service, officers shall notify the Standards Division of all Domestic Violence Orders (50B) and Civil No Contact Orders (G.S. 50C) that are issued by a judicial official against the officer;

~~(e) The requirements of this Rule shall be applicable at all times during which the officer is certified by the Commission.~~

(3) within 20 days of the date the case was disposed of in court, notify the executive officer of the adjudication of these criminal charges, Domestic Violence Orders (50B) and Civil No Contact Orders (G.S. 50C);

~~(d) Officers required to notify the Standards Division under this Rule shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he or she has knowledge of the officer's arrest(s), criminal charge(s), or final disposition(s), shall also notify the Standards Division of all arrests or criminal convictions within 30 days of the date of the arrest and within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification, from either the officer or the executive officer, shall be sufficient notice for compliance with this Rule.~~

(4) within 30 days of the date the case was disposed of in court, the executive officer, provided he or she has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of all arrests or criminal charges and final disposition, Domestic Violence Orders (50B) and Civil No Contact Orders (G.S.50C);

(5) the required notifications in this section shall be in writing and shall specify the nature of the offense or order, the court in which the case was handled, the date of the arrest, criminal charge, or service of the order, the final disposition, and shall include a certified copy of the order or court documentation and final disposition from the Clerk of Court in the county of adjudication;

(6) the requirements of this Subparagraph shall be applicable at all times during which the officer is employed and certified by the Commission and shall also apply to all applicants for certification;

(7) receipt by the Standards Division of a single notification, from the officer or the executive officer, shall be sufficient notice for compliance with this Subparagraph.

Authority G.S. 17C-6.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Barber Examiners intends to amend the rule cited as 21 NCAC 06N .0101.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncbarbers.com/news.html>

Proposed Effective Date: January 1, 2019

Public Hearing:

Date: October 3, 2018

Time: 10:00 a.m.

Location: 5809 Departure Dr. Ste. 102, Raleigh, NC 27616

Reason for Proposed Action: *The amendment describes the circumstances under which the Board will issue refunds for examination fees and the process applicants must follow to request refunds. The amendment also changes the process for requesting a waiver for mandatory online renewals. Under the change, waiver requests would no longer need to be notarized.*

Comments may be submitted to: Dennis Seavers, NC Board of Barber Examiners, 5809 Departure Dr. Ste. 102, Raleigh, NC 27616, phone (919) 814-0641, fax (919) 981-5068, email dseavers@ncbarbers.com

Comment period ends: November 16, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
- Environmental permitting of DOT affected
- Analysis submitted to Board of Transportation
- Local funds affected
- Substantial economic impact (≥\$1,000,000)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

SUBCHAPTER 06N – FEES AND FORMS

SECTION 0100 - FEES, ACCESS TO FORMS, AND RENEWALS

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 06 – BOARD OF BARBER EXAMINERS

21 NCAC 06N .0101 FEES, ACCESS TO FORMS, AND RENEWALS

- (a) The Board charges the following amounts for the fees authorized by G.S. 86A-25:
(1) Certificate of registration or renewal as a barber \$50.00
(2) Certificate of registration or renewal as an apprentice barber \$50.00
(3) Barbershop permit or renewal \$50.00
(4) Examination to become a registered barber \$85.00
(5) Examination to become a registered apprentice barber \$85.00
(6) Late fee for restoration of an expired barber certificate within first year after expiration \$35.00
(7) Late fee for restoration of an expired barber certificate after first year after expiration but within five years after expiration \$70.00
(8) Late fee for restoration of an expired apprentice certificate within the first year after expiration \$35.00
(9) Late fee for restoration of an expired apprentice certificate after first year after expiration but within three years of first issuance of the certificate \$45.00
(10) Late fee for restoration of an expired barber shop certificate \$45.00
(11) Examination to become a barber school instructor \$165.00
(12) Student permit \$25.00
(13) Issuance of any duplicate copy of a license, certificate, or permit \$10.00
(14) Barber school permit or renewal \$130.00
(15) Late fee for restoration of an expired barber school certificate \$85.00
(16) Barber school instructor certificate or renewal \$85.00
(17) Late fee for restoration of an expired barber school instructor certificate within first year after expiration \$45.00
(18) Late fee for restoration of an expired barber school instructor certificate after first year after expiration but within three years after expiration \$85.00
(19) Inspection of newly established barbershop \$120.00
(20) Inspection of newly established barber school \$220.00
(21) Issuance of a registered barber or apprentice certificate by certification \$120.00
(22) Charge for certified copies of public documents \$10.00 for first page, \$0.25 per page thereafter
(23) Charge for duplication services and material shall be as set forth in 26 NCAC 01 .0103(a), including any subsequent amendments and editions of the Rule
(24) Certificate of registration or renewal as a barber for barbers over 70 years of age \$0.00
(25) Administrative fee under G.S. 86A-27(d) for paying any required fee for renewal or restoration, or a civil penalty and attorney fee, where the apprentice barber or registered barber is subject to a pick-up order issued to an inspector. \$70.00

(b) Except as set forth in Paragraph (c) of this Rule, if an applicant is unable to attend an examination, he or she may request a refund of the fee. To request the refund, the applicant shall submit a written request to the address listed in 21 NCAC 06A .0102 at least 10 days before the scheduled examination.

(c) If an applicant submits a request for a refund of examination fees later than 10 days before the scheduled examination, the Board consider the request on a case-by-case basis and only grant the request if the applicant demonstrates good cause for not complying with Paragraph (b) of this Rule. For the purpose of this Rule, "good cause" means that the applicant could not have submitted the written request as set forth in Paragraph (b) of this Rule due to circumstances such as illness, injury, or death in the family.

(d) In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue to issue and renew licenses and all fees tendered shall be placed in the escrow account maintained by the Board for this purpose.

(e) The forms set forth in this Subchapter may be obtained on the website or at the address listed in 21 NCAC 06A .0102.

(f) All timely renewals of licenses, permits, or certificates of registration shall be submitted online at the Board's website, along with any fees required by this Rule.

(g) Barber school permits shall be exempt from the online renewal requirement in Paragraph (d) of this Rule.

(h) Registered barbers, apprentice barbers, barber instructors, or barber shops that are unable to comply with the online requirement of Paragraph (d) of this Rule may submit the renewal and payment by mail or in person after receiving a waiver from the Board. This waiver shall be effective only for one renewal period. The Board shall issue a waiver within five business days after receiving the following:

- (1) For registered barbers, apprentice barbers, or barber instructors, a notarized statement from the holder of the license, permit, or certificate of registration that the individual is not able to renew online; or
(2) For barber shops, a notarized statement from the manager or owner that neither the manager nor owner are able to renew online.

Authority G.S. 86A-5; 86A-25; 86A-27(d); 93B-2.

CHAPTER 16 - BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Board of Dental Examiners intends to readopt with substantive changes the rule cited as 21 NCAC 16Q .0402, amend the rules cited as 21 NCAC 16Q .0202,

.0204, .0301, .0302, .0306, .0401, .0404, .0405, and .0408, and repeal the rule cited as 21 NCAC 16Q .0501.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at http://reports.oah.state.nc.us/ncac.asp.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncdentalboard.org

Proposed Effective Date: January 1, 2019

Public Hearing:

Date: October 11, 2018

Time: 6:30 p.m.

Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Reason for Proposed Action: The Dental Board seeks to amend 21 NCAC 16Q .0202, 21 NCAC 16Q .0204, 21 NCAC 16Q .0302, 21 NCAC 16Q .0306, 21 NCAC 16Q .0401, 21 NCAC 16Q .0405 and 21 NCAC 16Q .0408 to establish procedures for administering written examinations, as well as procedures for written re-examination, in connection with the applications for sedation and anesthesia permits. The Board proposes to place a 12 month limitation on the application process, and in connection with this, the Board seeks to amend 21 NCAC 16Q .0301 and 21 NCAC 16Q .0404 to eliminate the 90 day deadline for a permit applicant to pass an evaluation and inspection (and require PALS certification in Rule 21 NCAC 16Q .0404). The Board further proposes several additional changes to 21 NCAC 16Q .0401 to establish an inspection fee in connection with the application for a minimal conscious sedation permit, to update evaluation requirements in connection with the application, to update the educational and professional requirements for the permit, and to set forth the procedure for minimal conscious sedation permit renewal. The Board seeks to readopt 21 NCAC 16Q .0402 with a substantive change based on public comment. Finally, the Board seeks to repeal 21 NCAC 16Q .0501 not that, with amendment of Rule 21 NCAC 16Q .0401, renewal procedures for all permits are set forth in separate rules.

Comments may be submitted to: Bobby D. White, Esq., 2000 Perimeter Park Drive, Suite 160, Morrisville, NC 27560

Comment period ends: November 16, 2018

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m.

on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact (check all that apply).

- State funds affected
Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
Local funds affected
Substantial economic impact (>=\$1,000,000)
Approved by OSBM
No fiscal note required by G.S. 150B-21.4
No fiscal note required by G.S. 150B-21.3A(d)(2)

SUBCHAPTER 16Q – GENERAL ANESTHESIA AND SEDATION

SECTION .0200 - GENERAL ANESTHESIA

21 NCAC 16Q .0202 GENERAL ANESTHESIA EQUIPMENT AND CLINICAL REQUIREMENTS

(a) A dentist administering general anesthesia shall ensure that the facility where the general anesthesia is administered meets the following requirements:

- (1) The facility shall be equipped with the following:
(A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;
(B) a CPR board or dental chair without enhancements, suitable for providing emergency treatment;
(C) lighting as necessary for specific procedures and back-up lighting; and
(D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
(E) positive pressure oxygen delivery system, including full face masks for small, medium, and large patients, and back-up E-cylinder portable oxygen tank apart from the central system;
(F) small, medium, and large oral and nasal airways;
(G) blood pressure monitoring device;
(H) EKG monitor;
(I) pulse oximeter;
(J) automatic external defibrillator (AED);
(K) precordial stethoscope or capnograph;
(L) thermometer;
(M) vascular access set-up as necessary for specific procedures, including hardware and fluids;
(N) laryngoscope with working batteries;

- (O) intubation forceps and advanced airway devices;
- (P) tonsillar suction with back-up suction;
- (Q) syringes as necessary for specific procedures; and
- (R) tourniquet and tape.
- (2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) antiarrhythmic;
 - (D) antihistamine;
 - (E) antihypertensive;
 - (F) bronchodilator;
 - (G) antihypoglycemic agent;
 - (H) vasopressor;
 - (I) corticosteroid;
 - (J) anticonvulsant;
 - (K) muscle relaxant;
 - (L) appropriate reversal agents;
 - (M) nitroglycerine;
 - (N) antiemetic; and
 - (O) Dextrose.
- (3) The permit holder shall maintain written emergency and patient discharge ~~protocols~~ protocols. The permit holder shall also provide and training to familiarize auxiliaries in the treatment of clinical emergencies emergencies; shall be provided;
- (4) The permit holder shall maintain the following records for 10 years:
 - (A) Patient's current written medical history, including a record of known allergies and previous surgeries;
 - (B) Consent to general anesthesia, signed by the patient or guardian, identifying the risks and benefits, level of anesthesia, and date signed;
 - (C) Consent to the procedure, signed by the patient or guardian identifying the risks, benefits, and date signed; and
 - (D) Patient base line vital signs, including temperature, SPO2, blood pressure, and pulse;
- (5) The anesthesia record shall include:
 - (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;
 - (B) procedure start and end times;
 - (C) gauge of needle and location of IV on the patient, if used;
 - (D) status of patient upon discharge; and
 - (E) documentation of complications or morbidity; and

- (6) The facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording general anesthesia or sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding general anesthesia or sedation throughout the sedation procedure and is not performing the surgery or other dental procedure.
- (b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of anesthesia while the evaluator observes, and shall demonstrate competency in the following areas:
 - (1) monitoring of blood pressure, pulse, ET CO2 if capnography is utilized, and respiration;
 - (2) drug dosage and administration;
 - (3) treatment of untoward reactions including respiratory or cardiac depression;
 - (4) sterile technique;
 - (5) use of BLS certified auxiliaries;
 - (6) monitoring of patient during recovery; and
 - (7) sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall ~~verbally~~ demonstrate competency in the treatment of the following clinical emergencies:
 - (1) laryngospasm;
 - (2) bronchospasm;
 - (3) emesis and aspiration;
 - (4) respiratory depression and arrest;
 - (5) angina pectoris;
 - (6) myocardial infarction;
 - (7) hypertension and hypotension;
 - (8) syncope;
 - (9) allergic reactions;
 - (10) convulsions;
 - (11) bradycardia;
 - (12) hypoglycemia;
 - (13) cardiac arrest; and
 - (14) airway obstruction.
- (d) During the evaluation, the permit applicant shall take a written examination on the topics set forth in Paragraphs (b) and (c) of this Rule. The permit applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the permit applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be re-examined in accordance with Rule .0204(h) of this Section.
- ~~(e)~~(e) A general anesthesia permit holder shall evaluate a patient for health risks before starting any anesthesia procedure.
- ~~(f)~~(f) Post-operative monitoring and discharge shall include the following:
 - (1) vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is recovered as defined by Subparagraph ~~(e)~~(f)(2)

- of this Rule and is ready for discharge from the office; and
- (2) recovery from general anesthesia shall include documentation of the following:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the special needs patient or a patient incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved; and
- (3) before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph ~~(e)~~(f)(2) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color, and level of consciousness are sufficient, stable, and have been documented;
 - (B) explanation and documentation of written postoperative instructions have been provided to the patient or a responsible adult at time of discharge; and
 - (C) vested adult is available to transport the patient after discharge.

- (d) The inspection team shall determine compliance with the requirements of the rules in this Subchapter, as applicable, by assigning a grade of "pass" or "fail."
- (e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall determine whether the applicant has passed the evaluation and inspection and shall notify the applicant in writing of its decision.
- (f) An applicant who fails an inspection or evaluation shall not receive a permit to administer general anesthesia. If a permit holder's facility fails an inspection, no further general anesthesia procedures shall be performed at the facility until it passes a re-inspection by the Board.
- (g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement of the grounds supporting the re-evaluation or re-inspection. Except as set forth in Paragraph (h) of this Rule, the Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.
- (h) A permit applicant who has failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination three times shall successfully complete an additional Board approved course of study in the area(s) of deficiency and provide the Board evidence of the additional study before written reexamination.
- ~~(h)~~(i) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.
- (j) An applicant must complete all the requirements of Rule .0202, including passing the written examination, evaluation and inspection, within 12 months of submitting the application to the Board.

Authority G.S. 90-28; 90-30.1; 90-48.

21 NCAC 16Q .0204 PROCEDURE FOR GENERAL ANESTHESIA EVALUATION OR INSPECTION AND RE-INSPECTION

- (a) When both an evaluation and on-site inspection is required, the Board shall designate two or more qualified persons to serve as evaluators, each of whom has administered general anesthesia for at least three years preceding the inspection. Training in general anesthesia shall not be counted in the three years. The fee for an evaluation and on-site inspection shall be three-hundred seventy-five dollars (\$375.00). When an on-site inspection involves only a facility and equipment check and not an evaluation of the dentist, the inspection may be accomplished by one evaluator, and the fee for the on-site inspection shall be two-hundred seventy-five dollars (\$275.00).
- (b) An inspection fee of two-hundred seventy-five dollars (\$275.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers general anesthesia.
- (c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.

Authority G.S. 90-28; 90-30.1; 90-39.

SECTION .0300 - PARENTERAL CONSCIOUS SEDATION

21 NCAC 16Q .0301 CREDENTIALS AND PERMITS FOR MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION

- (a) Before a dentist licensed to practice in North Carolina may administer or supervise a CRNA employed to administer or RN employed to deliver moderate conscious sedation, the dentist shall obtain a permit from the Board by completing the application requirements in this Rule and paying a fee of three hundred seventy-five dollar (\$375.00) that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the

facility of the permit holder where it is visible to patients receiving treatment.

(b) The permit holder shall provide supervision to any CRNA employed to administer or RN employed to deliver sedation, and shall ensure that the level of the sedation does not exceed the level of the sedation allowed by the permit holder's permit.

(c) A dentist applying for a permit to administer moderate conscious sedation shall document the following:

- (1) Training that may consist of either:
 - (A) Completion of 60 hours of Board approved didactic training in intravenous conscious sedation, and 30 hours of clinical training that shall include successful management of a minimum of 20 live patients, under supervision of the course instructor, using intravenous sedation. Training shall be provided by one or more individuals who meet the American Dental Association Guidelines for Teaching Pain Control and Sedation to Dentists that is hereby incorporated by reference, including subsequent amendments and editions. The guidelines may be found at www.ada.org/coda; or
 - (B) Completion of a pre-doctoral dental or postgraduate program that included intravenous conscious sedation training equivalent to that defined in Part (c)(1)(A) of this Rule;
- (2) Unexpired ACLS certification; and
- (3) That all auxiliaries involved in sedation procedures have unexpired BLS certification.

(d) All applicants for a moderate conscious sedation permit shall be in good standing with the Board.

(e) Prior to issuance of a moderate conscious sedation permit, the applicant shall pass an evaluation and a facility inspection. The applicant shall be responsible for passing the evaluation and inspection of his or her facility. ~~facility within 90 days of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one by contacting the Board in writing.~~

(f) A dentist who holds a moderate conscious sedation permit shall not intentionally administer deep sedation.

(g) A moderate conscious sedation permit holder may provide moderate conscious sedation at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the moderate conscious sedation is administered has been inspected and complies with the requirements set out in Rule .0302 of this Section. The permit holder shall also obtain an itinerant moderate conscious sedation permit and comply with the requirements of Rule .0304 of this Section.

Authority G.S. 90-30.1; 90-39; 90-48.

21 NCAC 16Q .0302 MODERATE PARENTERAL AND ENTERAL CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT

(a) A dentist administering moderate conscious sedation or supervising any CRNA employed to administer or RN employed to deliver moderate conscious sedation shall ensure that the facility where the sedation is administered meets the following requirements:

- (1) The facility shall be equipped with the following:
 - (A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;
 - (B) a CPR board or a dental chair without enhancements, suitable for providing emergency treatment;
 - (C) lighting as necessary for specific procedures and back-up lighting; and
 - (D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
 - (E) positive pressure oxygen delivery system, including full face masks for small, medium, and large patients and back-up E-cylinder portable oxygen tank apart from the central system;
 - (F) small, medium, and large oral and nasal airways;
 - (G) blood pressure monitoring device;
 - (H) EKG monitor;
 - (I) pulse oximeter;
 - (J) automatic external defibrillator (AED);
 - (K) precordial stethoscope or capnograph;
 - (L) thermometer;
 - (M) vascular access set-up as necessary for specific procedures, including hardware and fluids;
 - (N) laryngoscope with working batteries;
 - (O) intubation forceps and advanced airway devices;
 - (P) tonsillar suction with back-up suction;
 - (Q) syringes as necessary for specific procedures; and
 - (R) tourniquet and tape.
- (2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) antiarrhythmic;
 - (D) antihistamine;
 - (E) antihypertensive;
 - (F) bronchodilator;
 - (G) antihypoglycemic agent;
 - (H) vasopressor;
 - (I) corticosteroid;
 - (J) anticonvulsant;

- (K) muscle relaxant;
- (L) appropriate reversal agents;
- (M) nitroglycerine;
- (N) antiemetic; and
- (O) Dextrose.
- (3) The permit holder shall maintain written emergency and patient discharge ~~protocols~~ protocols. The permit holder shall also provide ~~and~~ training to familiarize auxiliaries in the treatment of clinical ~~emergencies~~ emergencies; shall be provided;
- (4) The dentist shall maintain the following records for at least 10 years:
 - (A) patient's current written medical history and pre-operative assessment;
 - (B) drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration; and
 - (C) a sedation record;
- (5) The sedation record shall include:
 - (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;
 - (B) procedure start and end times;
 - (C) gauge of needle and location of IV on the patient, if used;
 - (D) status of patient upon discharge;
 - (E) documentation of complications or morbidity; and
 - (F) consent form, signed by the patient or guardian, identifying the procedure, risks and benefits, level of sedation, and date signed; and
- (6) The following conditions shall be satisfied during a sedation procedure:
 - (A) The facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient monitoring and recording sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding sedation throughout the sedation procedure and is not performing the surgery or other dental procedure; and
 - (B) If IV sedation is used, IV infusion shall be administered before the start of the procedure and maintained until the patient is ready for discharge.

intravenous delivery system, while the evaluator observes. During the demonstration, the applicant or permit holder shall demonstrate competency in the following areas:

- (1) monitoring blood pressure, pulse, ET CO2 if capnography is utilized, and respiration;
 - (2) drug dosage and administration;
 - (3) treatment of untoward reactions including respiratory or cardiac depression if applicable;
 - (4) sterile technique;
 - (5) use of BLS certified auxiliaries;
 - (6) monitoring of patient during recovery; and
 - (7) sufficiency of patient recovery time.
- (c) During an inspection or evaluation, the applicant or permit holder shall ~~verbally~~ demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
- (1) laryngospasm;
 - (2) bronchospasm;
 - (3) emesis and aspiration;
 - (4) respiratory depression and arrest;
 - (5) angina pectoris;
 - (6) myocardial infarction;
 - (7) hypertension and hypotension;
 - (8) allergic reactions;
 - (9) convulsions;
 - (10) syncope;
 - (11) bradycardia;
 - (12) hypoglycemia;
 - (13) cardiac arrest; and
 - (14) airway obstruction.

(d) During the evaluation, the permit applicant shall take a written examination on the topics set forth in Paragraphs (b) and (c) of this Rule. The permit applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the permit applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be re-examined in accordance with Rule .0306(h) of this Section.

~~(d)~~(e) A moderate conscious sedation permit holder shall evaluate a patient for health risks before starting any sedation procedure as follows:

- (1) a patient who is medically stable and who is ASA I or II shall be evaluated by reviewing the patient's current medical history and medication use or;
- (2) a patient who is not medically stable or who is ASA III or higher shall be evaluated by a consultation with the patient's primary care physician or consulting medical specialist regarding the potential risks posed by the procedure.

~~(e)~~(f) Post-operative monitoring and discharge:

- (1) vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is recovered as defined in Subparagraph ~~(e)~~(f)(2) of this Rule and is ready for discharge from the office.

(b) During an inspection or evaluation, the applicant or permit holder shall demonstrate the administration of moderate conscious sedation on a patient, including the deployment of an

- (2) recovery from moderate conscious sedation shall include documentation of the following:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the special needs patient or patient incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
- (3) before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph ~~(e)~~(f)(2) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color, and level of consciousness are stable, and have been documented;
 - (B) explanation and documentation of written postoperative instructions have been provided to the patient or a responsible adult at time of discharge; and
 - (C) a vested adult is available to transport the patient after discharge.

- determine whether the applicant has passed the evaluation or inspection and shall notify the applicant in writing of its decision.
- (f) An applicant who fails an inspection or evaluation shall not receive a permit to administer moderate conscious sedation. If a permit holder's facility fails an inspection, no further moderate sedation procedures shall be performed at the facility until it passes a re-inspection by the Board.
- (g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement of the grounds supporting the re-evaluation or re-inspection. Except as set forth in Paragraph (h) of this Rule, the Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.
- (h) A permit applicant who has failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination three times shall successfully complete an additional Board approved course of study in the area(s) of deficiency and provide the Board evidence of the additional study before written reexamination.
- ~~(h)(i)~~ Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.
- (j) An applicant must complete all the requirements of Rule .0302, including passing the written examination, evaluation and inspection, within 12 months of submitting the application to the Board.

Authority G.S. 90-28; 90-30.1; 90-48.

Authority G.S. 90-30.1; 90-39; 90-48.

21 NCAC 16Q .0306 PROCEDURE FOR MODERATE CONSCIOUS SEDATION EVALUATION OR INSPECTION AND RE-INSPECTION

- (a) When an evaluation or on-site inspection is required, the Board shall designate one or more qualified persons to serve as evaluators each of whom has administered moderate conscious sedation for at least three years preceding the inspection. Training in moderate conscious sedation shall not be counted in the three years.
- (b) An inspection fee of two-hundred seventy-five dollars (\$275.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers moderate conscious sedation.
- (c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.
- (d) The inspection team shall determine compliance with the requirements of the rules in this Subchapter, as applicable, by assigning a grade of "pass" or "fail."
- (e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall

SECTION .0400 - ENTERAL CONSCIOUS SEDATION

21 NCAC 16Q .0401 MINIMAL CONSCIOUS SEDATION CREDENTIALS, EVALUATION AND PERMIT

- (a) Before a dentist licensed to practice in North Carolina may administer or supervise a certified registered nurse anesthetist to administer minimal conscious sedation, the dentist shall obtain a Board-issued permit for minimal conscious sedation, moderate pediatric conscious sedation, moderate conscious sedation or general anesthesia. A permit is not required for prescription administration of DEA controlled drugs prescribed for postoperative pain control intended for home use. A dentist may obtain a minimal conscious sedation permit from the Board by completing an application form provided by the Board and paying a fee of three-hundred seventy-five dollars (\$375.00) that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. Such permit must be renewed annually and shall be displayed with the current renewal at all times in a conspicuous place in the office of the permit holder.

- (b) Only a dentist who holds a general anesthesia license may administer deep sedation or general anesthesia.
- (c) Application:
- (1) A minimal conscious sedation permit may be obtained by completing an application form provided by Board, a copy of which may be obtained from the Board office, and meeting the requirements of Section .0400 of this Subchapter.
 - (2) The application form must be filled out completely and appropriate fees paid.
 - (3) An applicant for a minimal conscious sedation permit shall be licensed and in good standing with the Board in order to be approved. For purposes of these Rules "good standing" means that the applicant is not subject to a disciplinary investigation and his or her licensee has not been revoked or suspended and is not subject to a probation or stayed suspension order.
- (d) Evaluation:
- (1) Prior to issuance of a minimal conscious sedation permit the applicant shall pass an evaluation and undergo a facility inspection. ~~The Board shall direct an evaluator qualified to administer minimal sedation to perform this inspection. The applicant shall be notified in writing that an inspection is required and provided with the name of the evaluator who shall perform the inspection.~~ The applicant shall be responsible for successful completion of passing the evaluation and inspection of his or her facility, facility within three months of notification. ~~An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one.~~
 - (2) During an inspection or ~~evaluation~~ evaluation, ~~the applicant shall demonstrate the administration of minimal conscious sedation on a patient while the evaluator observes.~~ During the observation, the applicant or permit holder shall demonstrate competency in the following areas:
 - (A) Monitoring of blood pressure, pulse, pulse oximetry and respiration;
 - (B) Drug dosage and ~~administration~~ administration; ~~(by verbal demonstration);~~
 - (C) Treatment of untoward reactions including respiratory or cardiac depression (by verbal demonstration);
 - (D) ~~Sterilization; sterile technique;~~
 - (E) ~~Use of CPR certified personnel;~~ Use of BLS certified auxiliaries;
 - (F) Monitoring of patient during ~~recovery~~ recovery; ~~(by verbal demonstration);~~ and
 - (G) Sufficiency of patient recovery ~~time~~ time. ~~(by verbal demonstration).~~

- (3) During an inspection or evaluation, the applicant or permit holder shall ~~verbally~~ demonstrate competency to the evaluator in the treatment of the following clinical emergencies:
 - (A) Laryngospasm;
 - (B) Bronchospasm;
 - (C) Emesis and aspiration;
 - (D) Respiratory depression and arrest;
 - (E) Angina pectoris;
 - (F) Myocardial infarction;
 - (G) Hypertension/Hypotension;
 - (H) Syncope;
 - (I) Allergic reactions;
 - (J) Convulsions;
 - (K) Bradycardia;
 - (L) ~~Insulin shock; Hypoglycemia; and~~
 - (M) ~~Cardiac arrest; and~~
 - (N) Airway obstruction.
- (4) During the evaluation, the permit applicant shall take a written examination on the topics set forth in Subparagraphs (d)(2) and (d)(3) of this Rule. The permit applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the permit applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be re-examined in accordance with Subparagraph (d)(7) of this Rule.
- (4)(5) The evaluator shall assign a recommended grade of pass or fail and shall report his or her recommendation to the Board, setting out the basis for his conclusion. The Board is not bound by the evaluator's recommendation and shall make a final determination regarding whether the applicant has passed the evaluation. The applicant shall be notified of the Board's decision in writing.
- (6) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and shall include a statement of the grounds supporting the re-evaluation or re-inspection. Except as set forth in Subparagraph (d)(7) of this Rule, the Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.
- (7) A permit applicant who has failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written

examination. Any applicant who has failed the written portion of the examination three times shall successfully complete an additional Board approved course of study in the area(s) of deficiency and provide the Board evidence of the additional study before written reexamination.

(8) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.

(9) An applicant must complete all the requirements of this Rule, including passing the written examination, evaluation and inspection, within 12 months of submitting the application to the Board.

(e) Educational/Professional Requirements:

(1) The dentist applying for a minimal conscious sedation permit shall meet one of the following criteria:

~~(A)~~ successful completion of training consistent with that described in Part I or Part III of the American Dental Association (ADA) Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, and have documented administration of minimal conscious sedation in a minimum of five cases;

~~(B)~~(A) successful completion of an ADA accredited post-doctoral training program which affords comprehensive training necessary to administer and manage minimal conscious sedation;

~~(C)~~(B) successful completion of an 18-hour minimal conscious sedation course which must be approved by the Board based on whether it affords comprehensive training necessary to administer and manage minimal conscious sedation; or

~~(D)~~(C) successful completion of an ADA accredited postgraduate program in pediatric dentistry; or dentistry

(E) is a North Carolina licensed dentist in good standing who has been using minimal conscious sedation in a competent manner for at least one year immediately preceding October 1, 2007 and his or her office facility has passed an on-site inspection by a Board evaluator as required in Paragraph (d) of this Rule. Competency shall be determined by presentation of successful administration of minimal conscious sedation in a minimum of five clinical cases.

(2) All applicants for a minimal sedation permit must document successful completion of an

~~ACLS a Basic Life Saving (BLS)~~ course within the 12 months prior to the date of application;
(3) The permit holder shall maintain written emergency and patient discharge protocols. The permit holder shall also provide training to familiarize auxiliaries in the treatment of clinical emergencies.

(f) Annual Permit Renewal:

(1) Minimal conscious sedation permits shall be renewed by the Board annually at the same time as dental licenses by the dentist paying a one-hundred dollar (\$100.00) fee and completing the application requirements in this Rule. If the completed permit renewal application and renewal fee are not received before January 31 of each year, a fifty dollar (\$50.00) late fee shall be paid.

(2) Any dentist who fails to renew a minimal conscious sedation permit before March 31 of each year shall complete a reinstatement application, pay the renewal fee, late fee, and comply with all conditions for renewal set out in this Rule. Dentists whose sedation permits have been lapsed for more than 12 calendar months shall pass an inspection and an evaluation as part of the reinstatement process.

(3) As a condition for renewal of the minimal conscious sedation permit, the permit holder shall meet the requirements of Rule .0402 of this Subchapter and shall document unexpired ACLS certification and obtain three hours of continuing education every year in one or more of the following areas, which may be counted toward fulfillment of the continuing education required each calendar year for license renewal:

- (A) pediatric or adult sedation;
- (B) medical emergencies;
- (C) monitoring sedation and the use of monitoring equipment;
- (D) pharmacology of drugs and agents used in sedation;
- (E) physical evaluation, risk assessment, or behavioral management; or
- (F) airway management.

(4) The minimal conscious sedation permit holder shall further document that the permit holder and all auxiliaries involved in sedation procedures have read the practice's emergency manual in the preceding year and that all auxiliaries involved in sedation procedures have completed BLS certification and, within the past two years, completed three hours of continuing education in any of the areas set forth in Parts (f)(3)(A)-(F) of this Rule.

(5) All permit holders applying for renewal of a minimal conscious sedation permit shall be in good standing and their office shall be subject to inspection by the Board.

(g) A dentist who administers minimal conscious sedation in violation of this Rule shall be subject to the penalties prescribed by Rule .0701 of this Subchapter.

Authority G.S. 90-28; 90-30.1.

21 NCAC 16Q .0402 MINIMAL CONSCIOUS SEDATION PERMIT REQUIREMENTS, CLINICAL PROVISIONS AND EQUIPMENT

(a) Minimal conscious sedation is indicated for use only as defined in Rule .0101(15) of this Subchapter (relating to Definitions). Minimal conscious sedation is not indicated for use to achieve a ~~deep~~ deeper level of sedation.

(b) A minimal conscious sedation permit is not required for ~~minor psychosedatives~~ Schedule IV agents used for anxiolysis prescribed for administration outside of the dental office when pre-procedure instructions are likely to be followed. Medication administered for the purpose of minimal conscious sedation shall not exceed the maximum doses recommended by the drug manufacturer, sedation textbooks, or juried sedation journals. Except for nitrous inhalation, drugs in combination are not permitted for minimal conscious sedation. During longer periods of minimal conscious sedation, in which the amount of time of the procedures exceeds the effective duration of the sedative effect of the drug used, the incremental doses of the sedative shall not exceed total safe dosage levels based on the effective half-life of the drug used.

(c) Each dentist shall:

- (1) adhere to the clinical requirements as detailed in Paragraph (e) of this Rule;
- (2) maintain under continuous direct supervision any auxiliary personnel, who shall be capable of assisting in procedures, problems, and emergencies incident to the use of minimal conscious sedation or secondary to an unexpected medical complication;
- (3) utilize sufficient auxiliary personnel for each procedure performed who shall document annual successful completion of basic life support training; and
- (4) not allow a minimal conscious sedation procedure to be performed in his or her office by a Certified Registered Nurse Anesthetist (CRNA) unless the dentist holds a permit issued by the Board for the procedure being performed. This provision addresses dentists and is not intended to address the scope of practice of persons licensed by any other agency.

(d) Each dentist shall meet the following requirements:

- (1) Patient Evaluation. Patients who are administered minimal conscious sedation must be evaluated for medical health risks prior to the start of any sedative procedure. A patient receiving minimal conscious sedation must be healthy or medically stable (ASA I, or ASA II as defined by the American Society of Anesthesiologists). An evaluation is a review of the patient's current medical history and

medication use. However, for individuals who are not medically stable or who have a significant health disability Physical Status III (ASA III, as defined by the American Society of Anesthesiologists) a consultation with their primary care physician or consulting medical specialist regarding potential procedure risk is required.

(2) Pre-procedure preparation, informed consent:

- (A) The patient or guardian must be advised of the procedure associated with the delivery of the minimal conscious sedation.
- (B) Equipment must be evaluated and maintained for proper operation.
- (C) Baseline vital signs shall be obtained at the discretion of the operator depending on the medical status of the patient and the nature of the procedure to be performed.
- (D) Dentists administering minimal conscious sedation shall use sedative agents that he/she is competent to administer and shall administer such agents in a manner that is within the standard of care.

(e) Patient monitoring:

- (1) Patients who have been administered minimal conscious sedation shall be monitored during waiting periods prior to operative procedures. An adult who has accepted responsibility for the patient and been given written pre-procedural instruction may provide such monitoring. The patient shall be monitored for alertness, responsiveness, breathing and skin coloration.
- (2) Dentists administering minimal conscious sedation shall maintain direct supervision of the patient during the operative procedure and for such a period of time necessary to establish pharmacologic and physiologic vital sign stability.
 - (A) Oxygenation. Color of mucosa, skin or blood shall be continually evaluated. Oxygen saturation shall be evaluated continuously by pulse oximetry, except as provided in Paragraph (e)(4) of this Rule.
 - (B) Ventilation. Observation of chest excursions or auscultation of breath sounds or both shall be performed.
 - (C) Circulation. Blood pressure and pulse shall be taken and recorded initially and thereafter as appropriate except as provided in Paragraph (e)(4) of this Rule.
 - (D) AED. Dentists administering minimal conscious sedation shall maintain a

functioning automatic external defibrillator (AED).

- (3) An appropriate time oriented anesthetic record of vital signs shall be maintained in the permanent record including documentation of individual(s) administering the drug and showing the name of drug, strength and dosage used.
- (4) If the dentist responsible for administering minimal conscious sedation must deviate from the requirements set out in this Rule, he or she shall document the occurrence of such deviation and the reasons for such deviation.

(f) Post-operative procedures:

- (1) Following the operative procedure, positive pressure oxygen and suction equipment shall be immediately available in the recovery area or operatory.
- (2) Vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is sufficiently responsive for discharge from the office.
- (3) Patients who have adverse reactions to minimal conscious sedation shall be assisted and monitored either in an operatory chair or recovery area until stable for discharge.
- (4) Recovery from minimal conscious sedation shall include:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient easily arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the patient who is disabled, or incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
- (5) Prior to allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Paragraph (f)(4) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color and level of consciousness are sufficient and stable and have been documented;
 - (B) explanation and documentation of written postoperative instructions

- (C) have been provided to the patient or a responsible adult at time of discharge; responsible individual is available for the patient to transport the patient after discharge;
- (D) A vested adult must be available to transport patients for whom a motor vehicle restraint system is required and an additional responsible individual must be available to attend to the patients.

(g) The dentist, personnel and facility shall be prepared to treat emergencies that may arise from the administration of minimal conscious sedation, and shall have the ability to provide positive pressure ventilation with 100% oxygen with an age appropriate device.

Authority G.S. 90-28; 90-30.1.

21 NCAC 16Q .0404 CREDENTIALS AND PERMITS FOR MODERATE PEDIATRIC CONSCIOUS SEDATION

(a) Before a dentist licensed to practice in North Carolina may administer moderate pediatric conscious sedation, the dentist shall obtain a general anesthesia or moderate pediatric conscious sedation permit from the Board by completing the application requirements of this Rule and paying a fee of three hundred seventy-five dollars (\$375.00) that includes the one-hundred dollar (\$100.00) application fee and the two-hundred seventy-five dollar (\$275.00) inspection fee. The permit shall be renewed annually and shall be displayed with the current renewal at all times in the permit holder's facility where it is visible to patients receiving treatment.

(b) A dentist applying for a permit to administer moderate pediatric conscious sedation shall hold an unexpired PALS certification and meet at least one of the following criteria:

- (1) completion of a postgraduate program that included pediatric intravenous conscious sedation training;
- (2) completion of a Commission On Dental Accreditation (CODA) approved pediatric residency that included intravenous conscious sedation training; or
- (3) completion of a pediatric degree or pediatric residency at a CODA approved institution that includes training in the use and placement of IVs or intraosseous vascular access. A list of CODA approved institutions that is hereby incorporated by reference, including subsequent amendments and editions, appears at www.ada.org/coda and is available at no cost.

(c) All applicants for moderate pediatric conscious sedation permits shall have completed the training required by Paragraph (b) of this Rule within the last two years or show evidence of moderate pediatric conscious sedation practice within the last two years in another state or U.S. Territory.

(d) All applicants for moderate pediatric conscious sedation permits shall be in good standing with the Board.

(e) Prior to issuance of a moderate pediatric conscious sedation permit, the applicant shall pass an evaluation and a facility

inspection. The applicant shall be responsible for passing the evaluation and inspection of his or her ~~facility. facility within 90 days of notification. An extension of no more than 90 days shall be granted if the designated evaluator or applicant requests one by contacting the Board in writing.~~

(f) A moderate pediatric conscious sedation permit holder may provide moderate pediatric conscious sedation at the office of another licensed dentist, regardless of the permit, if any held, by the hosting dentist. The permit holder shall ensure that the facility where the moderate pediatric conscious sedation is administered has been inspected and complies with the requirements set out in Rule .0405 of this Section. The permit holder shall also obtain an itinerant moderate pediatric conscious sedation permit and comply with the requirements of Rule .0406 of this Section.

Authority G.S. 90-30.1; 90-39; 90-48.

21 NCAC 16Q .0405 MODERATE PEDIATRIC CONSCIOUS SEDATION CLINICAL REQUIREMENTS AND EQUIPMENT

(a) A dentist administering moderate pediatric conscious sedation shall ensure that the facility where the sedation is administered meets the following requirements:

- (1) The facility shall be equipped with the following:
 - (A) an operatory of size and design to permit access of emergency equipment and personnel and to permit emergency management;
 - (B) a CPR board or a dental chair without enhancements, suitable for providing emergency treatment;
 - (C) lighting as necessary for specific procedures and back-up lighting;
 - (D) suction equipment as necessary for specific procedures, including non-electrical back-up suction;
 - (E) positive pressure oxygen delivery system, including full face masks for small, medium, and large patients and back-up E-cylinder portable oxygen tank apart from the central system;
 - (F) small, medium, and large oral and nasal airways;
 - (G) blood pressure monitoring device;
 - (H) EKG monitor;
 - (I) pulse oximeter;
 - (J) automatic external defibrillator (AED);
 - (K) precordial stethoscope or capnograph;
 - (L) thermometer;
 - (M) vascular access set-up as necessary for specific procedures, including hardware and fluids;
 - (N) laryngoscope with working batteries;
 - (O) intubation forceps and advanced airway devices;
 - (P) tonsillar suction with back-up suction;

- (Q) syringes as necessary for specific procedures; and
- (R) tourniquet and tape.
- (2) The following unexpired drugs shall be maintained in the facility and with access from the operatory and recovery rooms:
 - (A) Epinephrine;
 - (B) Atropine;
 - (C) antiarrhythmic;
 - (D) antihistamine;
 - (E) antihypertensive;
 - (F) bronchodilator;
 - (G) antihypoglycemic agent;
 - (H) vasopressor;
 - (I) corticosteroid;
 - (J) anticonvulsant;
 - (K) muscle relaxant;
 - (L) appropriate reversal agents;
 - (M) nitroglycerine;
 - (N) antiemetic; and
 - (O) Dextrose.
- (3) The permit holder shall maintain written emergency and patient discharge ~~protocols~~ protocols. The permit holder shall also provide and training to familiarize auxiliaries in the treatment of clinical emergencies; emergencies; shall be provided;
- (4) The following records are maintained for at least 10 years:
 - (A) patient's current written medical history and pre-operative assessment;
 - (B) drugs administered during the procedure, including route of administration, dosage, strength, time, and sequence of administration;
 - (C) a sedation record; and
 - (D) a consent form, signed by the patient or a guardian, identifying the procedure, risks and benefits, level of sedation, and date signed;
- (5) The sedation record shall include:
 - (A) base line vital signs, blood pressure (unless patient behavior prevents recording), oxygen saturation, ET CO2 if capnography is utilized, pulse and respiration rates of the patient recorded in real time at 15 minute intervals;
 - (B) procedure start and end times;
 - (C) gauge of needle and location of IV on the patient, if used;
 - (D) status of patient upon discharge; and
 - (E) documentation of complications or morbidity; and
- (6) The following conditions shall be satisfied during a sedation procedure:
 - (A) the facility shall be staffed with at least two BLS certified auxiliaries, one of whom shall be dedicated to patient

monitoring and recording sedation data throughout the sedation procedure. This Subparagraph shall not apply if the dentist permit holder is dedicated to patient care and monitoring regarding sedation throughout the sedation procedure and is not performing the surgery or other dental procedure; and

(B) when IV sedation is used, IV infusion shall be administered before the commencement of the procedure and maintained until the patient is ready for discharge.

(b) During an inspection or evaluation, applicants and permit holders who use intravenous sedation shall demonstrate the administration of moderate pediatric conscious sedation on a live patient, including the deployment of an intravenous delivery system, while the evaluator observes. Applicants and permit holders who do not use IV sedation shall describe the proper deployment of an intravascular delivery system to the evaluator and shall demonstrate the administration of moderate pediatric conscious sedation on a live patient while the evaluator observes.

(c) During the demonstration, all applicants and permit holders shall demonstrate competency in the following areas:

- (1) monitoring blood pressure, pulse, and respiration;
- (2) drug dosage and administration;
- (3) treatment of untoward reactions including respiratory or cardiac depression if applicable;
- (4) sterile technique;
- (5) use of BLS certified auxiliaries;
- (6) monitoring of patient during recovery; and
- (7) sufficiency of patient recovery time.

(d) During an inspection or evaluation, the applicant or permit holder shall ~~verbally~~ demonstrate competency in the treatment of the following clinical emergencies:

- (1) laryngospasm;
- (2) bronchospasm;
- (3) emesis and aspiration;
- (4) respiratory depression and arrest;
- (5) angina pectoris;
- (6) myocardial infarction;
- (7) hypertension and hypotension;
- (8) allergic reactions;
- (9) convulsions;
- (10) syncope;
- (11) bradycardia;
- (12) hypoglycemia;
- (13) cardiac arrest; and
- (14) airway obstruction.

(e) During the evaluation, the permit applicant shall take a written examination on the topics set forth in Paragraphs (c) and (d) of this Rule. The permit applicant must obtain a passing score on the written examination by answering 80 percent of the examination questions correctly. If the permit applicant fails to obtain a passing score on the written examination that is administered during the evaluation, he or she may be re-examined in accordance with Rule .0408(h) of this Section.

~~(e)~~(f) A moderate pediatric conscious sedation permit holder shall evaluate patients for health risks before starting any sedation procedure as follows:

- (1) a patient who is medically stable and who is ASA I or II shall be evaluated by reviewing the patient's current medical history and medication use; or
- (2) a patient who is not medically stable or who is ASA III or higher shall be evaluated by a consultation with the patient's primary care physician or consulting medical specialist regarding the potential risks posed by the procedure.

~~(f)~~(g) Patient monitoring:

- (1) Patients who have been administered moderate pediatric conscious sedation shall be monitored for alertness, responsiveness, breathing, and skin coloration during waiting periods before operative procedures.
- (2) Vital signs shall be continuously monitored when the sedation is no longer being administered and the patient shall have direct continuous supervision until oxygenation and circulation are stable and the patient is recovered as defined in Subparagraph ~~(f)~~(g)(3) of this Rule and is ready for discharge from the office.
- (3) Recovery from moderate pediatric conscious sedation shall include documentation of the following:
 - (A) cardiovascular function stable;
 - (B) airway patency uncompromised;
 - (C) patient arousable and protective reflexes intact;
 - (D) state of hydration within normal limits;
 - (E) patient can talk, if applicable;
 - (F) patient can sit unaided, if applicable;
 - (G) patient can ambulate, if applicable, with minimal assistance; and
 - (H) for the special needs patient or a patient incapable of the usually expected responses, the pre-sedation level of responsiveness or the level as close as possible for that patient shall be achieved.
- (4) Before allowing the patient to leave the office, the dentist shall determine that the patient has met the recovery criteria set out in Subparagraph ~~(f)~~(g)(3) of this Rule and the following discharge criteria:
 - (A) oxygenation, circulation, activity, skin color, and level of consciousness are stable, and have been documented;
 - (B) explanation and documentation of written postoperative instructions have been provided to a responsible adult at time of discharge; and

- (C) a vested adult is available to transport the patient after discharge, and for the patient for whom a motor vehicle restraint system is required, an additional responsible individual is available to attend to the patient.

Authority G.S. 90-28; 90-30.1; 90-48.

21 NCAC 16Q .0408 PROCEDURE FOR MODERATE PEDIATRIC SEDATION EVALUATION OR INSPECTION AND RE-INSPECTION

- (a) When an evaluation or on-site inspection is required, the Board shall designate one or more qualified persons to serve as evaluators, each of whom has administered moderate pediatric sedation for at least three years preceding the evaluation or inspection. Training in moderate pediatric sedation shall not count toward the three years.
- (b) An inspection fee of two-hundred seventy-five dollars (\$275.00) shall be due 10 days after the dentist receives notice of the inspection of each additional location at which the dentist administers moderate pediatric sedation.
- (c) Any dentist-member of the Board may observe or consult in any evaluation or inspection.
- (d) The inspection team shall determine compliance with the requirements of the rules in this Subchapter, as applicable, by assigning a grade of "pass" or "fail."
- (e) Each evaluator shall report his or her recommendation to the Board's Anesthesia and Sedation Committee, setting forth the details supporting his or her conclusion. The Committee shall not be bound by these recommendations. The Committee shall determine whether the applicant has passed the evaluation or inspection and shall notify the applicant in writing of its decision.
- (f) An applicant who fails an inspection or evaluation shall not receive a permit to administer moderate pediatric sedation. If a permit holder's facility fails an inspection, no further moderate pediatric sedation procedures shall be performed at the facility until it passes a re-inspection by the Board.

- (g) An applicant who fails an inspection or evaluation may request a re-evaluation or re-inspection within 15 days of receiving the notice of failure. The request shall be directed to the Board in writing and include a statement of the grounds supporting the re-evaluation or re-inspection. Except as set forth in Paragraph (h) of this Rule, the Board shall require the applicant to receive additional training prior to the re-evaluation to address the areas of deficiency determined by the evaluation. The Board shall notify the applicant in writing of the need for additional training.

(h) A permit applicant who has failed the written examination portion of the evaluation but passed all other aspects of the evaluation and inspection may retake the written examination two additional times at the Board office. The applicant must wait a minimum of 72 hours before attempting to retake a written examination. Any applicant who has failed the written portion of the examination three times shall successfully complete an additional Board approved course of study in the area(s) of deficiency and provide the Board evidence of the additional study before written reexamination.

~~(h)~~(i) Re-evaluations and re-inspections shall be conducted by Board-appointed evaluators not involved in the failed evaluation or inspection.

(j) An applicant must complete all the requirements of Rule .0405 of this Section, including passing the written examination, evaluation and inspection, within 12 months of submitting the application to the Board.

Authority G.S. 90-30.1; 90-39; 90-48.

SECTION .0500 - RENEWAL OF PERMITS

21 NCAC 16Q .0501 ANNUAL RENEWAL REQUIRED

Authority G.S. 90-28; 90-30.1; 90-48.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission August 16, 2018 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate
Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jeffrey A. Poley

Appointed by House
Garth Dunklin (Chair)
Andrew P. Atkins
Anna Baird Choi
Paul Powell
Jeanette Doran (2nd Vice Chair)

COMMISSION COUNSEL

Amber Cronk May (919)431-3074
Amanda Reeder (919)431-3079
Jason Thomas (919)431-3081

RULES REVIEW COMMISSION MEETING DATES

September 20, 2018 October 18, 2018
November 15, 2018 December 13, 2018

**RULES REVIEW COMMISSION MEETING
MINUTES
August 16, 2018**

The Rules Review Commission met on Thursday, August 16, 2018, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew Atkins, Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Poley, and Paul Powell.

Staff members present were Commission Counsels Amber Cronk May, Amanda Reeder, and Jason Thomas; and Julie Brincefield, Alex Burgos, and Dana McGhee.

The meeting was called to order at 10:01 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 163A-159 and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the July 19, 2018 meeting. There were none and the minutes were approved as distributed.

FOLLOW UP MATTERS

Commissioner of Banks

04 NCAC 03K .0404 was unanimously approved.

Commission of Navigation and Pilotage for the Cape Fear River and Bar

The agency is addressing the objections for 04 NCAC 15 .0119, .0121, .0123, .0124, .0127, and .0128. No action was required by the Commission.

Child Care Commission

The agency is addressing the objections for 10A NCAC 09 .2201, .2202, .2203, .2204, .2205, .2206, .2207, .2209, .2213, .2216, and .2217. No action was required by the Commission.

Following the presentation on the rules from the Child Care Commission, Commissioner Poley joined the meeting.

DHHS/Division of Medical Assistance

10A NCAC 22F .0104, .0301, .0302, .0602, .0603, .0604, and 22J .0105 and .0106 - The Commission reviewed rewritten rules submitted by the Division in response to the June 14, 2018 objections. The Rules Review Commission objected to 10A NCAC 22F .0301 on the basis of ambiguity and continued their objection to 10A NCAC 22J .0106, finding that the rewritten rule had not met their objection. The Commission approved all other rules.

The Commission voted to waive the time limit for speaking in 26 NCAC 05 .0106(b).

Mathew Cochran, with the law firm of Ott Cone & Redpath, addressed the Commission.

Kathy McCraw, with the Attorney General's office and representing the agency, addressed the Commission.

Brenda Eaddy, with the Attorney General's office and representing the agency, addressed the Commission.

Virginia Niehaus, the rulemaking coordinator with the agency, addressed the Commission.

During the discussion of the rules, and prior to the vote, Commissioner Choi left the meeting and did not participate for the remainder of the meeting.

The chair called the meeting into a brief recess at 11:46 a.m.

The meeting resumed at 12:03 p.m.

LOG OF FILINGS (PERMANENT RULES)

Pre-Reviewed Rules

Environmental Management Commission 15A NCAC 02S

All rules were unanimously approved.

Environmental Management Commission 15A NCAC 02T

All rules were unanimously approved contingent upon receiving the properly formatted rules for 15A NCAC 02T .0301, .0302-.0306, .0402, .0405, and .1106. The properly formatted rules were received.

Water Pollution Control System Operator Certification Commission

All rules were unanimously approved with the following exceptions:

The Commission objected to 15A NCAC 08F .0406 based upon lack of statutory authority and necessity, as well as ambiguity.

Specifically, the Commission found that throughout the rule, the agency appears to be delegating to the Chairman or a committee of the Commission the authority to issue summary suspension of a certification pursuant to G.S. 150B-3(c) and to revoke or suspend a certification pursuant to G.S. 150B, Article 3A. However, the APA requires a majority of the Commission members to make these decisions. The agency has not cited to any authority to abrogate the requirements of the APA and allow the Chairman to issue these decisions without approval of the Commission.

In addition, it appears from Paragraph (c) that the agency is creating a disciplinary committee composed of at least four members of the 11-member body and this committee will hold a hearing and then make a recommendation to the Chairman, who will issue a decision. G.S. 150B-40(b) requires a majority of the agency to decide contested cases; if they cannot do so, they must request an ALJ from the Office of Administrative Hearings. The agency has not cited to any authority to allow them to delegate this decision making to the Chairman, even following a consultation with a minority of the members of the Commission.

Further, Paragraph (g) states that the decision of the Chairman becomes a final agency action unless the individual files a petition for a contested case. Therefore, the Rule is unclear as written, as it is not apparent what this Rule is doing if it is not establishing the process for filing a contested case with the agency.

The Commission also found that Subparagraphs (a)(1) through (3) merely recite G.S. 90A-47.5(a)(1) through (3) and therefore, this portion of the rule is unnecessary.

The Commission objected to 15A NCAC 08G .0802 based upon lack of statutory authority and ambiguity for the same reasons articulated in the objection to Rule 15A NCAC 08F .0406 regarding those grounds.

Phillip Reynolds, with the Attorney General's office and representing the agency, addressed the Commission.

Water Treatment Facility Operators Certification Board

All rules were unanimously approved.

Board of Dental Examiners

21 NCAC 16R .0201 was unanimously approved.

Non Pre-Reviewed Rules

Board of Elections and Ethics Enforcement

08 NCAC 18 .0101 was unanimously approved.

The Commission extended the period of review for 08 NCAC 01 .0106, 08 NCAC 02 .0114, 08 NCAC 05 .0111, 08 NCAC 10B .0109, 08 NCAC 16 .0101-.0104, 08 NCAC 18 .0101-.0102, and 08 NCAC 20 .0101 in accordance with G.S. 150B-21.10 at the request of the agency.

In addition, the Commission objected to 08 NCAC 01 .0104, 08 NCAC 02 .0110-.0113, 08 NCAC 03 .0101-.0106, .0201-.0202, .0301-.0302, 08 NCAC 04 .0302-.0307, 08 NCAC 06B .0103-.0105, 08 NCAC 08 .0104, 08 NCAC 09 .0106-.0109, and 08 NCAC 10B .0101-.0108 for the reasons set forth in the attached document.

Following the objections by the Commission, the Board of Elections and Ethics Enforcement asked the Commission to waive Rule 26 NCAC 05 .0108(a) and review rewritten versions of Rules 08 NCAC 02 .0110 and .0111 at the August meeting, in order for them to become effective September 1, 2018. The Commission granted the request, with Commissioner Poley opposed. The Commission unanimously approved Rules 08 NCAC 02 .0110 and .0111 as rewritten.

Prior to the review of the rules from the Board of Elections and Ethics Enforcement, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she has a matter pending before the Board of Elections and Ethics Enforcement.

Katelyn Love, the rulemaking coordinator for the agency, addressed the Commission.

Environmental Management Commission 15A NCAC 02U

All rules were unanimously approved.

Wildlife Resources Commission

All rules were unanimously approved.

After voting on the rules from the Wildlife Resources Commission, Commissioner Poley left the meeting and did not participate for the remainder of the meeting.

Department of Revenue

All rules were unanimously approved.

Licensing Board for General Contractors

All rules were unanimously approved.

Board of Cosmetic Art Examiners

All rules were unanimously approved.

Prior to the review of the rules from the Board of Cosmetic Art Examiners, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Building Code Council

All rules were unanimously approved.

EXISTING RULES REVIEW

Private Protective Services Board

14B NCAC 16 – The Commission unanimously approved the report as submitted by the agency.

TSERS and LGERS Board of Trustees

20 NCAC 02 – The Commission unanimously approved the report as submitted by the agency.

Board of Recreational Therapy Licensure

21 NCAC 65 – The Commission unanimously approved the report as submitted by the agency.

Environmental Management Commission

15A NCAC 02N, O, P - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than January 31, 2023 pursuant to G.S. 150B-21.3A(d)(2).

Jennifer Everett, the rulemaking coordinator for the agency, addressed the Commission.

Substance Abuse Professional Practice Board

21 NCAC 68 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than September 30, 2020 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

Chairman Dunklin asked for any discussion, comments, or corrections concerning the closed session minutes of the July 19, 2018 meeting. There were none and the closed session minutes were approved.

Chairman Dunklin reminded the Commissioners that per their revised bylaws, the election of Commission Officer selections will be held at the September meeting.

The meeting adjourned at 1:57 p.m.

The next regularly scheduled meeting of the Commission is Thursday, September 20th at 10:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair

August 16, 2018

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
BARRY GUPTON	NCDDI - NCBCC
Jay Frick	NC DWR PWS Section
Kathy McGraw	NC DOJ - for DMA
Lynda Elliott	Ed & Cosmetic Arts
Jennifer Everett	PER
Adrienne Clark	NC DOJ DHS
STEVE REID	DEQ
Virginia Nicholas	DMA/DHP
Jim Flowers	DMA/DHS
Lonnie Christopher	NCCOB
Janice Davidson	NC DOR
Tabitha Brucant	DHB
Victor Unnone	NC DOJ
Brenda Eaddy	NC DOJ
Freya Harley-Lynch	DHB
Whitney Waldenberg	Dental Board
Katelyn Love	Elections + Ethics
NATHANIEL THOMPSON	DEQ - DWR
Dora Witt-	DEQ / PWR
Keith Larick	NC Farm Bureau
Matthew Judah Cochran	Off Conc + Polpath, P.A.

August 16, 2018

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Peter L. Doorn	NC DEQ DWM
Maggie Craven	PPSB
Tommy Storms	Storms Hobby
Roger Barnes	NC Medicaid
A C Phillips	NC Medicaid
Jyrita Moore	OCPI
JOHN THOMPSON	DAB
Nancy Dunn	NC DEQ DGC
Patrick Piggott	OCPI
CHRISTINE LAWSON	NC DEQ - Div. of Water Resources
Phillip Reynolds	NC DOJ
Christina Strickland	DST



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

August 21, 2018

Katelyn Love, Rulemaking Coordinator
Board of Elections and Ethics Enforcement
Sent via email only: katelyn.love@ncsbe.gov

Re: Extension of the Period of Review for Rules 08 NCAC 01 .0106, 08 NCAC 02 .0114, 08 NCAC 05 .0111, 08 NCAC 10B .0109, 08 NCAC 16 .0101-.0104, 08 NCAC 18 .0101-.0102, and 08 NCAC 20 .0101; and Objection to Rules 08 NCAC 01 .0104, 08 NCAC 02 .0110-.0113, 08 NCAC 03 .0101-.0106, .0201-.0202, .0301-.0302, 08 NCAC 04 .0302-.0307, 08 NCAC 06B .0103-.0105, 08 NCAC 08 .0104, 08 NCAC 09 .0106-.0109, and 08 NCAC 10B .0101-.0108

Dear Ms. Love:

At its meeting on August 16, 2018, the Rules Review Commission extended the period of review for 08 NCAC 01 .0106, 08 NCAC 02 .0114, 08 NCAC 05 .0111, 08 NCAC 10B .0109, 08 NCAC 16 .0101-.0104, 08 NCAC 18 .0101-.0102, and 08 NCAC 20 .0101 in accordance with G.S. 150B-21.10 at the request of the agency. Pursuant to 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

In addition, the Commission objected to 08 NCAC 01 .0104, 08 NCAC 02 .0110-.0113, 08 NCAC 03 .0101-.0106, .0201-.0202, .0301-.0302, 08 NCAC 04 .0302-.0307, 08 NCAC 06B .0103-.0105, 08 NCAC 08 .0104, 08 NCAC 09 .0106-.0109, and 08 NCAC 10B .0101-.0108 for the reasons set forth in the attached document.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please feel free to contact me.

Sincerely,

Amber May
Commission Counsel

Enclosure

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer

8/21/2018

State Board of Elections and Ethics Enforcement Objections

Rule Number	Reason	Additional Information
08 NCAC 01 .0104	Unclear/Ambiguous Unnecessary	The Commission found this Rule to be ambiguous as written as it includes language such as "immediately" without providing any additional information as to the meaning of this term. In addition, Paragraph (d) provides for a "statutory penalty" without providing a specific cross-reference to say what that penalty is. Further, this Rule contains references to statutes that no longer exist as the statutory references have been recodified. The Commission also found Paragraphs (a) and (c) of this Rule unnecessary as they appear to recite G.S. 163A-1413(a) and (b)(9).
08 NCAC 02 .0112	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 02 .0113	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0101	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as written as it contains terms such as "brief", "intelligent", and "official" without providing any additional information. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0102	Unclear/Ambiguous	The Commission found this Rule to be unclear as includes language such as "if the charges thus filed show" and "by such other methods as the board may adopt" without providing any additional information as to how these determinations will be made. Also, this Rule contains terms such as "official" and "intentional" without providing any additional clarifying information. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0103	Unclear/Ambiguous	The Commission found this Rule to be unclear as it includes language such as "unless otherwise ordered or permitted by the Board" without providing any additional information as to how this determination will be made. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0104	Unclear/Ambiguous	The Commission found this Rule to be unclear as it includes language such as "unless otherwise ordered by the Board" without providing any additional information as to how this determination will be made. Also, this Rules requires that affidavits "be served" with no additional information as to how service is to be effectuated. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.

8/21/2018

08 NCAC 03 .0105	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0106	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "brief" without providing any additional clarifying information. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0201	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0202	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "forthwith", "immediately", and "at once" without providing any additional information as to the meaning of these terms. Also, this Rule indicates that the Board "may" hear a matter "'de novo,' or, in the judgement of the Board may be dismissed, remanded to the county or heard on petition and affidavit..." without providing information as to how this determination will be made. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0301	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "prompt", "efficient", and "proper" without providing any additional information as to the meaning of these terms. Also, this Rule appears to create a waiver that will enable the Board to "suspend these rules" without providing any factors that the Board will use in making that determination. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0302	Unnecessary	The Commission found that this Rule to be unnecessary as it does not provide any additional requirements or information beyond those contained in G.S. 163A-741(d).
08 NCAC 04 .0302	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as written as it contains an approval standard for modification of voting systems, without providing any additional information as to how the approval determination will be made. In addition, this Rule contains ambiguous terms such as "substantially" and "satisfactory." Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 04 .0304	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "properly" without providing any additional information as to the meaning of this term. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.

8/21/2018

08 NCAC 03 .0105	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0106	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "brief" without providing any additional clarifying information. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0201	Unclear/Ambiguous	The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0202	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "forthwith", "immediately", and "at once" without providing any additional information as to the meaning of these terms. Also, this Rule indicates that the Board "may" hear a matter "'de novo,' or, in the judgement of the Board may be dismissed, remanded to the county or heard on petition and affidavit..." without providing information as to how this determination will be made. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0301	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "prompt", "efficient", and "proper" without providing any additional information as to the meaning of these terms. Also, this Rule appears to create a waiver that will enable the Board to "suspend these rules" without providing any factors that the Board will use in making that determination. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 03 .0302	Unnecessary	The Commission found that this Rule to be unnecessary as it does not provide any additional requirements or information beyond those contained in G.S. 163A-741(d).
08 NCAC 04 .0302	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as written as it contains an approval standard for modification of voting systems, without providing any additional information as to how the approval determination will be made. In addition, this Rule contains ambiguous terms such as "substantially" and "satisfactory." Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 04 .0304	Unclear/Ambiguous	The Commission found this Rule to be ambiguous as it includes language such as "properly" without providing any additional information as to the meaning of this term. Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.

8/21/2018

08 NCAC 04 .0305	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "proper" without providing any additional information as to the meaning of this term.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 04 .0306	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as it includes language such as "properly", "safe", "appropriate", "secure", "proper", and "direct" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 04 .0307	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "properly" and "accurately" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 06B .0103	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "as soon as practicable" without providing any additional information as to the meaning of this term.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 06B .0104	Unclear/Ambiguous	<p>The Commission found this Rule to be unclear as written as it contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 06B .0105	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "requisite documentation", "clearly", and "unavoidable necessity" without providing any additional information as to the meaning of these terms.</p> <p>Further, this Rule contains references to statutes that no longer exist as the statutory references have been recodified.</p>
08 NCAC 08 .0104	Statutory Authority	<p>The Commission objected to this Rule for lack of statutory authority as the only cited authority was repealed in 1993.</p>
08 NCAC 09 .0106	Statutory Authority Unnecessary Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>In addition, the Commission found Paragraph (b) of this Rule to be unnecessary as it recites G.S. 163A-1176 without providing any additional information.</p> <p>The Commission found this Rule to be ambiguous as written as it includes language such as "properly" without providing any additional information as to the meaning of this term.</p>

8/21/2018

		Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 09 .0107	Statutory Authority Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>The Commission found this Rule is unclear or ambiguous as Subparagraph (b)(9) uses the word "should." It is unclear whether this is intended to be a mandate or an aspiration statement that does not meet the definition of a rule. Also, the history note contains references to statutes that no longer exist as the statutory references have been recodified.</p>
08 NCAC 09 .0108	Statutory Authority Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>The Commission found this Rule is unclear as (d) provides for an appeals process of the recount vote without providing any further information.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 09 .0109	Statutory Authority Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>The Commission found this Rule to be unclear as written.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0101	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "promptly", "good cause", "open means", "prompt", "orderly", "short notice", "immediately", "secure", "properly" and "improperly", and "clearly" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0102	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "other approved communications devices", "other necessary identifiers", "necessary mechanisms", "correctly", "good working order", "continual adequate", "proper", and "official timepiece" without providing any additional information as to the meaning of these terms.</p> <p>In addition, (e) says that "units should be locked... and should remain that way..." It is unclear whether this is a requirement related to the units or if this is an aspirational statement that does not meet the definition of a Rule. Paragraph (i) also contains the word "should."</p>

8/21/2018

		Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
08 NCAC 10B .0103	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "clearly", "fail-safe", "adequate", "proper", "other approved record", "secure", and "properly" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0104	Statutory Authority Unclear/Ambiguous	<p>The Commission objected to this Rule for lack of statutory authority as G.S. 163A-1109 prohibits the use of punch-card ballots and lever machine voting systems and this Rule appears to provide provisions regarding both punch card ballots and lever voting.</p> <p>The Commission found this Rule to be ambiguous as written as it includes language such as "immediately", "undue delay", "proper", and "appropriate" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0105	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "orderly" without providing any additional information as to the meaning of this term.</p> <p>Further it notes that "the container should be sealed..." It is unclear whether this is intended to be a requirement or an aspirational statement that does not meet the definition of a Rule.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0106	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "immediately" and "unsecured."</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p>
08 NCAC 10B .0107	Unclear/Ambiguous Unnecessary	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "near relative", "illegally excluded", "properly", "good cause" and "reasonable grounds" and "unlawful assistance" without providing any additional information as to the meaning of these terms.</p> <p>Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.</p> <p>In addition, the Commission found Subparagraphs (a)(1) and (2) and Paragraphs (b) and (c) unnecessary as they essentially recite G.S. 163A-1139 without providing any additional information.</p>
08 NCAC 10B .0108	Unclear/Ambiguous	<p>The Commission found this Rule to be ambiguous as written as it includes language such as "sufficient" without providing any additional information as to the meaning of this term.</p>

8/21/2018

		Further, the history note contains references to statutes that no longer exist as the statutory references contained in this Rule have been recodified.
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STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

August 16, 2018

Jennifer Everett
Environmental Management Commission
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 15A NCAC 02 N, O, and P

Dear Ms. Everett:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the August 16, 2018 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than January 31, 2023.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Amber May
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
February 15, 2018
APO Review: March 06, 2018**

**Environmental Management Commission
Total: 72**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 02N .0201</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0202</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0203</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0301</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0302</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0303</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0304</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0401</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0402</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0403</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0404</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0405</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0501</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0502</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0503</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0504</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0505</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0506</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0601</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0602</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0603</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0604</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0701</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0702</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0703</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0704</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0705</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0706</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0707</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0708</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0801</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0802</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0803</u>	Necessary with substantive public interest

**RRC DETERMINATION
PERIODIC RULE REVIEW
February 15, 2018
APO Review: March 06, 2018**

**Environmental Management Commission
Total: 72**

RRC Determination: Necessary with substantive public interest

Rule	Determination
<u>15A NCAC 02N .0201</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0202</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0203</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0301</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0302</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0303</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0304</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0401</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0402</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0403</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0404</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0405</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0501</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0502</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0503</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0504</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0505</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0506</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0601</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0602</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0603</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0604</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0701</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0702</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0703</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0704</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0705</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0706</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0707</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0708</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0801</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0802</u>	Necessary with substantive public interest
<u>15A NCAC 02N .0803</u>	Necessary with substantive public interest



STATE OF NORTH CAROLINA
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August 16, 2018

Barden Culbreth
Substance Abuse Professionals
PO Box 10126
Raleigh, NC 27605

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of 21 NCAC 68

Dear Mr. Culbreth

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the August 16, 2018 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than September 30, 2020.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Amber May
Commission Counsel

Administration 919/431-3000 fax: 919/431-3100	Rules Division 919/431-3000 fax: 919/431-3104	Judges and Assistants 919/431-3000 fax: 919/431-3100	Clerk's Office 919/431-3000 fax: 919/431-3100	Rules Review Commission 919/431-3000 fax: 919/431-3104	Civil Rights Division 919/431-3036 fax: 919/431-3103
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An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
May 17, 2018
APO Review: July 22, 2018
Total: 74**

Substance Abuse Professional Practice Board

Rule	Determination
<u>21 NCAC 68 .0101</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0102</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0201</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0202</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0203</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0204</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0205</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0206</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0207</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0208</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0209</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0211</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0212</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0213</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0214</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0215</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0216</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0217</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0220</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0221</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0222</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0223</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0224</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0225</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0226</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0227</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0228</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0301</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0303</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0304</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0305</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0306</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0307</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0401</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0402</u>	Necessary with substantive public interest

<u>21 NCAC 68 .0403</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0404</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0405</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0406</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0407</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0501</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0502</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0503</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0504</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0505</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0506</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0507</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0508</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0509</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0510</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0511</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0512</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0601</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0602</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0603</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0604</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0605</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0606</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0607</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0608</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0609</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0610</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0611</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0615</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0620</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0701</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0702</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0703</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0704</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0705</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0706</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0707</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0708</u>	Necessary with substantive public interest
<u>21 NCAC 68 .0709</u>	Necessary with substantive public interest

**LIST OF APPROVED PERMANENT RULES
August 16, 2018 Meeting**

BANKING COMMISSION

Withdrawal/Termination of Authorization as Reverse Mtg. L... 04 NCAC 03K .0404

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Actions of County Board as to Election Protests 08 NCAC 02 .0110

Election Protest Form 08 NCAC 02 .0111

Absentee Ballot Delivery 08 NCAC 18 .0101

HHS - MEDICAL ASSISTANCE, DIVISION OF

Prevention 10A NCAC 22F .0104

Investigation 10A NCAC 22F .0302

Administrative Sanctions and Remedial Measures 10A NCAC 22F .0602

Provider Lock-Out 10A NCAC 22F .0603

Withholding of Medicaid Payments 10A NCAC 22F .0604

Payment Status 10A NCAC 22J .0105

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Definitions 15A NCAC 02S .0102

Applicability 15A NCAC 02S .0201

Required Minimum Management Practices 15A NCAC 02S .0202

Filing 15A NCAC 02S .0301

Purpose and Applicability 15A NCAC 02S .0501

Abatement of Imminent Hazard 15A NCAC 02S .0502

Prioritization of Certification Facilities and Sites 15A NCAC 02S .0503

Tiered Risk Assessment 15A NCAC 02S .0506

Remedial Action Plan 15A NCAC 02S .0507

Land-Use Restrictions 15A NCAC 02S .0508

No Further Action Criteria 15A NCAC 02S .0509

Purpose 15A NCAC 02T .0101

Scope 15A NCAC 02T .0102

Definitions 15A NCAC 02T .0103

Activities Which Require A Permit 15A NCAC 02T .0104

General Requirements 15A NCAC 02T .0105

Submission of Permit Applications 15A NCAC 02T .0106

Staff Review and Permit Preparation 15A NCAC 02T .0107

Final Action on Permit Applications to the Division 15A NCAC 02T .0108

Permit Renewals 15A NCAC 02T .0109

Modification and Revocation of Permits 15A NCAC 02T .0110

Conditions for Issuing General Permits 15A NCAC 02T .0111

Delegation of Authority 15A NCAC 02T .0112

Permitting by Regulation 15A NCAC 02T .0113

Wastewater Design Flow Rates 15A NCAC 02T .0114

Operational Agreements 15A NCAC 02T .0115

<u>Certificate of Completion</u>	15A NCAC 02T .0116
<u>Treatment Facility Operation and Maintenance</u>	15A NCAC 02T .0117
<u>Demonstration of Future Wastewater Treatment Capacities</u>	15A NCAC 02T .0118
<u>Historical Consideration in Permit Approval</u>	15A NCAC 02T .0120
<u>Scope</u>	15A NCAC 02T .0201
<u>Permitting by Regulation</u>	15A NCAC 02T .0203
<u>Permitting</u>	15A NCAC 02T .0204
<u>Scope</u>	15A NCAC 02T .0301
<u>Definitions</u>	15A NCAC 02T .0302
<u>Permitting by Regulation</u>	15A NCAC 02T .0303
<u>Application Submittal</u>	15A NCAC 02T .0304
<u>Design Criteria</u>	15A NCAC 02T .0305
<u>Local Programs for Sewer Systems</u>	15A NCAC 02T .0306
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<u>Definitions</u>	15A NCAC 02T .0402
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<u>Multiple Collection Systems Under Common Ownership</u>	15A NCAC 02T .0404
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<u>Scope</u>	15A NCAC 02T .0501
<u>Application Submittal</u>	15A NCAC 02T .0504
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<u>Scope</u>	15A NCAC 02T .1201
<u>Definitions</u>	15A NCAC 02T .1202
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<u>Definitions</u>	15A NCAC 02T .1302
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<u>NPDES Permitting Requirements</u>	15A NCAC 02T .1305
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<u>Lagoon Conversion Requirements</u>	15A NCAC 02T .1309
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<u>Requirements for Closure</u>	15A NCAC 02T .1608
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<u>Definitions</u>	15A NCAC 02U .0103
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<u>Submission of Permit Applications</u>	15A NCAC 02U .0106
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<u>Modification and Revocation of Permits</u>	15A NCAC 02U .0110

<u>Conditions for Issuing General Permits</u>	15A NCAC 02U .0111
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<u>Wastewater Design Flow Rates</u>	15A NCAC 02U .0114
<u>Operational Agreements</u>	15A NCAC 02U .0115
<u>Certification of Completion</u>	15A NCAC 02U .0116
<u>Treatment Facility Operation and Maintenance</u>	15A NCAC 02U .0117
<u>Demonstration of Future Wastewater Treatment Capacities</u>	15A NCAC 02U .0118
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<u>Application Submittal</u>	15A NCAC 02U .0201
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<u>Design Criteria for Reclaimed Water Treatment Facilities</u>	15A NCAC 02U .0401
<u>Design Criteria for Dedicated Reclaimed Water Treatment F...</u>	15A NCAC 02U .0402
<u>Design Criteria for Distribution Lines</u>	15A NCAC 02U .0403
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<u>Bulk Distribution of Reclaimed Water</u>	15A NCAC 02U .0601
<u>Setbacks</u>	15A NCAC 02U .0701
<u>Operation and Maintenance</u>	15A NCAC 02U .0801
<u>Residuals Management</u>	15A NCAC 02U .0802
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<u>Duties and Requirements of Certified Operators</u>	15A NCAC 08F .0202
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<u>Responsibilities of a Back-Up Operator In Responsible Cha...</u>	15A NCAC 08G .0205
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<u>Classification of Land Application of Residuals Systems</u>	15A NCAC 08G .0305
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<u>Swain County</u>	15A NCAC 10F .0335
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<u>John H. Moss Lake</u>	15A NCAC 10F .0349
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<u>Cherokee County</u>	15A NCAC 10F .0359
<u>Graham County</u>	15A NCAC 10F .0360
<u>Macon County</u>	15A NCAC 10F .0366
<u>Hoke County</u>	15A NCAC 10F .0367
<u>Hertford County</u>	15A NCAC 10F .0372
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<u>Rating Values to Determine Various Classes of Certification</u>	15A NCAC 18D .0203
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<u>2018 NC Mechanical Code/Equipment and appliances on roofs...</u>	306.5
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**RRC Determination
Periodic Rule Review
August 16, 2018
Necessary with substantive public interest**

Private Board	Protective	Services		
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14B NCAC 16 .0102			14B NCAC 16 .0502	14B NCAC 16 .0907
14B NCAC 16 .0103			14B NCAC 16 .0503	14B NCAC 16 .0908
14B NCAC 16 .0104			14B NCAC 16 .0504	14B NCAC 16 .0909
14B NCAC 16 .0105			14B NCAC 16 .0601	14B NCAC 16 .0910
14B NCAC 16 .0106			14B NCAC 16 .0602	14B NCAC 16 .0911
14B NCAC 16 .0107			14B NCAC 16 .0603	14B NCAC 16 .0912
14B NCAC 16 .0108			14B NCAC 16 .0701	14B NCAC 16 .1001
14B NCAC 16 .0109			14B NCAC 16 .0702	14B NCAC 16 .1002
14B NCAC 16 .0110			14B NCAC 16 .0703	14B NCAC 16 .1003
14B NCAC 16 .0111			14B NCAC 16 .0704	14B NCAC 16 .1101
14B NCAC 16 .0112			14B NCAC 16 .0705	14B NCAC 16 .1102
14B NCAC 16 .0113			14B NCAC 16 .0706	14B NCAC 16 .1103
14B NCAC 16 .0114			14B NCAC 16 .0707	14B NCAC 16 .1104
14B NCAC 16 .0201			14B NCAC 16 .0801	14B NCAC 16 .1105
14B NCAC 16 .0202			14B NCAC 16 .0802	14B NCAC 16 .1106
14B NCAC 16 .0203			14B NCAC 16 .0803	14B NCAC 16 .1107
14B NCAC 16 .0204			14B NCAC 16 .0804	14B NCAC 16 .1108
14B NCAC 16 .0205			14B NCAC 16 .0805	14B NCAC 16 .1201
14B NCAC 16 .0301			14B NCAC 16 .0806	14B NCAC 16 .1202
14B NCAC 16 .0302			14B NCAC 16 .0807	14B NCAC 16 .1203
14B NCAC 16 .0401			14B NCAC 16 .0808	14B NCAC 16 .1204
14B NCAC 16 .0402			14B NCAC 16 .0809	14B NCAC 16 .1205
14B NCAC 16 .0403			14B NCAC 16 .0901	14B NCAC 16 .1206
14B NCAC 16 .0404			14B NCAC 16 .0902	14B NCAC 16 .1207
14B NCAC 16 .0405			14B NCAC 16 .0903	14B NCAC 16 .1301
			14B NCAC 16 .0904	14B NCAC 16 .1302
			14B NCAC 16 .0905	14B NCAC 16 .1303

14B NCAC 16 .1304
14B NCAC 16 .1305
14B NCAC 16 .1306
14B NCAC 16 .1307
14B NCAC 16 .1308
14B NCAC 16 .1401
14B NCAC 16 .1402
14B NCAC 16 .1403
14B NCAC 16 .1404
14B NCAC 16 .1405
14B NCAC 16 .1406
14B NCAC 16 .1407
14B NCAC 16 .1408

20 NCAC 02B .0510
20 NCAC 02B .0701
20 NCAC 02B .0706
20 NCAC 02B .0801
20 NCAC 02B .0802
20 NCAC 02B .0804
20 NCAC 02B .0805
20 NCAC 02B .0806
20 NCAC 02B .0807
20 NCAC 02B .0810
20 NCAC 02B .0901
20 NCAC 02B .0902
20 NCAC 02B .0903
20 NCAC 02B .0904
20 NCAC 02B .0905
20 NCAC 02B .0906
20 NCAC 02B .1003
20 NCAC 02B .1004
20 NCAC 02B .1005
20 NCAC 02B .1006
20 NCAC 02B .1007
20 NCAC 02B .1101
20 NCAC 02B .1102
20 NCAC 02B .1104
20 NCAC 02B .1204
20 NCAC 02B .1205
20 NCAC 02B .1207
20 NCAC 02C .0201
20 NCAC 02C .0204
20 NCAC 02C .0205
20 NCAC 02C .0301
20 NCAC 02C .0302
20 NCAC 02C .0304
20 NCAC 02C .0306
20 NCAC 02C .0402
20 NCAC 02C .0403
20 NCAC 02C .0404
20 NCAC 02C .0501

20 NCAC 02C .0502
20 NCAC 02C .0503
20 NCAC 02C .0504
20 NCAC 02C .0704
20 NCAC 02C .0901
20 NCAC 02C .0902
20 NCAC 02C .0906
20 NCAC 02C .0907
20 NCAC 02C .0908
20 NCAC 02C .0909
20 NCAC 02C .1001
20 NCAC 02C .1002
20 NCAC 02C .1003
20 NCAC 02C .1004
20 NCAC 02C .1006
20 NCAC 02C .1007
20 NCAC 02C .1201
20 NCAC 02C .1301
20 NCAC 02C .1302
20 NCAC 02C .1501
20 NCAC 02C .1503
20 NCAC 02C .1504
20 NCAC 02C .1505
20 NCAC 02C .1506
20 NCAC 02F .0101
20 NCAC 02F .0104
20 NCAC 02F .0107
20 NCAC 02F .0108
20 NCAC 02L .0101
20 NCAC 02L .0103
20 NCAC 02L .0202
20 NCAC 02L .0302
20 NCAC 02N .0108
20 NCAC 02N .0208
20 NCAC 02N .0215
20 NCAC 02N .0218
20 NCAC 02N .0219

TSERS and LGERS Board of Trustees

20 NCAC 02A .0103
20 NCAC 02A .0104
20 NCAC 02A .0301
20 NCAC 02A .0303
20 NCAC 02A .0401
20 NCAC 02A .0504
20 NCAC 02B .0202
20 NCAC 02B .0210
20 NCAC 02B .0211
20 NCAC 02B .0301
20 NCAC 02B .0302
20 NCAC 02B .0303
20 NCAC 02B .0304
20 NCAC 02B .0305
20 NCAC 02B .0307
20 NCAC 02B .0308
20 NCAC 02B .0401
20 NCAC 02B .0402
20 NCAC 02B .0404
20 NCAC 02B .0501
20 NCAC 02B .0502
20 NCAC 02B .0503
20 NCAC 02B .0504

**RRC Determination
 Periodic Rule Review
 August 16, 2018
 Necessary without substantive public interest**

TSERS and LGERS Board of Trustees

20 NCAC 02A .0101
20 NCAC 02A .0102
20 NCAC 02A .0201
20 NCAC 02A .0202
20 NCAC 02A .0302
20 NCAC 02B .0101
20 NCAC 02C .0101
20 NCAC 02N .0106

Recreational Therapy Licensure, Board of

21 NCAC 65 .0203
21 NCAC 65 .0204
21 NCAC 65 .0205
21 NCAC 65 .0301
21 NCAC 65 .0302
21 NCAC 65 .0401
21 NCAC 65 .0501
21 NCAC 65 .0601

21 NCAC 65 .0602
21 NCAC 65 .0603
21 NCAC 65 .0701
21 NCAC 65 .0801
21 NCAC 65 .0901
21 NCAC 65 .1001

**RRC Determination
Periodic Rule Review
August 16, 2018
Unnecessary**

TSERS and LGERS Board of Trustees

20 NCAC 02A .0105
20 NCAC 02A .0402
20 NCAC 02A .0403
20 NCAC 02B .0209
20 NCAC 02B .0212
20 NCAC 02B .0214
20 NCAC 02B .0508
20 NCAC 02B .0811
20 NCAC 02B .1001
20 NCAC 02B .1103
20 NCAC 02B .1105
20 NCAC 02B .1108
20 NCAC 02B .1201
20 NCAC 02C .0203
20 NCAC 02C .0206
20 NCAC 02C .0209

20 NCAC 02C .0701
20 NCAC 02C .0801
20 NCAC 02C .0802
20 NCAC 02C .0803
20 NCAC 02C .0903
20 NCAC 02C .0912
20 NCAC 02C .1101
20 NCAC 02C .1102
20 NCAC 02C .1202
20 NCAC 02C .1203
20 NCAC 02C .1303
20 NCAC 02C .1305
20 NCAC 02C .1306
20 NCAC 02C .1601
20 NCAC 02C .1602
20 NCAC 02C .1603
20 NCAC 02F .0105
20 NCAC 02L .0105

20 NCAC 02L .0201
20 NCAC 02L .0203
20 NCAC 02L .0204
20 NCAC 02L .0301
20 NCAC 02N .0105
20 NCAC 02N .0107
20 NCAC 02N .0206
20 NCAC 02N .0207
20 NCAC 02N .0209
20 NCAC 02N .0210
20 NCAC 02N .0211
20 NCAC 02N .0212
20 NCAC 02N .0213
20 NCAC 02N .0214
20 NCAC 02N .0216
20 NCAC 02N .0217

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge

JULIAN MANN, III

Senior Administrative Law Judge

FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Melissa Owens Lassiter
 Don Overby
 J. Randall May
 David Sutton
 Tenisha Jacobs

A. B. Elkins II
 Selina Malherbe
 J. Randolph Ward
 Stacey Bawtinheimer

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>PUBLISHED</u>			
17	DHR	08430	6/19/2018	June Cecil Causey	v.	Glana Surles c/o DH & HS, Division of Medical Assistance	May
18	DHR	00802	6/11/2018	William A Meekins	v.	The North Carolina Department of Health and Human Services Division of Medical Assistance	Overby
18	DHR	01363	6/4/2018	Maximo Gutierrez Joe Gutierrez J and M Gutierrez Inc d/b/a Tropicana Foods	v.	Department of Health and Human Services Divison of Public Health	Lassiter
18	DHR	01364	6/4/2018	Felipe Guitierrez Maximo Gutierrez Joe Gutierrez FJM Gutierrez Inc d/b/a Tropicana Supermarket	v.	Department of Health and Human Services Divison of Public Health	Lassiter
17	EHR	07676	6/19/2018	Evan brice Partnership James Rice	v.	NC Department of Environmental Quality, Division of Water Resources	Sutton
16	OSP	12291	6/4/2018	Mylandia Wesley	v.	University of North Carolina at Wilmington	Overby
17	OSP	08518	6/13/2018	Judith M Ayers	v.	Currituck County Department of Social Services	Lassiter
				<u>UNPUBLISHED</u>			
18	ABC	01366	6/19/2018	Jarvis Investments LLC dba Anchorz	v.	North Carolina Alcoholic Beverage Control Commission	Overby

CONTESTED CASE DECISIONS

18	ABC	01768	6/8/2018	Roderick Bailey John Clifton Gloria Johnson	v.	ABC Commission	Malherbe
18	ABC	02073	6/15/2018	NC Alcoholic Beverage Control Commission	v.	Spice and Curry LLC T/A Spice and Curry	Malherbe
18	CPS	00725	6/20/2018	Brenda R Stephens	v.	NC Crime Victims Compensation Commission	Ward
17	CSE	06890	6/13/2018	Fabio Oliveira	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Elkins
17	CSE	07041	6/14/2018	Daryl T Smith	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
17	CSE	07148	6/6/2018	Robert Nimocks III	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Sutton
17	CSE	07151	6/20/2018	Maurice A Carter	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
17	CSE	07320	6/14/2018	Donnimechi Williams	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Elkins
17	CSE	07325	6/5/2018	Jonathan B Gailes	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
17	CSE	07375	6/14/2018	Justin R Wilson	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
17	CSE	07404	6/5/2018	Wayne E Goff	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
17	CSE	07461	6/20/2018	Johntia L Barnette	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
17	CSE	07472	6/6/2018	Richard A Seagroves	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
17	CSE	07567	6/19/2018	Derrick O Dempsey	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
17	CSE	07681	6/5/2018	Keith C Alston	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	07839	6/5/2018	Christopher Devon Goodman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
17	CSE	08175	6/14/2018	Darry D McMorris	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Elkins
17	CSE	08323	6/21/2018	Marcus A White	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Elkins

CONTESTED CASE DECISIONS

18	CSE	01749	6/1/2018	Samuel Hinton Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
18	CSE	01940	6/19/2018	Brian W Burnett	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Lassiter
18	CSE	02046	6/8/2018	Rommell Carpenter P	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	CSE	02573	6/29/2018	Monquell Jenkins	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
17	DCS	08476	6/29/2018	Jayson Torres	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
17	DHR	05886	6/15/2018	Alyson Moss Wilson	v.	Department of Health and Human Services, Division of Health Service Regulation	Sutton
17	DHR	06583	6/7/2018	Santana D Barrett	v.	Department of Health and Human Services, Division of Health Service Regulation	Ward
18	DHR	01476	6/8/2018	Shaquan Lesane	v.	Department of Human Services	Ward
18	DHR	02060	6/5/2018	Devon Strickland	v.	Caldwell County DSS	May
18	DHR	02062	6/27/2018	Neter Foye Stanley	v.	Department of Health and Human Services, Division of Health Service Regulation	Ward
18	DHR	02069	6/4/2018	Murray Barrie	v.	Division of Child Development and Early Education- Department of Health and Human Services	Sutton
18	DHR	02241	6/21/2018	Cathy Seals Barber	v.	Department of Health and Human Services, Division of Health Service Regulation	Elkins
18	DHR	02268	6/22/2018	Innovative Compliance Solutions Desareta Jones	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Sutton
18	DHR	02398	6/18/2018	Rashonda Henley	v.	Mecklenburg County DSS	Sutton
18	DHR	02667	6/26/2018	Sonja R Hazelwood	v.	DHHS	Overby
18	DHR	02734	6/14/2018	Tiffany E Watterson	v.	Cleveland County Dept of Social Services	May
18	DHR	02797	6/21/2018	James Lewis Mitchell Jr	v.	Dept of Health and Human Services, Division of Health Service Regulation	Sutton
18	DOL	01764	6/8/2018	SBT Construction Inc Scott Taylor	v.	Jill F Cramer NC Department of Labor	Ward
18	DOT	01469	6/22/2018	Horace Hunter Bethune	v.	Commissioner of Motor Vehicles	Ward
18	DOT	02294	6/19/2018	Michael Wayne Perdue	v.	North Carolina Department of Transportation	Malherbe
18	DOT	02928	6/27/2018	Dillon Shane Webb c/oRomona Tedder	v.	NC Department of Motor Vehicles	Overby

CONTESTED CASE DECISIONS

18	INS	02242	6/4/2018	Evan Jensen	v.	State Health Plan	Malherbe
18	INS	02490	6/29/2018	Rhonda Todd	v.	North Carolina Department of State Treasurer	Lassiter
18	MIS	01811	6/8/2018	Danielle A Carter	v.	Raleigh Police Department	Ward
18	SOS	03156	6/21/2018	Luther Bennett Williams Luther Bennett Williams	v.	Department of the Secretary of State (Ann Wall)	Lassiter
				<u>PUBLISHED</u>			
15	DHR	02731	7/23/2018	Coy and Shelby Miller	v.	APPALACHIAN DISTRICT HEALTH DEPARTMENT	May
17	DHR	08079	7/31/2018	Alana B Heuermann	v.	NC DHHS	Bawtinhimer
18	DHR	02002	7/3/2018	William Aguirre Owner Mi Barrio Su Tienda Hispana Inc d/b/a Mi Barrio Su Tienda Hispana	v.	NC Department of Health and Human Services, Nutrition Services, Women Infants & Children Program	Elkins
17	DOJ	07274	7/11/2018	Tommy Lee Briley Jr	v.	NC Criminal Justice Education and Training Standards Commission	Ward
17	DOJ	07675	7/2/2018	Jody Richard Stacy	v.	NC Private Protective Services Board	Ward
18	DOJ	00593	7/24/2018	Olavio Diaz Lopes	v.	NC Sheriffs Education and Training Standards Commission	Overby
18	DOJ	00734	7/20/2018	Richard Neal Shipper	v.	NC Sheriffs Education and Training Standards Commission	Elkins
18	DOJ	02717	7/9/2018	Carlos Santino Barbee	v.	NC Private Protective Services Board	Elkins
18	INS	01172	7/13/2018	Julie Anne Williams	v.	The State Health Plan of North Carolina	May
17	OSP	06444	7/27/2018	Kenneth Johnson	v.	NC Dept of Administration	Ward
17	OSP	08095	7/3/2018; 7/5/2018	Ella Deaver	v.	New Hanover County Department of Social Services	Ward
18	OSP	00407	7/10/2018	Ray Dion Brown	v.	Fayetteville State University	Bawtinhimer
				<u>UNPUBLISHED</u>			
18	ABC	02323	7/16/2018	NC Alcoholic Beverage Control Commission	v.	A And K Mini Mart T/A A and K Mini Mart	Ward
18	ABC	02840	7/13/2018	NC Alcoholic Beverage Control Commission	v.	Food Lion LLC T/A Food Lion 1614	Sutton
18	CRA	02216	7/18/2018	Robert Brian Pierce	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby
17	CSE	07561	7/26/2018	Dariel Jones, Inmate #A51801	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer

CONTESTED CASE DECISIONS

17	CSE	07570	7/16/2018	Juan Cervantes	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Mann
17	CSE	08108	7/31/2018	Gregory L Goodman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Ward
17	CSE	08139	7/12/2018	Alan Blakeborough	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	May
17	CSE	08142	7/19/2018	Floyd C Creecy Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
17	CSE	08166	7/19/2018	Vincent A Izediuno	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
17	CSE	08176	7/10/2018	Sean Garner	v.	NC Pitt Co CSE Agency	Lassiter
17	CSE	08254	7/25/2018	Phillip R Markunas	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	CSE	01069	7/23/2018	Eric L Dobbins	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
18	CSE	03092	7/26/2018	Antwon J Taborn	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Bawtinhimer
18	DHR	01355	7/25/2018	April Seibles	v.	NC Department of Health and Human Services	Ward
18	DHR	02093	7/23/2018	Jessica Crawford	v.	NC Department of Health and Human Services Enterprise Program Integrity Control System Notice to Debtor DHHS Office of Legal Affairs	May
18	DHR	02326	7/23/2018	Alamance Academy Mollissre Peterson	v.	Department of Health and Human Services	Lassiter
18	DHR	02882	7/30/2018	Ladonna Clark	v.	North Carolina Department of Health and Human Services Division of Mental Health Developmental Disabilities and Substance Abuse Services	Overby
18	DOJ	00930	7/6/2018	Britley Jornique Reed	v.	NC Criminal Justice Education and Training Standards Commission	Bawtinhimer
18	DOJ	02970	7/11/2018	Lance Paul White Jr	v.	NC Sheriffs Education and Training Standards Commission	Jacobs
18	INS	02643	7/12/2018	James M Faison Jr by Waverly M Faison POA	v.	North Carolina State Health Plan	Bawtinhimer
18	MIS	02369	7/3/2018	Erinn Denise Watkins	v.	Jason B Avery Fort Bragg Provost Marshall	Bawtinhimer
18	OSP	03792	7/26/2018	LaQueisha Booth	v.	Pitt County Public Health	Lassiter